

grant an application if there was no offence in it.

I would like to see this section passed as it is. I know the section in the present constitution has been scandalously abused in our county. Parties have gone unwhipped of justice just because the cause was removed. I think there is that disposition in the breast of all the men of a community, that there is a sufficient guarantee that they will not convict a man when he ought not to be convicted in any case. And in case where there is an overwhelming prejudice against a man, any excitement against him, cannot that fact be brought before the court? There is no trouble in the case; this leaves the door open wide enough.

Mr. STIRLING. My amendment only strikes out that which requires him to show to the satisfaction of the court, that he has some substantial ground of defence.

Mr. SANDS. If the argument of the gentleman from Washington county (Mr. Negley) amounts to anything, it is simply this: that for fear a rogue would take advantage of a removal, all honest men are to be deprived of it. That is just the sum and substance of his argument.

Mr. NEGLEY. Is not the power of removal still open under this section? Or is it closed?

Mr. SANDS. Very nearly; so nearly that it does not suit me at all. I say, if the argument of the gentleman from Washington county amounts to anything, it is simply this: because a rogue would take advantage of the right of removal, all honest men in Washington county ought to be deprived of it. This section as it stands is a virtual deprivation of the right of removal. Examine it; you first require the party to make oath, and then you leave it to the discretion of the judge, after that oath is made to say, "prove that you cannot have a fair trial." What are the elements that enter into this matter? There may be prejudice against the party in the community, if there is a criminal case.

Mr. THRUSTON. Not on the part of the judge.

Mr. SANDS. On the part of the judge.

Mr. THRUSTON. The judge is the one to decide upon the removal.

Mr. SANDS. I know all about that; I am talking about the whole matter. There may be a prejudice against the party; and he knows he cannot remove that prejudice from the jury. He may believe that there are upon that panel a number of men from whom he could not have justice. Can he prove that fact? Suppose my judgment was convinced that A, B, C and D, upon the jury were my enemies; and that I could not have at their hands a fair and impartial verdict, and I called you up as a citizen of the community to prove that. Would you swear to that effect? Certainly not; assuredly not.

We have abundance of law upon this subject already, it is said. Well, the gentlemen are on the two sides of the fence, just as it suits occasion, upon this matter of putting things into this constitution, or allowing legislature to control it. A few moments ago an amendment was offered here looking to the correction of great abuses in our present judicial system. The answer on all sides was: "You need not put it in the constitution; leave it for the legislature," although the amendment was but a single line. Now, when we have in our present code law covering three or four printed pages, regulating this matter of removal in all its details; when we have the whole subject in the power of the legislature, to be modified by it at its will and according to its best judgment from time to time to suit peculiar views, then we are told that we must put it in the constitution in the form of this tenth section. Now, under the provision in section twenty-eight of the present constitution, and under the sections of the code touching this right of removal, the oath of the party compels removal.

Now in regard to the objection urged here, that the party may put off the cause from time to time until he is about to be forced to trial, and then have the cause removed. Certainly gentlemen have not looked at the provisions of the code upon this subject.—The law is now that if a party does not remove his cause as soon as the issues are made up, he cannot have it removed at all, without further showing to the court that, since the making up of those issues, matters have occurred which have created in him the belief that he cannot have a fair and impartial trial, then what is the practical result? A and B are parties to a suit in Baltimore city, and A wishes to remove it; he must do it just as soon the issues are made up or he cannot do it at all.

Mr. STIRLING. That is not the law in the code.

Mr. SANDS. Let us see.

"Such suggestions shall be made before or during the term in which the issue or issues may be joined in said suit or action, issues or petition, presentment or indictment."

Mr. STIRLING. "Unless"—go on.

Mr. SANDS. There is nothing in that clause which will do your side of the question one bit of good; for I stated a moment since that a party had further to make oath to show to the satisfaction of the court that circumstances have occurred since the making up the issues.

Mr. STIRLING. They will always swear to that.

Mr. SANDS. I will read, just for the information of my friend, from the code:

"In all suits or actions at law, issues from the orphans' court, or any court sitting in equity in petitions for freedom, and in all pre-