party who wished to delay it was allowed to take testimony before a commissioner. The case has been delayed in this way day after day, a great number of witnesses having been examined, until now that injunction has been lying for months and may lie for months longer before it can be tried. I think, therefore, it is better to have all witnesses come before the judge of the court of equity as they do at common law and give in their testimony there, so that the judge can observe the manner of the witness, hear his cross examination and keep out all improper questions and answers. I think that will not only promote justice, but will tend very much to save time. A case may be tried before the judge of a court of equity in one or two days, when the same case before a commissioner would occupy, in the taking of testimony, several weeks, if not months.

Lawyers who are constantly employed in business will not find it possible, perhaps, to appoint more than one day in a week, sometimes not more than one day in two weeks to take testimony before the commissioner. And you must suit the convenience of both lawyers, and the witnesses have to be examined in this tedious way. Every word must be written down; every answer must be propounded in writing; every question must be reduced to writing. One or two witnesses are examined in a day, or one but partially examined, and then comes an adjournment over for a week, perhaps two weeks. A long case may in this way occupy months where one of the parties is disposed to delay, or where it may not suit the convenience of parties to examine the witnesses right straight through, and the very same case in a court of equity might not occupy more than a day or two. And I think the advantage of seeing the witnesses while under examination, and the having the examination properly conducted, and rapidly conducted as in other cases, will lead to a saving of time and promote justice, besides being a saving of expense. In a suit at common law, say involving $500, a man brings his witnesses before the court and has them examined at once before a jury. In equity a case involving the same amount requires you to go before a commissioner with all this delay, yet in the one case as in the other it may be important to have the witnesses before the tribunal that is to determine the case. I think it will lessen the expense, be a saving of time, and promote justice, to adopt this provision. I find it in the constitution of New York, and I understand it has been found to be very beneficial in its effects there.

Mr. SANDS. I would like to call the earnest attention of the members of this body to the proposed amendment and the objects which it will really attain. I think there is no question but that our present system is deficient in this; that it causes great delay and vast expense. For instance, generally the person appointed a commissioner to take testimony is not a professional man, and even if he is, he cannot decide, for he has not the power, upon the competency of a witness or the admissibility of his testimony, and no matter what irrelevant questions may be put to a witness all you can do is to except to them. And I have known many cases where parties who were irresponsible for the costs, in order to compel the opposing parties to compromise, have gone on increasing the record until the testimony in the case was almost as much as the Bible, and the ends of justice have been entirely defeated. You might go there day after day, have A, B, C, brought in as witnesses, of whom the most irrelevant questions will be asked, spun out to interminable length, all written down and put upon record, you objecting to them on account of their utter irrelevancy, and the commissioner replying, "I am no judge of that matter; put it down, and the answer to it," and then you enter your exception.

I say I have known many such instances. I call to mind now one case where the purposes of justice were entirely defeated, because the party defendant was advised by his counsel that he better settle and pay the demand than have more eaten up in the costs of the suit; and he did so. And I say that it ought to be taken out of the power of parties thus to defeat the ends of justice. I had a case: A wife had petitioned for separation and alimony. The husband in that case is bound to pay the costs, no matter whether the petition is granted or not. I, myself, sate taking testimony in that case for weeks, and the record would make such a one as I do not suppose one man in a hundred gets to see. Then I had to advise the party, because he would have to make payment of the costs in the end, to make the best settlement he could. She did not care, her counsel did not care, which way the suit went as far as the costs were concerned, and it was evidently their purpose to force him to a settlement in this way. And our system at present tolerates this abuse.

If we adopt this amendment then the testimony is taken before the court, and all these evils are met. The judge would at once exclude irrelevant testimony, and would confine it to proper issues, and within proper bounds. This is certainly a great abuse, and I think if we can by such a change in our system as would be made by the adoption of this proposed amendment cure these abuses, we will have done the State of Maryland great service.

Mr. MILLER. The legislature has full control over this matter; if there is any abuse existing, the legislature can correct it at any time it sees fit. There is no necessity for putting this in the constitution, for if that is done, and it is found to work badly, it cannot be