The amendment was rejected.

Mr. DANIEL moved to strike out "law," and insert "laws."

The amendment was agreed to.

Mr. MILLER submitted the following amendment:

Strike out section two and insert:

"Sec. 2. The common law now in force shall remain in force as heretofore until altered by the general assembly, and the statute laws now in force and not repugnant to this constitution shall remain in force until they expire or are altered by the general assembly."

The amendment was rejected.

No further amendment was offered.

THE COURTS—LEGISLATIVE ELECTIONS.

The next section was read, as follows:

"Sec. 3. The several courts, except as herein otherwise provided, shall continue with like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted and until the organization of the judicial department provided by this constitution."

No amendment being offered, the next section was read as follows:

"Sec. 4. The general assembly shall have power to pass all such laws as may be necessary and proper for carrying into execution the powers vested by this constitution, in any department or office of the government, and the duties imposed upon them thereby."

Mr. DUVALL submitted the following amendment:

"Add to the end of section the words "provided such vested powers do not interfere or conflict with those rights guaranteed by the constitution of the United States."

The amendment was rejected.

No further amendment was offered.

Mr. TODD moved to take a recess.

The motion was rejected.

The next section was read as follows:

"Sec. 5. If on any election directed by this constitution, any two or more candidates shall have the highest and equal number of votes, a new election shall be ordered, except in cases specially otherwise provided by this constitution."

No amendment was offered.

RIGHTS OF JURY.

The next section was read as follows:

"Sec. 6. In the trial of all criminal cases, the jury may be the judges of law as well as fact."

Mr. RIDGELY. I move to strike out "may" and insert "shall." It is an error.

Mr. CHAMBERS. I shall move to strike out that section. It a very mischievous thing, adopted by the last convention in a moment of hurry, and with some difficulty. It has in my humble judgment produced mischief, and nothing else but mischief. Under the construction which it has obtained, I believe it does not materially alter the practice of the courts. For all time, so far as I am acquainted with the history of the bar, in the country from which we derive our judicial opinions and practice, it has been the privilege of the court to instruct the jury in all questions of law. It has always been considered the duty of the jury to pay respect to that instruction. That the jury at all times have had the privilege to bring in a general verdict, upon what grounds they please, is equally certain. I do not believe that it was the intention of those who passed this provision, and I will not believe that it is the desire of this convention. I do not suppose it can be the wish of any gentleman, or of the discreet portion of the community, to disarm the court of this privilege. I have heard it claimed in the face of the judge, in the face of statute law, read from an act of assembly just as plain as that two and two make four. I have heard counsel in a case where excitement had been produced from surrounding circumstances, say to the jury that they had a right to trample that law under their feet; that they had the constitutional right to disregard the law. I remember an able argument that the reason why they had the privilege was that in the improved state of the world, and especially this portion of it which we inhabit, intellectual improvement had prepared the way to submit to the jury, not only the construction of the law, not only the interpretation of the law, but the determination what the law ought to be. And I have had the discomfort of seeing such an argument prevail, and a verdict correspondingly rendered.

If the law be of any value; if there be any motive to institute a system of written law, it is that every man may have some certain standard by which his rights of property and all his rights may be measured and determined; some fixed, known, permanent standard of measurement. There never was a time according to the practice always prior to this period, at which the jury did not exercise all the prerogatives which I think they should claim for their own good, or the good of those who are litigants before them, or for the good of society at large. They have the right, because they have the power to find what verdict they please. Even now the courts set aside a verdict in a civil case, if the court misstates the law to the jury. Or if a jury now against a criminal, find a verdict contrary to the law as given in the instruction of the court, the court may set aside their verdict. This constitutional authority is not held as such that the court are bound to respect their verdict after they have determined the law. The language of it is simply calculated in my judgment to mislead and to do mischief. I know of no earthly good it will do. I never heard of a case. Our records may be searched. There is not a judgment