

Mr. BRENT, of Baltimore city, desired a reconsideration for another object.

He read the twelfth section, and said, that the appointing power was vested in the Governor and the Senate concurrently. Now, the thirteenth section provided only for cases of vacancy during the recess of the Senate. But he submitted that a case might occur—and had occurred under the old Constitution, and under the Constitution of the United States—where a new office had been created at the end of the session. Could the Governor fill that office during the recess? As the thirteenth section now stood, he could not, either under that or the twelfth section. To remove this doubt he should hereafter (if the reconsideration prevailed,) offer an amendment.

Mr. GRASON said, that probably the gentleman from Baltimore city, (Mr. Brent,) was right in his construction, but he, [Mr. G.,] would call the attention of the gentleman to the particular words of the thirteenth section.

Some conversation followed.

The question was then taken,

And the vote by which the thirteenth section had been adopted, was reconsidered.

Mr. CHAMBERS, of Kent, then moved to amend the section by inserting after the word "office," in the fifth line, the words "which ever shall first occur."

The question was taken, and

The vote stood ayes 33, noes 17.

No quorum voting.

The question was again taken, and

The vote stood ayes 39, noes 21.

So the amendment was agreed to.

Mr. CRISFIELD said, he would now offer his amendment, as a substitute for the section. The amendment of the gentleman from Kent, (Mr Chambers,) would not do away with the difficulty, he, [Mr. C.] saw.

The substitute was again read.

The question was then taken, and

The substitute was agreed to.

The question then recurred on the adoption of the said substitute, as the thirteenth section of the report.

Mr. BRENT, of Baltimore city, said that as the substitute of the gentleman from Somerset, (Mr. Crisfield,) had been adopted, it would be necessary for him, [Mr. B.] to move an amendment, which he probably might not have offered, if the proposition had been allowed to stand in the original form.

Mr. B. then moved to amend said substitute by inserting after the word "appointment" in the fourth line, the following:

"Or in case any office or appointment shall be created by law, and shall not be filled during the session of the Senate."

The amendment was read, and the pending question was stated to be on the adoption thereof

Mr. BRENT explained its object.

Mr. DORSEY suggested that the substitute of Mr. CRISFIELD covered more ground than the gentleman supposed.

Some explanation followed on the part of Messrs. BRENT, DORSEY, and CRISFIELD, when

Mr. DORSEY waived his objection.

Mr. BRENT stated that the object of his amendment was to obviate a difficulty that had arisen under the old Constitution (referred to hereafter).

Mr. CRISFIELD had not been aware, he said, that any such difficulty had arisen under the provision of the old Constitution. And he thought that some such amendment as the gentleman from Baltimore city had offered, properly regarded, should be adopted.

Mr. GRASON expressed his regret that the section had not been permitted to stand as amended. The section of the old Constitution retained the old debateable grounds which had been acted upon in different ways by different Governors. As the section was now amended, he thought that its language was not susceptible of any misconstruction.

Mr. BRENT, of Baltimore city, to show that difficulties had arisen on this question, read the following extract from a letter addressed to him by THOS. H. O'NEAL, Esq., Secretary of State:

STATE DEPARTMENT, }
Annapolis, Feb. 27, 1851. }

Hon. R. J. BRENT,

Attorney General:

SIR:—By the direction of the Governor, I respectfully call your attention to the following point, which you will please submit in writing, at an early day:

By the act of 1836, (amendatory of the pre-existing Constitution,) chapter 197, sec. 14, the appointing power is vested in the Governor, to be exercised by and with the advice and consent of the Senate. By the 15th sec. the Governor is authorized to fill vacancies which may occur, during the recess of the Senate.

The practice heretofore obtaining in this Department, in the appointment of new Justices of the Peace, has been to confine such appointments, during the recess of the Senate, exclusively to cases of vacancy; thereby seeming to view the power of the Governor as limited by a strict construction of the 15th section of the act of 1836, before referred to.

Notaries Public, Commissioners to take acknowledgments of deeds, &c. out of the State, Auctioneers in the city of Baltimore, and other similar officers, created by law, come within the operation of the 14th section, aforesaid; and the number and location of said officers, in most cases, are left discretionary with the Executive. It frequently occurs that additional appointments, during the recess of the Senate, are required by the public interests, and yet it is a matter of doubt with the Executive as to whether or not he is restricted to the filling up of actual vacancies, occasioned by death, removal, removal out of the place designated by law, resignation, refusal to qualify, or any other recognized cause of vacancy.

The extract having been read,

Mr. BRENT said that the object of his amendment was to obviate this difficulty.