

sentments and indictments instituted in any of the courts of law in this State, the judge thereof, upon suggestion in writing if made by the State's attorney or the prosecutor for the State, or upon suggestion in writing, supported by affidavit made by any of the parties thereto, or other proper evidence that a fair and impartial trial cannot be had in the court where such suit or action at law, issues, petition or presentment and indictment is pending, shall order and direct the record of proceedings therein to be transmitted to the court of the adjoining county, whether such adjoining county be within the judicial circuit or not, for trial, which court shall hear and determine the same in like manner as if it had been originally instituted therein."

"And then this comes in: "Such suggestion shall be made before or during the term in which the issue or issues may be joined in said suit or action, issue or issues, presentment or indictment, unless the party applying for such removal shall, in addition to such affidavit, further state he had come to such belief, or had been convinced of that fact since the issues had been made up—"

That is the law upon this subject in this State to-day.

"on which additional statement being made and filed, the cause shall be removed, notwithstanding the issues had been made up."

"What is clearer than this fact: that the law, as I stated it before reference to the authorities, is just exactly the law of the book?—How does it practically operate? In Baltimore city, for instance, a party must demand his removal at the term in which the issues are made up; or if he neglects to do it then, he cannot do so afterwards, unless he assures the court that since the issues were made up he has been convinced that he cannot have a fair and impartial trial, and he therefore asks the removal that he did not ask before.

Now, I say we have in the code here several pages upon the subject of removal. And I suggest that it would be right to leave it as it is, as gentlemen are so fond of leaving things to the discretion of the legislature, to be modified at their will. When in urging the other amendment, which I thought would have a very salutary influence, I suggested that we better put it in the constitution, it was said—"No, do not put it in there, because it cannot be changed." Yet you propose to make provision to have your constitution amendable by the people. I do think this right of removal is a right which honest men very often desire to have, which it is very vital to them in many cases to have, and of which we have no right at all to deprive them. Now, the section as it stands here; the action of the committee has been referred to. There was never a vote taken upon this section.

Mr. STROCKBRIDGE [interrupting.] The gen-

tleman utterly mistakes. If he had attended half the meetings of the committee, he would know more about it than that.

Mr. SANDS. Well, all I have to say—

Mr. STROCKBRIDGE. I wish once for all, as a matter of personal right and privilege, to state that I did not bring in any report from that committee that was not the report of the committee. And I will not submit here or elsewhere to any imputation of that sort thrown upon me as the chairman of the committee which made this report.

Mr. SANDS. I make no imputation.

Mr. STROCKBRIDGE. Is it no imputation to say there was no vote taken upon this subject?

Mr. JONES, of Somerset. I know there was a vote taken, after full discussion.

Mr. SANDS. It was not taken in my presence. I know if I had ever been called upon to give a vote, it would not have been in favor of taking away from a man the right of removal, which right might be vital to him in relation to his property or his life. And believing that we have plenty of legislation upon this subject already, and believing that this right is one of which the citizens of this State ought not to be deprived, I hope the section will be stricken out.

Mr. THURSTON. I think it is right to explain to the convention the object of this law, which the gentleman (Mr. Sands) has not done. In the first place, it is well known to the profession that in nine cases out of ten the issues are never joined until the parties are ready for trial. And the object of putting the law in this way is this; if a party joins issue and gives no notice to the other party, that he is going to move in the case, until the other party is just going into the trial, it takes the party by surprise. That is the reason why the law is put in this way; that before a party joins issue he must give notice that he wishes to remove the cause to another court for trial, otherwise the other party goes to all the expense of getting ready for the trial in the court at which the issues are joined. Nine times out of ten, the term at which the issues are joined, is the trial term. And when that is not the case, it is but right that the party should notify the other of his intention to remove his cause, and not make him go to all the expense of getting ready for trial, and then remove to another court.

Mr. MILLER. I merely wish to say in reference to this subject of removals, that the difficulty, if there has been any difficulty, is not attributable solely to the present constitution of this State. It has been the law of this State since 1804, that in all criminal proceedings a removal might be made upon a bare suggestion made by the party. And in 1838 the privilege of removal was given in civil cases. In 1849 a case came before the court of appeals where that privilege was exercised by a person indicted in Baltimore