

Brown,) to strike out the word "leave" and insert the word "sanction."

Mr. BROWN. I have no objection to that.

The question was then taken upon the amendment of Mr. Brown, to insert the words "subsequently obtained," after the word "Legislature," and it was not agreed to.

Mr. CUSHING moved to amend the article by inserting before the word "leave" the words "prior or subsequent;" so that the clause will read "without the prior or subsequent leave of the Legislature," &c.

Mr. STIRLING. The Legislature has adopted the practice of passing laws assenting to bequests of this kind. But the Court of Appeals of this State has decided that as the estate passed to the heirs and became at once vested, the leave of the Legislature subsequently obtained would not make such a devise valid. I think the Legislature ought to have the right to grant this subsequent leave, and I shall therefore vote for any amendment that frees the question from this difficulty, and I hope this amendment will be adopted. The last General Assembly passed a law subsequently to this decision of the Court of Appeals, by which they formally gave their assent to a bequest of land. The Legislature and the people have not been generally informed in regard to this decision, and, therefore, I think it is a great deal better to give the Legislature this power to assent to those bequests.

The amendment of Mr. CUSHING was then agreed to.

No further amendment was offered to the 37th Article.

#### MANNER OF ADMINISTERING OATHS, &c.

Article 38 was then read as follows:

"That the manner of administering an oath or affirmation to any person, ought to be such as those of the religious persuasion, profession or denomination, of which he is a member, generally esteem the most effectual confirmation by the attestation of the Divine Being.

Mr. STOCKBRIDGE. This article is manifestly defective in one or two particulars. The purpose of administering an oath at all is, by a solemn invocation, to bind the person more firmly to the truth, or to fidelity in the discharge of some duty. That which accomplishes that object most effectually, while respecting sufficiently conscientious scruples in the matter, is certainly that which we require. This article, as it now stands, does not, in the first place, refer the matter to a man's own conscience at all, but refers it to the practice and opinions of the religious persuasion, profession or denomination of which he is a member. Now a man may concur in most things held by a particular denomination, and yet not concur in all. It is a fact of every day's occurrence, that members of some of the denominations refuse to

take the oath, as it is administered in courts of justice, in the same form that most others of the same denominations do take it.

Again, the second objection to this article as it stands, is that it requires the attestation of the Divine Being. But an affirmation is received instead of an oath, for the purpose of avoiding the attestation of the Divine Being. It is a simple affirmation, or promise to speak the truth under the pains and penalties of perjury.

I think this article is improperly drawn. I therefore move to amend it by striking out all after the words—"ought to be such as," and inserting—"is most in accordance with and most binding upon the conscience of the person to whom such oath or affirmation may be administered." The article will then read—

"That the manner of administering an oath or affirmation to any person, ought to be such as is most in accordance with and most binding upon the conscience of the person to whom such oath or affirmation may be administered."

Mr. CLARKE. How is that fact to be ascertained?

Mr. STOCKBRIDGE. Precisely as you do now—when you ask a man—"Do you swear or affirm?" You do not say—"Are you a Duncan?"—or "Are you a Quaker?"—or "Do you swear with the uplifted hand?" But the book is handed to the man, and he says, if he objects to it—"I affirm," or "I swear with the uplifted hand."

Mr. HENKLE. I am opposed to this amendment, because it allows every individual to set up his own standard of taking an oath. And any man might indicate a new way of taking an oath, which, according to his own notions, might leave him free from the pains and penalties of perjury. It is pretty generally known how Presbyterians swear, and how other denominations swear. And if a man comes in who is known to belong to any of these denominations, and says—"I swear with the uplifted hand," or "I affirm," everybody knows at once what it means. I do not see why this article should be altered at all. The several denominations generally indicate the manner of taking an oath; or they do not indicate it at all, and these persons are sworn on the Bible, by putting their hands on it. And if a man is not a member of a church, that is the way he should swear.

The question being taken upon the amendment submitted by Mr. STOCKBRIDGE, it was not agreed to.

No further amendment was offered to this article.

#### FREEDOM OF THE PRESS, &c.

Article 39 was then read as follows:

"That the liberty of the press ought to be inviolably preserved."

Mr. JONES, of Somerset, moved to amend