

porting Three Companies of the Soldiers, which had been raised for his Majesty's Service, and the more immediate Defence of our Frontier Inhabitants; (though the other Branch of the Legislature did not concur therein) it would seem that those Soldiers thought they had sufficient Reason to depend, that the several Branches (the Assembly being prorogued only for a few Weeks) would soon agree upon some Bill for that Purpose; and that reasonable Dependence, we presume, prevented their Disbanding themselves then, and has even to this Time: And supposing those Soldiers to have been employed in the Duty of their Station, the Occasion your Excellency is pleased to mention for ordering the Militia of *Queen-Anne's* and *Kent* Counties to the Frontier, could not exist; even if there had been a Power of ordering them out, which we humbly conceive there was not.

As we choose at present to avoid entering into a Dispute with your Excellency, in Relation to the Existence of the Law beforementioned, we shall now proceed to represent to your Excellency wherein you have exercised a Power not given you by that Law (supposing it were really in Force) in marching the Militia of *Queen-Anne's* and *Kent* Counties to the Frontiers of this Province, and that the Exercise of that Power (supposing it had been strictly legal) at the most severe Season of the Year, was unnecessary and extremely grievous, and ruinous to them, and unreasonably burthensome to the Country.

That Law (supposing it to be in Force) seems to give Power to every Colonel, &c. to insist the Inhabitants of this Province to be of the Militia, and to muster, exercise, and train them; and seems to subject them to a Fine of One Hundred Pounds of Tobacco for Non-Appearance or Refusal to be insisted in the Militia or Trained Bands; agreeable to a reasonable Construction of that Law (supposing it were in Force) the Inhabitants of this Province are to be Mustered and Trained in the Counties where they Reside, and are not to be compelled to Muster or Train out of their own Counties.

That Law next proceeds to settle the Pay of the Officers and Soldiers of the Militia, while they shall be in actual Service, and provides how they shall be paid: But it gives no Power to the Governor or Commander in Chief, or any Person Commissioned by him, to Compel the Militia of one County to March into another; nor does it Oblige the Militia to Obey the Commands of their Officers, or subject them to any Penalty for Disobedience. In a subsequent Clause of the same Law, there is a very severe Penalty laid upon those Persons that shall, upon any Foreign Invasion, obstinately refuse to appear and serve in Arms for the necessary Defence of this Province; but, we conceive, it's Clear they are not Punishable, by that Clause, for Refusing to serve in Arms upon any other Occasion than upon an actual Foreign Invasion, and then, no longer than until the Invaders shall be Repelled; for when that is done, the Country cannot be said to be under an Invasion; and that Clause is the only one which inflicts any Penalty upon a Refusal to appear and serve in Arms.

When the Militia of *Queen-Anne's* and *Kent* Counties were forced to leave their Habitations and Families, and those of *Queen-Anne's* were transported across the Bay, and Marched to the Western Frontiers, this Province was not under any Invasion; nor had there been even any Incurfions made by the Enemy for a long Time before their March, that we have heard of: Add to this, that our good Friends the *Cherokees*, with some of our own People, were then, as we are informed, on an Excursion against the Enemy. But, upon a Supposition there had been an Incurfion of a few *Indians* at the Time the Militia of those Counties marched (which we cannot learn was the Case) To what End or Purpose could they be ordered to march? It could not be to repel a foreign Invasion, for there was not, at that Time, even any Report of one; and it is well known to your Excellency, that the small Parties of our Enemies, that have heretofore made Incurfions into this Province, have always departed within a very few Hours after they have done their intended Mischief; even so soon that the Rangers that have been paid by this Province, for the Defence and Protection of the Frontier Inhabitants, have either not been able to overtake them, or have not complied with their Duty in making a speedy and proper Pursuit. How then could it be necessary or lawful to march those Militia of *Queen-Anne's* and *Kent* Counties to the Western Frontier, if there had been such Incurfions of our Enemies, since such March could not possibly tend to repel, what perhaps your Excellency may think proper to call an Invasion! as such Invasion must cease to exist long before they could possibly arrive at the Place, from whence the Enemy were to be repelled.

We really are at a Loss to conceive what could induce your Excellency to be of Opinion, that you had a Power, under that Law, to march the Militia beforementioned, unless you supposed you had an Authority under it, to march the Militia of this Province whenever and wheresoever you pleased, and that in order to prevent, as well as repel, an Invasion. But surely there are no Words in that Law that can give you that Authority; nor can any Thing be further from the Intent and Design of it; for such an Authority would put it in the Power of a Governor of this Province, whenever he found himself opposed in any Views or Designs