

The words of the 9th section are: "The Governor shall be commander in chief of the Land and Naval forces of the State, and may call out the militia to repel invasions, suppress insurrections, and enforce the execution of the laws, but shall not take the command in person, without the consent of the Legislature." The 10th section declares; "He shall take care that the laws be faithfully executed." The power "to enforce the execution of the laws" necessarily implies the timely provision of a force for the execution and to be ready for the necessary intervention; such a force may therefore be organized to serve the contingency, and, consequently, may be called out where there is impending danger that the contingency will occur.

This power, it belongs to the Governor to exercise where, in his judgment, there is threatening danger, under the 10th section, which enjoins on him to see that "the laws be faithfully executed." How the elective franchise is guarded by our laws, even by the Constitution, needs no reference to the ordinances of the one or the other. The Constitution, Art. 1, Sec. 2, besides providing for other punishments, furnishes with disqualification to hold office, or even to vote at any election, any one who shall forcibly prevent another from voting at elections.

It is with reference to the case of imminent danger of such transgressions that we understand our opinion to be now asked; and we therefore, specially mention the legal sanctions of the right of voting—"the laws," whose "execution" is to be enforced," as peculiarly sacred.

To give a power by the use of certain means to relieve or redress an actual exigency, and not to give the privilege to prepare such means for the exigency, and when the peril of it is indicated or impending, is, we think, destructive of the very power itself.

But on this subject we are not left to general reasoning. The Supreme Court of the United States (in 12 Wheaton's Reports 28, *Morton vs. Mott*), has settled the point, upon the construction of the corresponding clause of the Constitution of the United States as to the control over the militia of the States given to the United States Government. The clause of the United States Constitution declares (Art. 1, Sec. 8,) that Congress shall have the power to provide for calling forth the militia to execute the laws of the Union, suppress insurrection and repel invasions, terms almost identical with the words of the Maryland Constitution.

The case just referred to, as adjudged in the Supreme Court of the United States, arose upon the act of Congress passed in 1795, under this constitutional clause, that act giving to the President of the United States the power to "call forth the militia whenever the United States shall be invaded, or be in imminent danger of invasion." The Supreme Court decided the act to be constitutional, and say that there is no ground for a doubt that Congress, under the words of the Constitution had the power to provide for cases