taken upon the amendment of the gentleman from Baltimore city (Mr. Stirling.)

The amendment of Mr. STIRLING was to strike out the words, "has a substantial ground of action or defence, and"—so that it will read—"shall make it satisfactorily appear to the court that such party cannot have a fair and impartial trial," &c.

The question being taken, upon a division—ayes 27, noes 20—the amendment was adopted.

The question was then taken upon the amendment of Mr. BELT, and upon a division—ayes 22, noes 28—it was rejected.

Mr. STIRLING. There is one other amendment which perhaps should be made. I do not know but that the same construction would be put upon it by the court, whether the amendment be made or not. It now reads: "The judge or judges of any court of this State, except the court of appeals, *may* order and direct the record of proceedings * * * * * * * * * to be transmitted to some other court," &c. I suppose that if it shall satisfactorily appear to the court that a party cannot have a fair and impartial trial there, it must order a removal. It seems to me that to rid the matter of all doubt the word "shall" should be substituted for the word "may." However, I will not move the amendment.

Mr. SANDS. Well, I will make the motion to strike out "may," and insert "shall." I would just say that if you leave the word "may" here, then even after proof has been made to the satisfaction of the judge that the party cannot have a fair and impartial trial there, the removal is left entirely to the discretion of the judge. If the party has made satisfactory proof is it not his right to have his case removed? And shall we leave it in the discretion of the judge to say, "even though you have made your case you shall not have your right?" It seems to me that it is monstrous to make such a provision as that. For whom are we legislating? For the citizens of the State. Are we trying to protect them in their property and their lives, or are we simply trying to lodge arbitrary power in the hands of the judges?

The question was upon striking out the word "may" and inserting the word "shall."

The question being taken, upon a division—ayes 25, noes 19—no quorum voted.

Mr. TODD called for the yeas and nays on the question, and they were ordered.

The question being then taken, by yeas and nays, upon striking out "may" and inserting "shall," it resulted—yeas 30, nays 24—as follows:

Yeas—Messrs. Billingsley, Blackiston, Brown, Carter, Crawford, Davis, of Washington, Dent, Edelen, Galloway, Hodson, Hopkins, Jones, of Somerset, King, Lansdale, Lee, Markey, Mayhugh, McComas, Mitchell, Mullikin, Nyman, Parran, Pugh, Robinette, Sands, Smith, of Carroll, Smith, of Worcester, Stirling, Wickard, Wooden—30.

Nays—Messrs. Goldsborough, President; Abbott, Annan, Audoun, Cunningham, Daniel, Earle, Ecker, Hopper, Keefer, Kennard, Marbury, Miller, Murray, Negley, Parker, Purnell, Russell, Schley, Schlosser, Stockbridge, Swope, Thruston, Todd—24.

The amendment was accordingly adopted.

Mr. MILLER, when his name was called, said: I shall vote against this proposition, because I conceive that the word "may" in this connection implies an obligation on the part of the judge to order the removal, if the satisfactory proof is made out before him It means the same as it would if the word "shall" were put in. I vote "no."

Mr. SANDS. In the clause which reads: "shall make it satisfactorily appear," &c., I move to insert after the word "shall" the words "by affidavit or otherwise."

Mr. PUGH. It does not seem to me that this is necessary. According to my understanding of the section as it now reads, the party, by affidavit or otherwise, can make it appear to the satisfaction of the court that he has a substantial ground of action, etc., and he can do no more if the words proposed are inserted.

Mr. SANDS. No, he cannot. If the gentleman will read the section in the old constitution, and the proposed section here, he can see the difference at once. I wish to have it definitely fixed that if the party makes affidavit he shall have the removal.

Mr. PUGH. This will not do it. The gentleman proposes to insert the words "by affidavit or otherwise."

Mr. SANDS. As it is now the court may allow him to make affidavit or not, as it pleases.

Mr. STOCKBRIDGE. With that explanation of the meaning of this amendment, is it not the same as the one proposed by the gentleman from Prince George's (Mr. Belt,) and voted down by the convention?

The PRESIDENT. The chair is of opinion that it is not the same proposition.

The question was upon inserting the words "by affidavit or otherwise" before the words "make it satisfactorily appear," etc.

Upon this question Mr. EDELEN asked for the yeas and nays, which were ordered.

The question was then taken, by yeas and nays, and resulted—yeas 20, nays 23—as follows:

Yeas—Messrs. Billingsley, Blackiston, Crawford, Dent, Edelen, Galloway, Hopkins, Jones, of Somerset, King, Lansdale, Lee, Marbury, Markey, Mayhugh, Mitchell, Miller, Parran, Sands, Schlosser, Stirling—20.

Nays—Messrs. Goldsborough, President; Abbott, Annan, Audoun, Brown, Carter, Cunningham, Daniel, Davis, of Washington, Earle, Ecker, Hodson, Hopper, Keefer, Kennard, Mullikin, Murray, Negley, Nyman,