

the several county courts may be invested with unlimited chancery jurisdiction. Read and ordered to lie on the table.

Adjourned till to-morrow.

SATURDAY, DEC. 5.

The house met. Present as on yesterday. The proceedings of yesterday were read.

Mr. Callis delivers a petition from Notley Maddox, of P. G. county, praying a stay of execution on a judgment obtained by the state against him. Mr. Blackstone a petition from Charles Williams and Jesse Bullock, old soldiers, praying relief. Mr. Banning a petition from Robert Bruuff, of Kent county, Delaware, praying a special act of insolvency. Mr. Potts a petition from Harriet Cuffman, of Frederick county, praying a divorce. Mr. Abram Jones a petition from Stephen Caywood, of Montgomery county, praying a support. Mr. Lecompte a petition from James Steele, and others, of Dorchester county, praying that the state will employ counsel to defend their titles to certain lots purchased of the state. Mr. Riggs a petition from Henry Leeke, of Montgomery county, praying a support. Mr. Potter a petition from sundry inhabitants of Caroline county, praying that the draw in Dover bridge may be altered. Mr. Forwood of Wm. a petition from sundry inhabitants of Harford county, praying that an old road therein mentioned may be made public. Mr. Delaplaine a petition from John Campbell, of Frederick county, praying that a law may pass to confirm an agreement therein mentioned. Mr. Hambleton a petition from John Bullen, of Talbot county, praying that the levy court of said county may be authorized to levy a sum of money as a compensation to him for certain services rendered to the county. Severally read and referred.

On motion by Mr. Dorsey, Leave given to bring in a bill, entitled, An act to permit the removal of civil actions depending or brought in the several county courts within this state to any county court of an adjoining county, and to repeal and abolish all such parts of the constitution and form of government as are contrary thereto.

On motion by Mr. Wilson, Leave given to bring in a bill, entitled, A further additional supplement to the act, entitled, An act to provide for the organization and regulation of the courts of common law in this state, and for the administration of justice therein.

Mr. Marriott delivers a report on the petition of Thomas B. Dorsey and John Sappington, stating that the chancellor has full and competent power to grant relief without the interference of the legislature. Read.

On motion by Mr. Thos. N. Williams, Leave given to bring in a bill, entitled, A further supplement to an act passed at November session, 1796, entitled, An act relating to negroes, and to repeal the act of assembly therein mentioned.

The clerk of the senate delivers the bill to incorporate the Trustees of the Westminster General Meeting House, and the bill for the relief of the Moravian Society of Graceham, endorsed, "will not pass." The bill to confirm an old road in Worcester county; the bill to correct a mistake in a deed therein mentioned; the bill to change the name of Theodore Gunby; the bill to open an alley from Holliday-street to North-street in the city of Baltimore; the bill for the relief of Ann Onions; the bill for the benefit of Thomas Edmonson, and the bill to lay out and make public a road in Somerset county, severally endorsed, "will pass." Ordered to be engrossed.

On motion by Mr. Potter, Leave given to bring in a bill, entitled, A further additional supplement to an act, entitled, An act to direct defences.

The resolutions in favour of William Vaughan, and Gerard H. Snowden and others, were assented to and sent to the senate.

Mr. Francis M. Hall delivers a petition from sundry inhabitants of Baltimore, Anne-Arundel and Prince-George's counties, praying the incorporation of a company to make a turnpike road from Baltimore to the City of Washington. Read.

On motion by Mr. Lecompte, the following message was read and ordered to lie on the table.

Gentlemen of the Senate, We propose, with the concurrence of your house, on — next, to proceed, in the manner prescribed by law, to the election of a senator to represent this state in the senate of the United States.

Mr. Delaplaine delivers a report and resolution in favour of Joseph Sam Smith.— Read.

The resolutions in favour of William Harper and Nathaniel B. Magruder, were read and assented to.

Mr. Perry delivers a bill to prevent trespasses in Allegany county—twice read and passed. Mr. Lewis a bill for the benefit of the infant children of Thomas Helm. Mr. Abram Jones a bill for the support of Stephen Caywood, and Mr. Lusby a bill for the benefit of John Allen.— Read.

The bill to lay out, open and amend, a road in Cecil county; the bill to revive an act to incorporate a company to make a turnpike road from Westminster to Hagar's town; the bill for the encouragement of learning, and the renewal of the charters of the several banks in this state; the resolutions in fa-

vour of Elijah Smith, James Clarke, Leonard Watkins, and Thomas Elliott, were sent to the senate.

The bill to lay out & open a road in Cecil county; the bill to establish a public road in P. G. county; the supplement to the act to lay out and make public a road in Baltimore county; the further additional supplement to the act for opening a road in Baltimore county therein mentioned, and the bill for the relief of Dennis M. Burgels, were severally read the second time, passed, and sent to the senate.

Mr. Wilson delivers a further additional supplement to the act to provide for the organization and regulation of the courts of common law in this state. Mr. Sanders a bill for the benefit of John, James, William, and Ann Elizabeth Johnson. Mr. Randall a bill authorizing a lottery to raise a sum of money to erect a school-house and meeting-house in Baltimore county. Mr. Delaplaine a bill for the relief and benefit of the representatives of William Emmitt, deceased. Read.

The bill to make valid the proceedings of the levy court of Somerset county relative to the sale of certain lots of ground, and the supplement to an act to authorize the levy court of Baltimore county to levy a sum of money for the purposes therein mentioned, were read the second time and passed.

Mr. Blackstone delivers a report and resolution in favour of Charles Williams and Jesse Bullock. Read.

Adjourned till Monday.

MONDAY, DEC. 7.

The house met. Present as on Saturday. The proceedings of Saturday were read.

Mr. Long delivers a report and resolution in favour of Henry Harris. Twice read and the resolution assented to.

Mr. Long delivers a petition from William Hillman, an old soldier, praying relief. Mr. Kilgour a petition from John Norris, of Montgomery county, praying a divorce; also a report of the trustees of Rockville Academy. Mr. Perry a petition from John Reid, of Allegany county, late an officer in the revolutionary war, praying relief. Read and referred.

The clerk of the senate delivers the bill authorizing Joseph Gough to complete his collections, the bill authorizing Matthias Daishell to complete his collections, and the bill to change the name of Cresswell's Ferry, severally endorsed, "will pass." Ordered to be engrossed. And the following message—Gentlemen of the house of delegates,

From the small quantity and the nature of the business before us, we believe the whole may be acted upon, and the session brought to a close, by the 13th inst. We propose, therefore, with the concurrence of your house to close the session on that day.

Read. The further additional supplement to the act to provide for the organization and regulation of the courts of common law in this state, and the further supplement to an act to incorporate a company for erecting a bridge over Chester river, were read the second time, passed, and sent to the senate.

Mr. Bayly delivers a petition from Elijah Langford, an old soldier, praying relief. Mr. Barney a petition from Joseph Berret, of the city of Baltimore, an insolvent debtor, praying relief. Mr. C. Hall a petition from Lancelot Moffet and Josiah Maffey, of Kent county, praying that a ditch may be opened through the lands of the late Thomas Boyer. Mr. Potter a petition from Abel Gouty, and others, of Caroline county, praying that certain land belonging to the infant heirs of Zachariah Gouty, may be sold for the benefit of said heirs. Read and referred.

The report on the petition of Thomas B. Dorsey and John Sappington, was read the second time and concurred with.

Mr. Evans delivers a report and resolution in favour of Edward Gerrish and Jacob Allen. Read.

Mr. Perry a report and resolution in favor of John Reid. Twice read and the resolution assented to.

The resolution in favor of Charles Williams and Jesse Bullock, was assented to and sent to the senate.

Mr. Crabb delivers an unfavourable report on the petition of John Norris. Read.

Mr. Hogg a petition from sundry inhabitants of Cecil county, praying for a road therein mentioned. Referred.

The bill to make valid the proceedings of the levy court of Somerset county; the bill to prevent trespasses in Allegany county; the bill supplementary to the act to authorize the levy court of Baltimore county to levy a sum of money for the purposes therein mentioned; the resolution in favour of Nathaniel B. Magruder, and William Harper, were sent to the senate.

The bill for the benefit of the infant children of Thomas Helm; the bill for the benefit of John Allen, and the bill for the support of Stephen Caywood, were severally read the second time, passed, and sent to the senate.

Mr. L. Duvall delivers a report and resolution in favour of Thomas King. Read.

Mr. Wm. Williams delivers a petition from Thomas Kennedy and others, of Washington county, praying they may be allowed compensation for having served on a jury of

partition. Mr. Evans a petition from Neile Jones, an old soldier, praying relief. Referred.

Mr. Long delivers a report and resolution in favour of William Hillman. Read.

Mr. Parham a report and resolution in favour of James Semmes. Twice read, and the resolution assented to.

Mr. Ford a report and resolution in favour of John Davis. Twice read and the resolution assented to.

On motion by Mr. Bowles, the bill annulling the marriage of Jerome Buonaparte, King of Westphalia, and Elizabeth Buonaparte of the city of Baltimore, was made the order of the day for Tuesday the 15th instant.

Mr. Callis delivers a bill for the relief of Samuel W. Beck, of P. G. county. Mr. Wright a bill for the relief of the heirs of John Chaires. Mr. Riggs a bill for the support of Henry Leeke. Mr. Sta. Aubury a bill for opening and extending Lowther street in the eastern precincts of Baltimore. Mr. Potter a further additional supplement to an act to direct defences. Severally read.

The resolution in favour of Thomas S. Brewer, was assented to.

On motion by Mr. Bayly, Leave given to bring in a bill, entitled, A supplement to the act, entitled, An act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and the Chesapeake Bay.

On motion by Mr. Thos. N. Williams, Leave given to bring in a bill, entitled, An act authorizing Levin Derickson, late sheriff and collector of Worcester county, to complete his collection.

Mr. Bayly delivers a report and resolution in favour of Elijah Langford. Twice read and the resolution assented to.

Mr. Dorsey delivers a petition from Archibald Johnson, an old soldier, praying relief. Referred.

Mr. Barney delivers a bill to extend Forest and Goodman streets, southwardly from the city of Baltimore. Mr. Crabb a bill for the relief of Alexis Remain, of the city of Baltimore. Read.

Mr. Belt delivers a report and resolution in favour of John Hill. Read.

The clerk of the senate delivers the resolution making an appropriation for furnishing the government-house, endorsed "assented to." The supplement to the act to confirm a road in Harford and Baltimore counties, the bill to lay out, open and amend, a road in Cecil county, the supplement to the act to lay out and make public a road in Baltimore county, the further additional supplement to an act for opening a certain road in Baltimore county therein mentioned, the bill to revive an act to incorporate a company to make a turnpike road from Westminster to Hagar's town, the bill making public a road in Harford county, and the bill to establish a public road in Prince-George's county, severally endorsed, "will pass." Ordered to be engrossed. The bill for the relief of Dennis M. Burgels, endorsed "will not pass." And the bill to lay out and open a road in Cecil county, endorsed, "will pass with the proposed amendment;" which amendment was agreed to, and the bill ordered to be engrossed.

Mr. Thos. N. Williams delivers a further supplement to an act relating to negroes.— Read.

Adjourned till to-morrow.

TO THE HONOURABLE

THE GENERAL ASSEMBLY OF MARYLAND.

A fair and candid discussion of a constitutional question, is the right as well as the duty of freemen. If the point is involved in mystery and doubt, it needs every aid that can be tendered to extricate it from the difficulty. But it is clear and unentangled, and an attempt is made to invade an essential principle, it becomes every man to stand forth the intrepid guardian and defender of the great charter of American rights.

On the question of the appointment of a senator of the United States, principles have been assumed, and practices pursued, most decidedly in contradiction to the plainest expressions of the constitution, disobedient to its positive commands, and repugnant to its obvious spirit and intentions. An occurrence so alarming is calculated to rouse the feelings of those who regard the constitution as the great source of our happiness and prosperity; and those who hold the opinion that American liberty will only be coeval with that constitution, are most emphatically called on to vindicate such wrongs and repress such practices.

In the 3d sec. of the 1st article of the constitution of the United States, it is thus ordered, viz: "The Senate of the United States shall be composed of two senators from each State, chosen by the Legislature thereof for six years, and each senator shall have one vote. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes—The seats of the senators of the first class shall be vacated at the expiration of the second year—of the second class at the expiration of the fourth year—and of the third class at the expiration of the sixth year—so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may

make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies."

Notwithstanding these clear and explicit provisions of the constitution, in Maryland it has by turns been declared by all parties, and they have acted up to the declaration, "That either branch of the legislature can withhold its assent to go into the election of a United States Senator at the usual established and constitutional period, and thereby prevent an election by the State Legislature from taking place."—In examining this important question, we will take up the points it now reads at the present session, both because it will be more familiar to our apprehension, and because the reasoning is at all times the same. In supporting the position of the right of withholding the assent of either branch, it is said first, "That as the present congress will be extinct on the fourth of March next, up to which time the state is already provided with a senator; and as it sometimes happens, and therefore the probability is that the new congress will not be called until the usual period of the first of December, which will be four weeks after the next session of the legislature, no inconvenience may be expected to arise from procrastinating the appointment until then—And secondly should the new congress be called on the fourth of March, or on any day previous to the meeting of the next legislature, a mode is pointed out by the constitution for a temporary appointment of a senator by the executive of the state."

A more unfounded and unfair system of reasoning than this cannot be met with; it is built upon fiction, and has been forced up to suit the pressing emergency of the occasion, rather than adapted to a just view of the subject.

No language could be stronger or more precise than that used in the constitution: the evident meaning of which is, that there must be two senators from each state, and those senators must be elected for six years. This language is imperative—Each state must have two senators, because in the senate of the United States the individual states were intended to be equally represented; and the legislatures of the states being considered the best and most adequate body of electors to appoint those senators. They are enjoined to appoint them for six years. The period when the next senator's term from Maryland will commence, will be the fourth of March, whether he is appointed at this session or not; for let the senator be appointed when he may, his term of service for six years must be computed from the fourth of March next, or the system of biennial rotation will be destroyed. As then the constitution orders that the legislature shall appoint the senators for six years, is it not clearly an obligation that they cannot controul, a duty that they cannot procrastinate. The specified time of service, and the contemporaneous and established usage which has all along prevailed, give a force and an authority to these points which cannot be misunderstood, and which ought not to be disobeyed. The idea that a senator may be possibly be wanted until the first of December is irrelevant and extravagant; it is in war with the imperious injunctions of the constitution; and even if it was not, it is substituting a mere possibility of occurrence in lieu of an accustomed train of events—And at this time, when the country is involved in a serious and portentous war with a powerful enemy, such a supposition is discountenanced by every rational expectation, as there can be but little doubt but that congress, in such a state of things, will inevitably be in session the greater part of the approaching year.—But it is further said, "The state need not in any event be unrepresented in the senate, for if the legislature does not appoint, there is a provision for an appointment by the executive of the state."—In case a vacancy occurs in the senate of the United States, during the recess of the legislature, rather than that the state should incur the additional expense of calling its legislative bodies together for this single purpose, it is provided that the executive may make a temporary appointment.—This power, this incidentally given to the executive for a temporary object, was intended by the framers of the constitution (the language of the provision is very plain) as a mere matter of convenience and economy, to be resorted to on occasions which are required to be accidental, and which from the very nature of them, an experience proves, must be unfrequent and rare.—And now an attempt is made to induce the legislature (the regularly constituted electoral body) to omit to perform an imperative duty at a convenient, usual, and established period, and designedly to impose that duty upon another department of the government, which upon any principle of our republican system ought not to be invested with such power, and which would not have been even temporarily clothed with it, but to prevent a greater inconvenience. The language used in the constitution to specify the kind of vacancies that may be filled by the executive, evidently denotes the accidental or unforeseen, among which can never be classed a vacancy arising from the ordinary expiration of a term of service, which upon every candid principle of construction, must have been intended to be filled by the most favoured mode of constitutional appointment.—And it

is not unreasonable to assert, that a vacancy cannot by the fair intention of the constitution be filled by the executive of the legislature by declining to discharge his duty, creates an occasion for invading the department of the government power in a manner not contemplated by the constitution. For this mode of that one branch of the legislature prevent the election of a senator at the usual period, upon the pretext that the executive fill up the vacancy when necessary, just as to one year, it must be equal to a second year, and so on through the term of six years; by which one branch of the legislature (and that too) might over-rule a majority, the appointment from the hands of the legislature, its most favoured constitutional mode, and place it under the control of the executive in violation of the express spirit of the constitution.

The propriety of confiding the appointment of United States senators to the legislature has been always admitted, from its ever having been questioned universally conceded, that the power has not been so properly lodged in the executive. The senate ought to be more its constitution than the popular branch, as it was intended to represent the legislatures, the legislature of the state to be peculiarly pointed out as proper. Besides, the alarm which existed from the apprehension that the state sovereignty was in danger from the general government, and in a great degree by the assurance held out; as it creates a fort of connection between the states and the general government, and gives to the former an influence in the construction of the latter, which they a pledge for their own security. Legislatures of the states then about appointment, or incur its loss in any constitutional check, which, as far as it is felt, will impair the energy of that gives to the general government equal powers and secures to the states their wonted supremacy and controul.

In representative governments the question is, who are the most proper electors? When that point is also subordinate but still important question—such as, may not premature election in the representative body be likely to happen? If they do happen, will those who are considered the best qualified electors be always prepared to meet the emergency and to remedy the defect? Will it comport more with the general sense of the people to elect a senator, or to propose the inconvenience on the election, assembling together and to throw the whole expense upon the public of furnishing the electoral body for that special purpose? Or would it be better to substitute a department of government which would be always ready to act, and vest it with temporary powers? Thus in the case before us, the great point is, who will constitute the best body of electors, and these are decided to be the legislatures; but the state legislatures are always in session—If then a vacancy should unexpectedly happen in the recess of the legislature, a temporary power is lodged in the executive of the states, which is always in session, to fill up that vacancy, rather than to propose the trouble upon the legislature to meet for that purpose also to add so much to the public expenditure. The executive department of the state government is not substituted in this case from an election entertained for it, either in the nature of its appointment, the number of its members, or from the nature and character of the department of the government, but exclusively from a sheer trouble-saving, money saving convenience, because it is always in session, and the power thus given will endure a long time.

If unvaried custom was insufficient, established constitutional rotation in the world satisfactorily designate the time when the election ought to be made: varied are the duties, so important the and so exalted is the station of a senator, the constitution will gain in any event the supposition of a state's being represented in that body for any but the possible period of time; and therefore, committing to keep up that representation is a flagrant violation of one of its cautious provisions.

The senate of the United States is a branch of the executive of the general government, and constitutes a part of the legislative power. In this last point states individually have a deep and important interest at stake, and the commercial interest of all. Can the legislature justify themselves and to their country, in a disastrous war voluntarily to omit the state of Maryland its full and just share of treaty-making power, when they know how soon that power may be called into use, both in adjusting differences on a national wrong, in demanding reparation for private losses, and in regulating the commercial intercourse between the two nations? Or will they at so critical and important a period, involving private wealth, national sovereignty and independence, be by their intentional neglect, w