trial; I knew he could not have it. But if I had been called upon to satisfy the judge with proof, I could not have done it. There were circumstances which satisfied us that there were certain general reasons why the jury would not render an impartial verdict. That was just as apparent to us as a thing could be; yet it was not susceptible of proof.

Mr. THRUSTON. It was a matter of belief.

Mr. STIRLING. The difficulty at present is that men put all sorts of interpretation upon it. But that can be cured by legislation, and it might just as well be left to the legislature. If men are not ready to proceed to trial, they will swear that they cannot have a fair and impartial trial, if you do not give them time. That is where the abuse is; and that abuse can be remedied without taking away the right. I would not want to deprive a man of the right of removing his case; because the very court to which he appeals may be the very thing which he desires to get rid of. If he goes up to the judge and tells him that he thinks he is something he ought not to be, I think the judge most likely would get mad and remove the case. But you do not like to tell the court that you cannot trust them; it is a delicate matter. I do not wish to amplify the question. But it seems to me it is dangerous to go to the extent this section does.

Mr. STOCKBRIDGE. The considerations urged by my colleague (Mr. Stirling) and the suggestions of the gentleman from Allegany (Mr. Thruston) were all thoroughly canvassed by the committee. The precise phraseology which the gentleman from Allegany has suggested should be modified was framed of deliberate intent. He shall make it satisfactorily appear, without any limitation whatever, by his own affidavit, by the affidavits of other parties, in any other way or form—giving him the largest latitude possible. He may satisfy the judge by a simple statement without any affidavit; if the judge becomes satisfied, that is sufficient.

So far as the other objection is concerned, that you may be compelled by that prematurely to develop the whole line of defence in your case, which it is important to keep secret. That is an objection which lies to other things just as well as this. For instance, my friend is in court ready to try the case, with the exception that one witness is absent, a vital witness. He makes application for a continuation, because that witness is not there. How is he to obtain it? He must develop the facts which he expects to prove by that witness if he were in court. This may compel him to unfold his whole ground of defence, just as much as on an application for removal. This notion of diplomacy, in cases at law, is getting a great deal out of vogue any how. If gentlemen go into courts to obtain their rights and justice, it is right that justice should be done. And in those cases, and they are rare, where a fair trial cannot be had, where there is so much prejudice, excitement, in those few cases I think this section makes a sufficiently broad provision. I see no way at all by which justice can be more thoroughly obtained than under this section. Ordinarily a case is to be tried where it is to be brought; in those extraordinary cases they can be removed. We have laid it down in the declaration that the trial of cases where the controversy arises, is one of the great means of promoting justice. By our laws, we do not allow any suit to be brought against a man, save in the county where he resides. But that avails nothing, if the plaintiff having brought such a suit, can forthwith compel it to be removed elsewhere. And he cannot do it, under the law, except with this provision in the constitution.

Mr. NEGLEY. I think the limitation upon this power of removal contemplated in this tenth section, is a very salutary one. I know that this unlimited right of removal has been most outrageously abused in my own county. Parties on trial for some petty larceny, have absolutely made affidavit and had their causes removed to Frederick county, and subjected the county to heavy expense. Not that they could not have justice done in our county, but in order that they might not have justice done in the county to which they removed their cases, because their character was so well known in the community where the offence was committed, that they had not much chance to escape justice. And their cases were removed for the sole purpose of being enabled to go free and unwhipped of justice. This does not shut the door of removal at all.

Under the old constitution, it was in the discretion of the party himself. Whenever he chose to make an affidavit that he could not have justice done, the case was removed. Under this section, the discretion of removal is in the breast of the judge upon sufficient cause shown. If there is sufficient ground, can it not be shown by the affidavit either of the party himself, or some of his friends, or of his attorney? And is it to be presumed that the judge in such a case will deny the application? The presumption, if it is worth anything at all, goes against the competency of the judge, for if the judge will not do justice in this case, he will not do it in any case. You cannot go upon such a presumption as that against the bench; it will not do. If a party goes into court, and asks for a removal upon a proper foundation, either upon his own affidavit, or of some friend, or his counsel, and that is fairly presented to the court, then I guarantee that there is not one case where it ought to be removed that it will not be removed. And especially if it be intimated that it is not proper that the judge on the bench should try the case, if he had the slightest self-respect, he would at once