changed or repealed, as it could be if it were a legislative enactment and not a constitutional provision. The gentleman from Baltimore city (Mr. Daniel,) and the gentleman from Howard (Mr. Sands,) have spoken about the trial of these cases before the court below. Now a commission is issued, testimony is taken, and written and submitted to the judge; the parties having a right to except to any question they may consider irrelevant. The court below decides upon that case, and then it goes to the court of appeals on appeal, and they decide whether the court below decided correctly or not upon those exceptions.

Now, under this amendment, how are cases in equity to be tried in the court below? Are we going to call witnesses up, and every instant have disputes about the admissibility of testimony, have exceptions taken, and then have the record go up to the court of appeals, just as if it were a common law case? Is that the mode of proceeding that the gentleman desires?

Mr. SANDS. The testimony is to be taken under this provision, before a court competent to decide the competency of witnesses. Does it not operate to the good of the party by saving to him the cost of the immense record that is made up before commissioners?

Mr. STIRLING. The record must go up any way.

Mr. SANDS. It must be made up, I know. But if the testimony is taken before a judge, three-fourths of what is now upon the record would never get there.

Mr. THOMAS. Suppose in an injunction case, you go before a court and take testimony, and the party against whom the injunction is issued conceives that the injunction is not rightfully issued, and you have to send up in the record of the court of appeals the facts upon which the court below acted, in order to obtain a reversal of his judgment. You lose all the time of the court below in taking down the testimony in the injunction case, and putting it in the record to go up to the court of appeals.

Mr. SANDS. My idea is to provide that testimony shall be taken before a court competent to judge of the relevancy of the testimony.

The PRESIDENT. The court would have to sit all the year.

Mr. SANDS. That may be an objection; but certainly the other objections which have been made here are not objections.

Mr. JONES, of Somerset. The purpose which the gentleman (Mr. Sands) has in view of abridging the testimony, in saving the consumption of time by this mode, cannot be effected, where a party is disposed to prolong it factiously. A lawyer upon the one side or the other will object to every question, and will take exceptions if overruled; will argue before the judge the question of the admissibility of each question, and the judge would be bound to hear him, or if he did not it would be discourteous. And then when the judge decided against him, he would take a bill of exceptions. Therefore so far from abridging the record, I think it would lead to an almost interminable consumption of time, where the disposition is to prolong; and as the President has well suggested, it would require the judge to sit the whole year, and if the judge hears the testimony, you would have to have a clerk to take down all the testimony. If irrelevant testimony is taken down before the commissioner, the lawyer knows it would be ruled out by the court?

Mr. SANDS. I admit that there is something in the objection in regard to occupying the time of the judge in taking testimony.—But I ask my friend this: Does he believe that any man who had a decent regard for his own standing in court, would before any judge put such questions as you find put by the hundred before a commissioner.

Mr. JONES, of Somerset. If he is paid for it, I reckon he would put all the questions his client desires.

Mr. SANDS. I would not.

Mr. THRUSTON. Any radical change of this kind is a very dangerous thing. If there are any defects in our present system, it is perfectly competent for the legislature to change it. It is a dangerous experiment, I think, to change almost the whole equity records of the State.

Mr. STOCKBRIDGE. I am greatly in favor of every proposition which can expedite business in courts of law or equity. For these delays have existed ever since the time of Shakespeare, who considered the law's delays one of the things which would justify suicide; and I do not think it has improved since. But I do not think that this amendment will accomplish the object sought.—There are suits in equity and suits at law, begun in the time of our grandfathers, which are not decided yet. I think the law as it now stands affords greater facilities for suits in equity than for cases at law; provided the attorneys are disposed to press their cause. Our code now says, in reference to chancery matters:

"With a view to the speedy execution and return of commissions to take testimony, the court, or any judge thereof, shall prescribe such rules as the nature of the case may require."

The courts have acted upon that, and have prescribed rules wherever there is a disposition to delay trivially. It is the easiest thing in the world for a solicitor in a cause to obtain a special rule from the judge requiring the commission to return in so many days. It is an every day practice with solicitors who press their causes.

Suppose you adopt the system proposed by this amendment, and I am disposed to fight for time. Is it not easy enough for me to