

The Convention had now gone through with this bill.

Mr. GRASON said it would be in the recollection of the Convention, that on Wednesday last, the second section of the report had been postponed, because there was not a full Convention. He was ready to go on with it at this time. It was, however, a matter for the Convention to determine whether they would proceed with the consideration of the section at this time, or would further postpone it until there was a more full attendance.

Mr. DORSEY suggested that time spent in passing upon important questions whilst there was so sparse an attendance, would be lost, inasmuch as a reconsideration of the question was sure to be moved, when there was a more full attendance.

Mr. BRENT, of Baltimore city, said he took it for granted that no important question could be passed upon here without an effort to reconsider when there should be a more full attendance. He suggested that the Convention should take up the motion he had yesterday made to reconsider the vote of the Convention on the 13th section, for the purpose of enabling him to offer a substitute.

The Convention thereupon proceeded to the consideration of the motion to reconsider the vote on the said 13th section.

Mr. CRISFIELD said he was opposed to the motion of the gentleman from the city of Baltimore, [Mr. Brent,] to reconsider the 13th section. The object of the motion to reconsider, is to allow the mover to offer a substitute for the 13th section, which will be found in the journal of yesterday. That substitute, if adopted, would authorize the Governor, in all cases, where he has power to make any appointment to office, to make such appointment during the recess of the Senate, no matter when such office may have been created, or when the vacancy proposed to be filled, may have occurred. The question then is, one of preference between the 13th section as it stands, and the substitute proposed to be offered.

As it now stood, the 13th section provided for cases of vacancy occurring during the recess of the Senate; temporary appointments might be made by the Governor, to fill such vacancies to terminate at the expiration of thirty days after the commencement of the succeeding session, or on the appointment of the same, or some other person, to the same office, by and with the advice of the Senate. The section also provided for another class of cases—new offices created less than thirty days before the termination of the session, which might be filled in the recess, in the same manner as vacancies occurring in the recess. The object of this latter provision, was to afford the Governor time for reflection and examination, before he should be obliged to make his appointments. If a law should pass creating a new office more than twenty days before the close of a session, the Governor must make his nomination to the Senate before the adjournment,

the presumption being that within that time, he can satisfy himself, who is the proper person to be appointed. Here then, were two classes of appointments, which might be made by the Governor during the recess, by granting temporary commissions which would run into the next session, and afford ample time for the Governor and Senate to perform their respective functions, before they would be vacated. Was there any other class of cases for which additional provision was necessary?

The object of the 13th section, as it now stood, was to restrain the Governor within the just limits of his authority, and secure to the Senate its constitutional right of passing on all appointments. All agree that the Senate is properly a part of the appointing power. The necessity of its co-operation exercises a powerful influence over the Governor. It is a powerful check on a spirit of favoritism in the Governor, and tends to prevent the appointment of unfit persons, from prejudice, want of information, family connexion, personal attachment, or a desire for popularity. Hence, the Constitution authorised the Senate to act upon all appointments. But this provision would be idle and ridiculous if it may be evaded. The 13th section as it now stood, would prevent all evasion. As long as that stands, no appointment by the Governor can continue for a longer period than the interval between the sessions, and thirty days during the succeeding session. It was therefore essential to preserve the substance of that section, in order to secure to the Senate the full exercise of its constitutional authority.

Now what is the substitute which the gentleman from Baltimore city proposes, and to let in which the reconsideration is moved? It is, as already observed, to authorize the Governor in all cases where he has power to make an appointment to office—to make such appointment in the recess of the Senate, no matter when the office was created or the vacancy occurred. What is the effect of this? If an office be created, or a vacancy occur during the session of the Senate, the Governor would not be under any constitutional obligation to fill it during the session; and if he failed to fill it, the office need not remain vacant, until the next session. Suppose, in the recess, he make a temporary appointment, and at the next session he make a nomination to the same office, and it is rejected; the Governor would have power, after the close of the session, to make another appointment; and so on from session to session. By a little adroitness, the Governor might preclude the Senate from all participation in the appointments. All he need do to secure to himself practically the sole power of appointment, unchecked by the Senate, is to make, at each recurring session, a nomination which will be rejected, and thus be enabled to keep his favorite in office, during his entire term, without the consent, and possibly in defiance of the wishes of the Senate. The substitute, if adopted, would enable an unscrupulous Governor to evade the provisions of the Constitution.