Daniel, Davis, of Washington, Dent, Duvall, Earle, Ecker, Edelen, Galloway, Harwood, Hodson, Hopkins, Hopper, Jones, of Somerset, Keefer, Kennard, King, Lansdale, Lee, Marbury, Markey, Mayhugh, McComas, Mitchell, Miller, Morgan, Mullikin, Murray, Negley, Nyman, Parker, Parran, Pugh, Purnell, Robinette, Russell, Sands, Schley, Schlosser, Smith, of Carroll, Smith, of Worcester, Stirling, Stockbridge, Swope, Thruston, Todd, Turner, Wickard, Wooden—59.

On motion of Mr. STIRLING, it was

Ordered to be entered upon the journal that Mr. Cushing was detained from his seat on account of indisposition.

INTEREST AND USURY LAWS.

Mr. BELT. I move that the rules be suspended in order to enable me to make a report from a committee, so that the house may be put in possession of it, and that it may be printed.

The motion was agreed to, and the rules suspended accordingly.

The report was received, read the first time, and ordered to be printed, as follows:

The committee heretofore appointed to consider and report upon section 49, of article 3, of the present constitution, having reference to interest and the usury laws, beg leave to report their unanimous recommendation, that the following section be added to the article on the legislative department.

Sec. —. The legal rate of interest in this State shall be six per centum per annum, except in cases where a different rate may be agreed upon between contracting parties; and in all cases of private contract, the rate of interest agreed on, or contracted for, shall be recoverable; and the general assembly shall pass all laws that may be necessary to carry this section into effect.

EDWARD W. BELT,
Chairman of the Committee.

JUDICIARY DEPARTMENT.

The convention then resumed the consideration of the report of the committee on the judiciary department, which was on its second reading.

The pending question was on the amendment submitted by Mr. DANIEL, to wit:

Insert as an additional section, the following:

"Sec. 10. The testimony in equity cases shall be taken in like manner as in cases at law."

Mr. DANIEL. I wish to say a few words so as to place myself right upon this subject. Since I had the honor to introduce this amendment, I have been examining the debates of the New York constitutional convention upon this subject. That convention was composed of some of the ablest lawyers of New York, of whom Charles O'Conor was one, Mr. Tallmadge another—Charles O'Conor standing pretty much at the head, if not at the head of the bar in this country, I think. And I find that this very proposition I have submitted here was introduced by Mr. Charles O'Conor, and was incorporated unanimously into the constitution of New York. I beg leave to read a few remarks of some of the able lawyers who advocated this proposition.

I will first read some of the names of the lawyers to show some of the lawyers in that New York convention: Messrs. Tallmadge, Shepherd, Harrison, Shaw, Wilbech, O'Conor, Taggart, Bouch, Worden, Marvin, and St. John. All of these gentlemen reported systems of judiciary; and in a great many of those reports was reported some section of this sort making proceedings in equity similar to those at law. A very full discussion was had. I will show that the very proposition I have submitted here was introduced into that convention by Mr. Charles O'Conor, and unanimously incorporated into the constitution of New York.

I read now some of the remarks of Mr. Stetson on this proposition. He said:

"But first he would here express his heartfelt thanks to the honorable gentleman from New York, (Mr. O'Conor,) who has so ably, eloquently and triumphantly vindicated the principle of the union not only of the equity and law jurisdiction in one, but of the uniformity of practice and proceedings upon the two remedies. There should be a similarity of proceedings in all cases, and whether proceedings should assume the form of equity proceedings, or the simple and well known proceedings of an action on the case, was of comparatively little importance. His impression had been that the better method would be to assimilate all actions and proceedings to the simple form of an action on the case as now used. That the multitude of civil actions now in use, should be abolished, and one plain, simple remedy provided in all cases. On this subject he did not know but he stood alone in his profession, and it was highly gratifying to him to find in the honorable gentleman from New York so able a champion of that principle. The gentleman and myself desire to arrive at the same result, and it matters but little by which course of proceeding we shall so arrive at it, whether by the simple action on the case, or by a plain, concise, and simple bill in equity."

Mr. Jordan, another very able gentleman, a lawyer from New York, makes use of these remarks, upon the discussion of this question:

"Although the senior of the honorable gentleman from New York (Mr. O'Conor) in years, he would not pretend to the same amount of practical experience and accuracy of observation; yet he had seen enough to convince him that if the one or the other must fall, he would cling to the common law; its remedies were bounded by right lines, it did