

is correct, not only all the other Military appointments of the State, but the greater part of the Civil officers would rest exclusively with the Governor, and be entirely independent of any action of the Senate - for if as you argue, after the act of 1830, the whole executive power was vested in the Governor, and the confirmation by the Senate was, not made necessary even by the Constitution of 1851 - in those cases where the law creating the office had invested the Governor & Council with the power to fill it, the application of such a rule would bring all the other Military officers, all the Inspectors and many other Civil officers within its operation, for their places too before the act of 1830 were all to be filled by the Governor and Council, and the appointment was provided for by the law creating the office -

It is impossible, I think to sustain a construction of the act of 1830 or of the Constitution of 1851 that leads to such results -

But besides this, if you will recur to the act of 1830, you will I think see that that act does not vest the whole Executive power of the Government of the State exclusively in the Governor - Your quotation stops short not only of the section but the sentence - the language of the act being "that the whole executive power of the Government of this State shall be vested exclusively in the Governor, subject nevertheless to the checks, limitations and provisions hereinafter specified and mentioned" - The very next line in the act indicates very precisely what these checks and limitations are - by declaring "that the Governor shall now appoint and by and with the advice and consent of the Senate shall appoint all officers of the State whose offices are or may be created by law, and whose appointment shall not be otherwise provided for by the Constitution and form of Government, or by any laws consistent with the Constitution and form of Government"

Both the act of 1830 and the Constitution of 1851 therefore concur in establishing the whole executive authority in the Governor & Senate, and no other appointing power is recognized under either, except a different mode is prescribed in the Constitution itself, or unless some office should be created by law consistent with the Constitution, which law itself should prescribe a different mode of appointment - But the law creating the office & prescribing a different mode of appointment mentioned both in the amended Constitutions of 1830 & 1851 evidently refers to laws creating offices which did not exist at the times these Constitutions were adopted, and creating a new office, enacted subsequently to the Constitution - This is most obvious from the fact I have already suggested - that any other construction would withdraw from the Senate the power to act upon any appointment to office where that power had been previously vested by the same law that created the office in the Governor or Governor & Council - and such was