On motion of Mr. Bowie,

The section was further amended by striking ing out in the second line the words, "hereafter to be commenced or instituted" and inserting the following:

"Now pending or which may be pending at the time of the adoption of this Constitution by the people, or which may be hereafter instituted."

Mr. Bowie moved further to amend the twenty-ninth section by inserting after the word "therein" at the end of the twelfth line, the following:

"The removal in all civil causes to be confined to an adjoining county within the judicial circuit except as to the city of Baltimore, where the removal may be to an adjoining county."

Mr. Bowie suggested that it would be better to leave it open to any adjoining county, for the judge might wish it removed to another district.

Mr. Randall thought there should be no restriction. The party might believe the judge to be prejudiced against him; and the judge might be satisfied that there was such an opinion upon the part of others, although he might not feel it himself. In such a case the judge would wish to remove the case out of the district. It would be better to leave it to the judge to determine whether it should be removed to his own or to another districts. He could see no inconvenience to result from it.

Mr. Constable suggested that the provision for the change of venue as now existing had been unchanged since 1804, with a single exception. The reason of the change had been that to allow removal out of the district, one judge might be crowded with the whole business of two circuits. The consequence was the provision was made to allow a change of venue in civil cases only within the district; while criminal cases might be removed to any adjoining county. There was a great deal of business in his own district that did not belong there. If the judge was partial, he could be indicted by the grand jury for corruption; and there was already a provision that if a judge was interested another should be appointed. The change of venue was founded upon the fear of the party that he cannot obtain a fair trial before his peers in that county. The judge was not presumed to know the public sentiment; and ought not to listen to it: but the party knows the public sentiment; and if he conscientiously thought he could not obtain justice in one county, he could ask that his trial be removed to another county. The object of the amendment was to keep the change of venue upon the same footing upon which it was now placed.

Mr. Bowie was quite satisfied that the privilege of removing cases was most grossly abused; and he should be very unwilling to allow the business of one circuit to be carried into another. To remove the restriction would have a tendency to throw the business from one circuit into another, in civil suits.

Mr. Randall remarked that the judiciary system was now arranged so as to afford a peculiarity which it had never had hitherto. Judges were to be elected for a term of years and by the people. The prejudices and partialities of the people would necessarily exist in their minds, because they would be more intimately connected with the people. If a case was to be tried in which the judge was thought to have formed an opinion, why not remove the case to another district? A judge was but a man, just taken from among the people, and with all the prejudices and passions of the public mind operating upon him. Why should he not be liable to be biased as well as the jury? And when the defendant believed him to be biased, why not remove the case to an adjoining county in another district? It might sometimes happen that when a case was to be removed, it could not be removed to a county in the same district without a long delay; whereas, by removing it to an adjoining county in another district, the case might immediately be tried. Great convenience might frequently result from this power, which the judge should exercise at his discretion; and he could see no serious inconvenience to result from it.

Mr. Brewer moved to amend the section by striking out in the 10th line, the words "judge of," and inserting after "county" in same line, the words "in the discretion of the court."

Mr. Constable. If the amendment of the gentleman from Montgomery is to make the removal discretionary with the judge, I am opposed to it. A change of venue ought to be a matter of right and not of discretion.

I know that from experience. We live upon the borders of two judicial districts. I say that when you impose upon the judge the duties of a particular circuit, and pay him for discharging those duties, so far as the civil docket is concerned, he ought to be compelled to perform the whole of those duties. In the little district composed of the counties of Kent, Queen Ann, Talbot and Caroline; the whole business of the county of Kent may be thrown into this larger district, with about double your population, and quadruple the business. What would not be right, I would not leave it discretionary with the judge of the Kent county court, to say whether he would try a cause there, or in the adjoining county, or say whether he will give it over to a judge in another county, to determine all the civil business of his district. You should compel the judge to dispose of the business of his district, and above all should never put it to his discretion whether he shall try a cause, or make somebody else try it. For if he wishes to try it, he will keep it, and if he does not, it is a mere matter of labor, and he will refer it to another circuit. I am opposed to granting any such discretion, and hope the amendment will not prevail.

The question was then taken on the amendment of Mr. Brewer, and it was rejected.

The question was then stated to be on the amendment of Mr. Bowie

Mr. Randall. If the amendment is not adopted, as I understand from the chairman of the judiciary committee, the causes will be transmitted to the judge of an adjoining county.