

of imminent danger, as well as for cases where an invasion has actually taken place, closing their judgment on this head with these remarks:

"In our opinion there is no ground for a doubt on this point, even if it had been relied on, for the power to provide for repelling invasions includes the power to provide against the attempt and danger of invasion, as the necessary and proper means to effectuate the object. One of the best means to repel invasion, is to provide the requisite force for action before the invader has himself reached the soil."

But that decision further determines that under that "Act of Congress, the President has exclusively the authority to decide whether the exigency has arisen; and that his decision is conclusive upon all other persons. He is necessarily constituted the judge of the existence of the exigency in the first instance, and is bound to act according to his belief of the facts."

This was the unanimous decision of the judges of the Supreme Court of the United States.

The Governor is, therefore, in our opinion, authorized to call out the militia, to be ready for any of the exigencies, in which, under the quoted provisions of the Maryland Constitution, their services may be needed; and his decision upon the question of an imminent danger of such an exigency, binds the military authorities, and protects every individual who obeys the Governor's call.

On this head we need refer to no acts of Assembly, because there are none which conflict with the views we present; and, if any were in such conflict, they would have to yield to the paramount rule of the Constitution. All the acts of Assembly, however, are but cumulative, or in aid only of securing the protection of the military power to our civil and political rights, and not exclusive of the supreme power of the State Executive to provide such relief and resource, where he conscientiously believes there is a crisis impending that requires the use of precautionary means.

The act of 1823, ch. 188, entitled "An Act for the better Regulation of the Militia of the City of Baltimore," so far from militating against the views which we have announced, contains, in our judgment, an unqualified recognition of them. By the 70th section of that act, which provides for the calling out of the militia, in case of "invasion or threatened invasion," and which gives power to such effect to the commanding officers of divisions, brigades or regiments, it is made the duty of such officers to transmit information to the Commander-in-Chief (the Governor) without delay. In the further case of "suppressing or preventing of an insurrection or opposition to the laws," the officers aforementioned are commanded by the same section to order out the troops under their command, on the written requisi-