

New Orleans, Feb: 18. 1851.

Hon: Thomas H. O'Steal,
Secretary of State, for the State of Maryland.

Sir,

On yesterday morning very unexpectedly to us the Judge of the District Court rendered judgment in the M'Donough case, against the States of Louisiana & Maryland. —

We were much disappointed, because we all considered the indications from the bench as favourable to our success, besides the confidence we entertained in the strength of our case. — That confidence is not at all abated by this temporary defeat.

We shall of course in conjunction with the State of Louisiana appeal the case to the Supreme Court.

Very Respectfully, Yours &c
Elmore & King
Att: at Law.

State Department, Annapolis Feb: 27th 1851.

Hon: W. S. Brent,
Attorney General,

Sir,

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

Secy of State, to the Attorney General, concerning Executive power to appoint Officers during the recess of the Senate under old constitution.

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 section 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 acknowledgment 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 interest, 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. In the case of Auctioneer in the City of Baltimore,