

Brent, of Charles, Jenifer, Howard, Buchanan, Bell, Welch, Ridgely, Lloyd, John Dennis, Hicks, Hodson, Goldsborough, Eccleston, Phelps, Constable, McCullough, Miller, McLane, Bowie, Tuck, Sprigg, McCubbin, Spencer, Wright, McMaster, Hearn, Fooks, Thomas, Shriver, Gaither, Eiser, Annan, McHenry, Magraw, Carter, Stewart, of Caroline, Hardcastle, Gwinn, Stewart, of Baltimore city, Brent, of Baltimore city, Ware, Fiery, Davis, Kilgour, Waters, Anderson, Fitzpatrick, Parke, Ege and Cockey—62.

S. the Convention refused to strike out.

The order was then adopted.

On motion of Mr. Tuck, it was

*Ordered*, That the Journal of Accounts be forthwith closed up to Monday, the 12th inst., inclusive.

Mr. JACOBS submitted the following order:

*Ordered*, That the Convention take up for consideration the report of the committee on free colored population, on to-morrow at 4 o'clock, p. m.

Mr. KILGOUR moved that the question be taken by yeas and nays,

Which being ordered,

Appeared as follows:

*Affirmative*—Messrs Blakistone, Pres't *pro tem*. Morgan, Dent, Hopewell, Lee, Cambers, of Kent, Wells, Randall, Kent, Sellman, Weems, Brent, of Charles, Howard, Bell, Welch, John Dennis, Dashiell, Williams, Hicks, Hodson, Goldsborough, Eccleston, Phelps, Bowie, Tuck, Sprigg, McCubbin, Bowling, Dirickson, McMaster, Hearn, Fooks, Jacobs, Gaither, Carter, Schley, Fiery, Davis, Kilgour, Brewer and Waters—41.

*Negative*—Messrs. Ricaud, Donaldson, Dorsey, Ridgely, Lloyd, Sherwood, of Talbot, Colston, Constable, McCullough, Miller, Grason, George, Wright, Thomas, Shriver, Annan, Sappington, Stephenson, McHenry, Nelson, Thawley, Stewart, of Caroline, Hardcastle, Gwinn, Stewart, of Baltimore city, Brent, of Baltimore city, Sherwood, of Baltimore city, Ware, Neill, John Newcomer, Harbine, Michael Newcomer, Anderson, Weber, Hollyday, Fitzpatrick, Smith, Parke, Ege, Shower, Cockey and Brown—41.

So the order was not adopted.

Mr. BRENT, of Baltimore city submitted the following, as articles of the Constitution, which he desired should be entered upon the journal.

1st. The court of Appeals shall, upon the decision of every case which has been argued in said court, give a decision in writing upon the points arising in the record, and the Legislature shall provide by law for the speedy publication of the decisions of the court of Appeals, but no judge shall report such decisions.

2d. The court of Appeals shall not refuse a *procedendo* in any case at common law, which it may reverse so as to invoke by such refusal the decision of any matter of fact proper to be submitted to a jury, nor shall any *procedendo* in any case be refused when the court may be of opinion that a meritorious cause of action or defence may be received on the further trial of the cause by the amendment of the pleadings, or by the introduction of further evidence.

Mr. NEILL moved to reconsider the vote by which was adopted the following amendment of Mr. MILLER to the report of the committee on the legislative department, so as to insert after the word "compensation," the words, "as agreed upon between the parties or awarded by a jury."

"The Legislature shall enact no law authorising private property to be taken for public use, without just compensation being first paid in, or tendered to the party entitled to such compensation."

Mr. NEILL said that it was known that acts of incorporation provided for the appointment of commissioners to value and ascertain damages. Then if property and soil were to be governed by that valuation and assessment, great injustice might be done. He was opposed, and he took it for granted that the Convention would take the same view, to any company appropriating dominion over the soil until they paid a fair value for it. Therefore it become necessary that whatever damages were sustained either by ascertainment or agreement between a party, or by assessment of a jury, should first be paid or tendered, before a company appropriated the land to its purposes.

The motion to reconsider was agreed to.

The question recurring on the adoption of the amendment,

Mr. NEILL moved to amend it by inserting after the word "compensation," these words "as agreed upon between the parties, or awarded by a jury."

The amendment was agreed to.

And the amendment as amended was adopted.

#### DECLARATION OF RIGHTS.

The Convention then resumed the consideration of the report of the committee on the Declaration of Rights.

Mr. RANDALL said:

That the preamble to the Declaration of Rights, as it now stands, is in these words:—"We, the delegates of Maryland, in free and full convention assembled, taking into our most serious consideration the best means of establishing a good Constitution in this State, for the sure foundation and more permanent security thereof, declare." Now this Constitution of Maryland was fully consummated by the delegates of the people of the State, by virtue of power conferred upon them by the people—it required no submission afterwards to the people for their confirmation, and hence it was right and proper that the preamble should have been what it was.—But a very different state of things exists now—we meet here to prepare a Constitution to be submitted merely to the people—the people themselves are to adopt or reject it, hence if adopted it is by them, not by their delegates, made the Constitution of the State, and should be, as proposed, declared so to be in the name of the people. The same form is adopted for the same reason in the preamble of the Constitution of the United States. We therefore recommend