

and the defence, Joseph S. Merrick, Esquire, was appointed to sit in the cause, in accordance with the provisions of the Constitution.

Before the panel of jurors had been completed, the State's Attorney considered that there was good and sufficient reason to warrant an application for the removal of the case; and, accordingly, upon his filing the usual affidavit, the record was ordered to the Circuit Court for Washington County. The Accused was subsequently admitted to bail in the sum of twenty thousand dollars.

Before the meeting of the Circuit Court for Washington County, I was informed by Mr. May, that he had been appointed a commissioner, for certain purposes, by the Federal Government, with instructions to proceed immediately to Mexico; and I was requested by him to release the obligation which he had contracted with the State, in the matter of the prosecution referred to. I consented, so far as to substitute other counsel in his stead, until his return.

Robert J. Brent, Esquire, at my special instance, appeared in the place of Mr. May, and, accordingly attended the Circuit Court for Washington County, at its last term, prepared to assist in the prosecution. I herewith transmit to you a report of the proceedings recently made to me, by the counsel for the State, in compliance with my direction. You will perceive that the defence has raised a technical point, upon the supposed insufficiency of the Act, passed at your last session, Chapter 68, section 2. As the first Circuit consists of the Counties of Allegany and Washington, the regular Judge was disqualified to preside at the trial in the latter, as he had before been, in the former County. The provisional Judge, appointed in the former County, was now rendered functus officio by the removal of the cause. At this juncture, the State offered to unite with the defence, in the selection of a Judge to try the cause; which was declined. The defence then raised the point, that the Act referred to, which was passed to carry into effect the 22^d section of Article IV of the Constitution, did not authorize the Clerk of a Circuit Court, into which an indictment had been removed from another Court, to give the notice specified in the second section of that Act, in order that the Judge of the adjoining Circuit might proceed to appoint a proper person to try the cause. Whilst the counsel for the State expresses a most decided opinion, "that all the proceedings, touching the removal of this cause to Washington County, are strictly legal and warranted by law," he nevertheless, very properly advises, for the purpose of removing all difficulty upon grounds so technical, that a general declaratory Act should be passed applying the second section of the Act of 1853, chapter