

of the State of Maryland for the purpose of instituting at once the inquiry whether anything is necessary to be done for the protection of the State, in relation to the Duties of the said Bank Company as it relates to the said dividend, & if so, what is necessary, decided by the Board of Directors of that Company, and directing in such manner, as we conclude that the State is likely to suffer from that action of the Board, to use no time in instituting such proceedings in any of the Courts of the State, as in our judgment may be necessary for the State's protection."

Withly sensible of the honor conferred upon us by your appointment, we beg leave respectfully to suggest to your Excellency, that, as it seems to us, the complete fulfillment of the duties assigned to us in the terms of that appointment, might be construed to include the decision of questions, not strictly legal, and which under the circumstances it would not be proper for us to determine, — the legality of the said dividend, involving as it does not only the question "whether there existed at the time when the alleged profits accrued and were appropriated, any such agreement or state of circumstances as justified, at that late period the declarations of a dividend based upon them," but also the further question "whether there ever did exist and to such an extent any such profits proper for justifying such a dividend at any period," in so many legal questions — and also is the question "whether there exists now any necessity for action on the part of the State, to test fully the questions above mentioned as involved in that of the legality of the dividend, if it is designed to be questioned, or the payment of it restrained." But whether the interests of the State make it proper that she should institute legal proceedings, to test the legal propriety of that dividend, if deemed legally objectionable; or whether her interests will be injuriously affected by suffering it to pass unquestioned, are questions which, in our humble, it does not belong to us to decide and which perhaps as Counsel we ought not to determine.

We think it most probable, that it was the design of your Excellency, by the language used in confirming the appointment, to assign to us only the consideration of the questions we have above indicated as the legal questions proper for our decision. But we have deemed it advisable to make this statement for the purpose of creating any possible misapprehension as to the scope of the duties assigned us; and shall be glad to have your views on that subject.

One of us (Mr. McArthur) for reasons which he will assign in a separate communication to your Excellency, could only enter into a limited engagement as to the discharge of the duties assigned.

We have the honor to be
With the highest respect
Your Obedt. Serv^{ts}

Geo. Nelson
J. V. L. McArthur