Queen Anne's, (Mr. Spencer's,) but would now reconsider it. It is very certain that it would add to the costs of equity suits, for persons living at remote parts of the State to be brought to the place of trial, and kept there at a per diem. Why, he (Mr. B.) would say that a man who had a small chancery case would rather give it up than incur the expenses of summoning his witnesses from various parts of the State.—Whereas great convenience was experienced and cheapness consulted by sending a commission to any quarter of the State that might be necessary. The Court of Appeals had decided that the Commissioner need not appoint a clerk, and in that event many witnesses could be examined at a cost of only $4 a day. He agreed with the gentleman from Queen Anne's, that there was a great advantage in viva voce examination of witnesses. But if the Chancellor had to try facts, as a jury should try them, then his opinion on the facts should be reviewed in the Appellate Court as well as on the law. To carry out his argument, the gentleman from Queen Anne's should bring his witnesses before the Court of Appeals in order that the judges in the last resort should see their manner as well as the intelligence of the witnesses. Otherwise, if the court above reads the evidence reduced to writing then all the advantage of *ore tenus* evidence is lost in the Appellate Court. If you bring before the Court of Appeals the testimony of a man who had willfully and manifestly lied, as apparent to the court below from his demeanor, his testimony in writing might appear so clear to the eyes of the Appellate Court as to be almost unimpeachable. Therefore the gentleman's (Mr. Spencer's) plan did not accomplish his object. It would allow the Chancellor to see the witnesses and to judge of their demeanor, but the Appellate Court would be denied this privilege and might therefore reverse a decision based on personal observation of the manner of the witnesses. Now, in a bill of exceptions you did not take them for the purpose of getting an opinion in the court above on the facts, but only on the law arising on the facts. So that he (Mr. B.) would say the whole plan of the gentleman from Queen Anne's was most expensive, and would not have the effect desired. And, therefore, it seemed to him that the gentleman did not carry out his proposition far enough to accomplish his object. Now, it appeared to him—and he was indebted to the gentleman from Cecil (Mr. McLane) for the intimation—that the plan adopted in the State of Delaware was a good one. It was that the Chancellor should never try a question of fact, but whenever there was a controversy as to the facts in his court, he should imperatively order an issue. He might do it now. The power is now discretionary in this State, and it is only exercised in very important cases, and where the evidence was involved. But it seemed to him (Mr. B.) the only way to settle this matter was to let the question be tried by a jury. If the gentleman would, therefore, incorporate a provision like that of the law of Delaware he should vote for the proposition.

Mr. BROWN moved the previous question, and being seconded,

The question was propounded,

Will the Convention reconsider their vote adopting the amendment offered by Mr. Spencer, as the 11th section of the report?

Mr. SPENCER demanded the yeas and nays, which being ordered and taken, resulted as follows:

Affirmative — Messrs. Chapman, (President,) Morgan, Blakistone, Dent, Hopewell, Ricaud, Chambers of Kent, Mitchell, Donaldson, Dorsey, Wells, Randall, Kent, Sellman, Brent of Charles, Howard, John Dennis, James U. Dennis, Crisfield, Williams, Hicks, Goldsborough, Eccleston, Chambers of Cecil, Miller, Bowling, Grason, Gaither, Biser, Annan, Gwinn, Brent of Baltimore city, Schley, Neill, John Newcomer, Harbine, Davis, Holliday, Slicer, Smith, Parke, Shower, and Brown—43.

Negative — Messrs. Lee, Bond, Buchanan, Welch, Lloyd, Dickinson, Dashiell, Spencer, Wright, McMaster, Hearn, Fooks, Jacobs, McHenry, Nelson, Carter, Thawley, Stewart of Baltimore city, Sherwood of Baltimore city, Fiery, Michael Newcomer, Brewer, Anderson, and Cockey—24.

So the Convention reconsidered their vote on said article.

The question then recurred on the adoption of the article.

Mr. SCHLEY moved the previous question, which was seconded, and the main question ordered, viz: the adoption of the article.

Mr. SPENCER asked the yeas and nays, which were ordered, and being taken, were as follows:

Affirmative—Messrs. Buchanan, Welch, Lloyd, Dickinson, Dashiell, Spencer, Wright, McMaster, Hearn, Fooks, Jacobs, McHenry, Carter, Thawley, Stewart of Baltimore city, Sherwood of Baltimore city, Fiery, Michael Newcomer, Brewer, Anderson, Holliday, Slicer, Cockey, and Brown—24.

Negative — Messrs. Chapman, (President,) Morgan, Blakistone, Dent, Hopewell, Ricaud, Lee, Chambers of Kent, Mitchell, Donaldson, Dorsey, Wells, Randall, Sellman, Brent of Charles, Howard, John Dennis, James U. Dennis, Crisfield, Williams, Hicks, Hodson, Goldsborough, Miller, McLane, Bowling, Grason, Gaither, Biser, Annan, Gwinn, Brent of Baltimore city, Schley, Neill, John Newcomer, Harbine, Davis, Smith, Parke, Shower—41.

So the amendment as the 11th section was rejected.

Mr. BROWN. I ask the Convention to postpone, for a few moments, the subject under consideration, in order that I may move a rule that motions to postpone indefinitely shall be decided without debate

Mr. J. U. DENNIS. Does it not require one day's previous notice to change a rule of the Convention?

The PRESIDENT. This is a new rule, and does not change any existing rule adopted by the Convention.

Mr. J. U. DENNIS. It changes what has been the practice of this body.

Mr. CHAMBERS, of Kent. I suggest to the