

local authorities. I can only express the sincere belief that such a policy might seriously endanger the peace of the city, and lead to consequences which it should be the duty of all good citizens to endeavor if possible to avert.

With great respect

I have the honor to be

Your obt. servt.

Thos. Swann

Mayor

To His Excellency

The Governor of Maryland.

Our opinion is asked by your Excellency whether the Constitution of Maryland limits the power of the Governor to "call out the militia" "in the cases and periods of an actual invasion," and "actual insurrection," and "an actual interference" with the execution of the laws. This question is determinable by the 9th and 10th Sections of the 2^d Article of the Constitution.

The words of the 9th Sec 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 Sec. 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 contingencies. 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 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." Now the election 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, punishes 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" are peculiarly sacred.

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

But in this subject we are not left to general reasoning