Mr. McLane suggested that the original section, as it came from the committee, had been rather marred than improved, by the amendments which had been made.

Some conversation followed as to the state of the question, in which Messrs. McLane, Crisfield and Jenifer took part

And some further explanations followed between Messrs. Crisfield and McLane, as to the effect and operation of the amendment.

Mr. McLane thought the gentleman would not accomplish his object, by the proposition he had offered. He referred to the discussion which had taken place on the question of the power of appointment, during the recess, in relation to Federal offices, and adverted to the opinion given by Mr. Wirt, when attorney general, in the case of the appointment of a collector on Lake Erie, that the President had the power to fill the vacancy during that recess; an opinion which he, (Mr. McLane,) considered as having had stronger basis to rest upon than the provision in our Constitution conferring the power on the Governor. He regarded the power of the President of the United States, and the power of the Governor of Maryland, as precisely parallel in reference to this subject. He therefore saw no necessity for either of these propositions. He thought the section as it came from the committee preferable to either of them. He did not think the term of an appointment should of necessity expire within thirty days after the meeting of the Legislature If the appointment made by the Governor was an improper one, the Senate could at any time reject it.

He was not aware that the Governor had the power to appoint, during the recess, and that if the nomination was rejected by the Senate, he could fill the office again with the same person, until the gentleman from Anne Arundel, (Mr. Donaldson,) suggested it. If the Governor had any such power, it ought to be taken away from him.

Mr. Donaldson explained what he had said

Mr. Brent referred to the opinion of the Attorney General, Charles Lee, as directly opposite to that given by Mr. Wirt, as to the power of the President to appoint a commissioner, (an original appointment,) during the recess of the Senate If there was a doubt existing on the subject, it ought to be removed by the action of this Convention.

Mr. Chambers concurred in the general course of the remarks of the gentleman from Cecil — But there was still room for doubt whether the temporary appointee would not hold on after a rejection by the Senate. The language is express that the appointee shall continue to hold the office till a new appointmens is made. No new appointment is made until a nomination is confirmed. He could not suppose the Convention designed to have the temporary appointee fill the office after his rejection, and yet if other persons were afterwards nominated, who were also rejected, there would be no new appointment, and then the language of the proposed section might be relied on to justify the temporary appointee to continue. He stated what he considered to be the practice of the General Government, under the Constitution of the United States. Where a knowledge of a vacancy first came to the President in the recess, it was regarded as "occurring in the recess." He would be willing to take the section with the simple addition of the word "occurring," and adding a provision that the temporary appointment should cease with the next session of the Senate.

Mr. Grason called the attention of the Convention to the article as it was reported, and the substitute proposed for it. According to the bill as it now stood, a person appointed in the recess, must be nominated to the Senate within thirty days from the commencement of the session, and if rejected, his appointment terminates; and of course his commission cannot be continued or renewed after the adjournment. The fourteenth section expressly provides that no person, rejected by the Senate, shall be appointed during the recess.

The objection to the substitute is, that it only provides for vacancies that "*occur during the recess.*" These words are used in the existing Constitution, and have been susceptible of different constructions. Under one Executive, the construction has been, that *any* vacancy in the recess, is considered as *occurring* at the time; and under a different administration it was supposed that no vacancy could be considered as *occurring during the recess*, unless it originated after the adjournment of the Senate. Under the latter construction, the most important offices might remain vacant, in case of the death or resignation of the incumbents immediately before the adjournment.

In preparing the bill, the committee had wished to avoid the use of the doubtful terms which are now attempted to be revived.

The gentleman from Kent, (Mr. Chambers,) was extremely anxious to guard against any possible abuse of power by the Governor, but as regards the abuse of power, on the part of the Senate, he appeared to entertain no apprehensions whatever. There might be abuses of power by the Senate as well as the Executive, and appointments might fail from a difference of opinion respecting the persons nominated. In case of a difference between the Executive and Senate, and a consequent failure to make an appointment, the Governor ought to have the power during the recess to fill the vacancy, not by appointing persons who had been rejected, but others who were not liable to objection.

Mr. McLane rose to reply to the gentleman from Kent on two points—the one a difference of principle, and the other of interpretation. The law of the United States provided, in case that a vacancy was found in the recess of the Senate, the President may fill it in the recess.

Mr. Chambers objected that this was too broad an interpretation. The practice is this: if the President has first heard of a vacancy in the recess, it is the construction that it occurred when the President heard of it. But the President