

February 28th. 1853.

The Governor commissioned Garrett Osborne, Lumber Inspector for Baltimore City, vice Andrew J. Sunwalt, deceased.

28th.

The Governor transmitted to the Senate the following Message:

To the Senate,

Gentlemen:

I respectfully nominate for your advice and consent, George F. Arnor, for auctioneer in the City of Baltimore.

In making this nomination, some explanation maybe considered proper.

By the Act of 1827, chapter 111, The Governor and Council were directed to appoint, annually, as many persons within the City of Baltimore to be Auctioneers, as they might judge proper; provided that the number to be appointed should not exceed, at any one time, twenty; As the power to appoint auctioneers has not been specially conferred on the Governor and Senate, by any Act of Assembly within my knowledge, I find the authority for such appointments only in the Act of 1836, chapter 197, section 14, amendatory of the act, and in the second section of Article 11 of the new Constitution.

In the Act and Article severally referred to, it will be found that the Governor is directed to nominate, and by and with the advice and consent of the Senate, to appoint officers, &c., to offices, &c. Unless, therefore, the power conferred on the Governor and Council, by the Act of 1827, chapter 111, has been vested in the Governor and Senate by the general phraseology of the Act of 1836, and continued by the new Constitution, no authority whatever now exists for the appointment of auctioneers. Hence, an auctioneer must be considered an officer within the meaning of the Act of 1836, and the second Article of the present Constitution. If so, the office of auctioneers comes within the requirement of the fourteenth section of that Article, and a nomination for that office must ordinarily be sent into the Senate within fifty days from the commencement of the session. I have deemed it necessary to present these views, because I am aware that it has been contended that auctioneers are not officers under the State.

The practical question which arises from these premises, and to which I wish to call the special attention of the Senate, is whether or not, when the full number of twenty has not been filled, vacancies in law maybe considered to exist, capable of being filled by the Governor in the recess, or by the Governor and Senate after the expiration of the fifty days, as is the case in regard to vacancies in fact. I incline