

this State if he puts in command of the soldiers of the State incompetent officers. I hold that such a man is unprincipled; that he is betraying his trust, and is unworthy of the position he occupies. It is in this view only that I favor the amendment of my colleague (Mr. Scott;) for it will make us more careful for whom we vote for governor; that he shall be a man who is competent to be intrusted with the lives of soldiers in time of war.

Mr. STIRLING. I give notice that if the amendment of the gentleman from Cecil (Mr. Scott) is not adopted, I will move to amend the section by striking out the words "in person without the consent of the legislature," and inserting "of the militia when called into the service of the United States;" so that that portion of the section will read: "but shall not take the command of the militia when called into the service of the United States." That will make the section conform to the provisions of the constitutions of most of the States, leaving the governor to take command of the militia when in the service of the State. Of course nobody expects him to take command of the militia when in the service of the United States.

The question was upon the motion of Mr. Scott to amend the section by striking out the words "but he shall not take the command in person without the consent of the legislature."

Upon this question Mr. STIRLING called the yeas and nays, and they were ordered.

The question was then taken, by yeas and nays, and resulted—yeas 18, nays 38—as follows:

Yeas—Messrs. Berry, of Prince George's, Billingsley, Bond, Clarke, Crawford, Davis, of Charles, Davis, of Washington, Earle, Hodson, King, Miller, Parker, Pugh, Scott, Smith, of Dorchester, Stirling, Stockbridge, Swope—18.

Nays—Messrs. Goldsborough, President; Abbott, Annan, Audoun, Brooks, Brown, Carter, Cunningham, Cushing, Daniel, Dellinger, Ecker, Edelen, Galloway, Hopkins, Hopper, Jones, of Somerset, Keefer, Kennard, Lee, Mayhugh, McComas, Mitchell, Mullikin, Murray, Nyman, Purnell, Robinette, Russell, Sands, Schlosser, Smith, of Carroll, Smith, of Worcester, Thomas, Thruston, Todd, Valliant, Wickard, Wooden—38.

The motion to strike out was accordingly rejected.

Mr. STIRLING. I now move to amend the section by striking out the words "in person without the consent of the legislature," and inserting "of the militia when called into the service of the United States."

Mr. VALLIANT. I apprehend that that amendment is unnecessary. The constitution of the United States settles that question, if there is any question about it. The first clause of the second section of the second

article of the constitution of the United States, says:

"The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States."

Mr. STIRLING. There is no trouble about that, I only wanted to make this section conform to the provisions of the constitution of the United States.

Mr. SANDS. I think if the amendment of the gentleman is adopted by the house, it would do in effect what the house has declared ought not to be done; that is, give the governor the command in person of the militia in the State. I hope the amendment will not be adopted.

The question being then taken upon the amendment of Mr. STIRLING, it was rejected.

Mr. BERRY, of Prince George's, moved to amend the section by striking out the words "but shall not take command in person without the consent of the legislature," and inserting "and shall command in person the militia of the State, when in active service of the State or of the United States."

Mr. THRUSTON moved the previous question, which was seconded; and the main question ordered.

The question was then taken upon the amendment of Mr. BERRY, of Prince George's, and it was rejected.

The question was then taken upon the section, and it was adopted.

Mr. STOCKBRIDGE. As we have gone back from the point we had reached, I wish to ask the convention to recur to the eighth section, to which the gentlemen from Anne Arundel (Mr. Miller) called the attention of the convention a few moments since. I had not the amendment prepared at the time.

The question was taken upon recurring to the eighth section, and it was agreed to.

The eighth section was again read as follows:

"Sec. 8. In case of the death, resignation, removal from the State, or other disqualification of the governor, the powers, duties and emoluments of the office shall devolve upon the lieutenant governor; and in case of his death, resignation or removal, then upon the president of the senate for the time being—until the disqualification or inability shall cease, or until a new governor shall be elected and qualified."

Mr. STOCKBRIDGE. I move to amend the section by adding the following:

"And for any vacancy in said office not herein provided for, provision may be made by law, and if such vacancy should occur without such provision being made, the general assembly shall be convened by the secretary of State for the purpose of filling said vacancy."

I wish merely to say in reference to that