

of the military power to our civil and political rights. And not exclusive of the Supreme power of the State to execute such relief and recourse when 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 7<sup>th</sup> 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) within twenty

days in the further case of "suppression or preventing of an insurrection or a preparation to the laws." The Officers aforementioned are Commanded by the said Section, to Order out the troops under their Command on the written requisition of the Mayor or the Chief Judges of the City or County Court respectively, and after so doing are required to act on their own authority only "until the orders of the Commander in Chief (the Governor) shall be received." We cannot understand how it can be a matter of doubt, in the face of these provisions, that the Governor is the ultimate authority, by whose orders the action of the military Officers shall be directed, in case of their being ordered out, nor can we perceive upon what principle it can be supposed that the Chief Civil and military Officer of the State is meant to be restricted and confined in his Constitutional action to cases of "actual violation of the laws, when subordinate Officers, municipal and military, are clothed with the absolute power to order out the military for the "preventing of" insurrection.

As to the regularity and legality of the enrolment of the militia by the Orders and under the direction of the Commanding Officers of the divisions, we presume that a reference to the Act of 1846 Chapter 314 Sec 4 must remove all doubt or discrepancy, if any such be supposed to exist.

That act provides in terms,

"That if, from any cause, an enrolment of the whole or any part of each division, (which embraces the militia of the City of Baltimore) shall fail to be ordered, or not be made at the time presented by the Act to which this is an additional supplement, (the Act of 1823 Ch 188) the Commanding Officer of each division may have the enrolment corrected by ordering an enrolment to be made and presenting the time for the same.

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