

of testamentary capacity, of the legal or illegal execution of wills, &c. This always leads to an appeal, where the estate is of sufficient value to justify it.

Now, sir, I do not agree with gentlemen who think that if you confer these powers upon the judges of the county courts, it will take one judge for each county. It would in some counties, but in some it would not. The question would arise whether the judge living in one county could transact orphans' court business in another. How do you propose to get rid of that? By a point of law, a vague clothing of the Register of Wills with the authority he now exercises in most of the courts of the State. I do not believe it is hazarding a great deal to say that one-half of the orphans' courts in Maryland never read a testamentary system from beginning to end. I heard one of them boast that he never had read it, and did not mean to read it. He wanted nothing at all to do with books in his court. Could such a gentleman as that decide properly questions of *meum* and *tuum* in any court?

Again, in some of the counties, two are united in one district, and yet one judge cannot attend to both. How is it now? Does not the judge residing in this city go up to Carroll county? Do not the judges of the county courts have occasion to attend at other courts? We have in Prince George's county monthly terms of the orphans' court. So it is in Calvert county. Instead of monthly, could you not have quarterly terms? Would not that be enough, giving to the Register of Wills power to do a great many things which the orphans' court judges now do sitting upon the bench? You have already said that where the amount is under \$50, the Register of Wills shall determine it; while upon a sum over that amount the court shall decide. That is the most they have to do out of term time. They are allowed to state accounts preparatory to the session of the court. Once in three months would be enough for the orphans' court to meet, if it was generally known that the judge would be at the place at the stated time, and would remain there until all the business before the court was settled. These are my reasons for voting against the motion made by the honorable gentleman from Frederick, (Mr. Thomas.)

Mr. BOWIE. I agree perfectly with the views of my colleague (Mr. Tuck) in reference to the duty of this Convention to incorporate into its constitution some provision in reference to the powers of the orphans' court. If there is an evil to which we are subjected more intolerable than any other, it is the peculiar nature of the jurisdiction belonging to the orphans' court. It is not a final jurisdiction. Although the law professes to give them entire and full jurisdiction over the subject matter committed to them, yet by some means or other, the law of the land, as it has been expounded by the court of appeals, has said that there judgments are but *prima facie*. When we come to look at the original act of Assembly incorporating this court, they seem to have a jurisdiction as full and complete and ample over the subject matter confided to them,

as if they were a court of general jurisdiction; and yet the court of appeals have held that from the day they were created to this time, their judgments were only *prima facie*. This is an intolerable evil; but we can remedy it. It is in our power to rectify it; and when we come to that provision in the constitution which proposes to engraft upon it an orphans' court system, my friend and myself will be found together in establishing such a principle that the decisions of that court shall be final, subject only to the right of appeal. As this Convention have already determined that they will not give a judge to each county, the propriety of giving the judge orphans' court jurisdiction in the several counties. The very same motive which induced me originally to give my vote for a court in each county, will induce me, at all events, to oppose the adoption of a system of orphans' courts, which will require the same judge to preside over different counties. If there be a court which is peculiarly local in its character, it is the orphans' court; and it has therefore stronger claims to be confined within county limits than the county court itself. I am, therefore, in favor of giving full jurisdiction to the orphans' court upon all subjects committed to it, and that its judgments and decrees may be final, subject in all cases to be reviewed on appeal to the court of appeals.

Mr. BROWN. It appears to me that the argument in reference to employing lawyers in the orphans' court is not a sound one. The experience of us all is that wherever there is a court of law, with lawyers upon the bench, there are always lawyers employed upon both sides of the case. It sometimes happens that lawyers are employed in the orphans' court, but a large number of cases in my county are settled without lawyers, and to the entire satisfaction of all the parties concerned. There is another difficulty. You propose to connect orphans' court jurisdiction with common law jurisdiction. Suppose that you bring your case before judge A of the orphans' court, do you appeal to judge A of the county court? I undertake to say that there are five cases of appeal from the county court to the court of appeals, where there is one from the orphans' court.

Mr. BRENT. I only propose very briefly to state the objects I shall have in view in voting upon these questions. In the first place, I wish to retain the orphans' courts as they are, reducing the number of judges. I think one judge is better than three. I believe the responsibility being upon one man, the duties will be better executed than when they are confided to three. That has always been my opinion, and experience and observation prove the fact. I must vindicate the orphans' court from the imputation of the gentleman from Prince George's, who says that the court of appeals of Maryland has decided that their judgments are merely *prima facie*. I beg leave to differ from my friend. I will say that the decisions of that court are just as conclusive and binding as the decisions of the court of appeals itself within its own jurisdiction. The court of appeals have said that