

And whereas, it further appears by the proceedings of the council, that on the 1st of February, 1814, they passed the following order: "Ordered, that the treasurer of the Western Shore pay to major-general Winder, sixteen hundred and forty-three dollars and sixty three cents, for his services as commander in chief of the militia of this state, from the 20th April to the 17th of September, 1813, as per account passed and filed"

And whereas, it appears by the report of the treasurer of the Western Shore, that on the day aforesaid the following order was drawn on him, viz.

ANNAPOLIS, February 1, 1814.

\$1643 63.

Ordered, that the treasurer of the Western Shore, pay to Levin Winder, sixteen hundred and forty-three dollars and sixty-three cents, for his pay as commander in chief from the 20th of April to the 17th of September last, as per account passed and filed.

Signed,
Countersigned,
And endorsed,

LEVIN WINDER,
THOMAS HARRISON, Auditor,
LEVIN WINDER,

And that in virtue of said order the treasurer did pay to the said Levin Winder the aforesaid sum of sixteen hundred and forty-three dollars and sixty-three cents, as commander in chief from the 20th of April to the 17th of September, 1813, in addition to his salary as governor from November 1812, to November 1813.

By an act of assembly passed at November session 1785, a permanent salary of one thousand pounds per annum, is established for the governor of this state; and by the constitution he is *ex officio* commander in chief of the militia, and if advised thereto by the council, is authorized to command in person; it is evident that when he does command in person, he only performs a part of those duties which are enjoined on him by the constitution, and which appertain to his office as governor. It can scarcely be denied, that when a public law gives to a public officer a salary as a compensation for his time and services employed in the discharge of his official duties, that salary is a consideration for all his services, and not for any specific portion of them. It necessarily follows, that the governor cannot lawfully or constitutionally receive any payment for official service beyond the salary of one thousand pounds established by law.

Again, it is worthy of remark, that at no period subsequent to the time, when it appears by the proceedings of the council they advised the governor to command the militia in person, was it ever announced by a general, or other order, that the command was so exercised by the governor, and during the time for which he drew pay as commander in chief of the militia, he continued at Annapolis, where no considerable body of militia was stationed, and almost daily attended in the council chamber.

Whether, however, such advice was given by the council or not, and whether the governor did actually command the militia in person or not, the payment of the sum of sixteen hundred and forty-three dollars and sixty-three cents to him as aforesaid, for services as commander in chief of the militia, was unauthorized by law; Therefore,

Resolved, That the payment of the sum of sixteen hundred and forty-three dollars sixty three cents, by the treasurer of the Western Shore to Levin Winder, Esquire, as commander in chief of the militia from the 20th April to the 17th September, 1813, in addition to his salary as governor for the year 1813, was made contrary to law.

Resolved, That Levin Winder, Esquire, he and he is hereby required to repay unto the treasury of the Western Shore, the sum of sixteen hundred and forty three dollars and sixty-three cents, the said sum of money having been paid to him for services alledged to have been performed by him as commander in chief of the militia from the 20th of April to the 17th of September, 1813, in addition to his salary as governor from the year 1813, contrary to law.

By order,

THOS. ROGERS, Clk.

Which were read and referred to Messrs. J. H. Thomas, Bayly and Spencer.

The speaker laid before the house a report from the clerk of Calvert county, relative to the attendance of the judges. Which was read.

Mr. Mitchell delivers a petition from George R. Massey, of the state of Delaware, praying compensation for certain expenses incurred by him in the defence of Elkton. Which was read and referred to Messrs. Mitchell, Beard and Kell.

Mr. Kell delivers a petition from Mary Ann James, of the city of Baltimore, praying a divorce. Which was read and referred to Messrs. Kell, Harryman and Bayly.

The clerk of the senate delivers the engrossed bills No. 21 to 27 inclusive, endorsed, "read and assented to." Which were read, assented to and returned to the senate.

The bill entitled, an act to empower Parker Bowen administrator of Benjamin Y. Bowen, collector of Calvert county, to complete the collection of the said Benjamin Y. Bowen. The bill entitled, an act to lay out and open a road therein mentioned, in Cecil county, were severally read the second time and passed.

The bill entitled, an act to authorize the lotteries therein mentioned, was read the second time and passed.

The bill entitled, a further supplement to the act entitled, an act for opening and extending Air Street in the Eastern Precincts of Baltimore; and the bill entitled, an act for the benefit of Alexander Harson, of Cecil county, were severally read the second time and passed.

Mr. Williams from the committee of claims delivers the journal of accounts. Which was read and assented to. Also a bill entitled, an act for the payment of the journal of accounts. Which was read the first and second time by special order and passed.

The bill entitled, an act annulling the marriage of Absalom Christfield and Mary Christfield, of the city of Baltimore, was read the second time, and on motion by Mr. Duvall, referred to the first