

You have one judge in your chancery court. There has never been a complaint. You have determined to have but one judge in the county courts. Why is it not equally necessary to limit the number in the orphans' court? This is one of the principles contended for by the reformers of Maryland. Let us not turn back. This reform is called for. The register of wills is to be elected by the people; and are you afraid to trust them. They will select him, knowing what duties he will be called upon to perform. I appeal to reformers if they fear to trust the man whom they will select. I withdraw the motion to postpone.

Mr. FITZPATRICK moved to amend the substitute by adding at the end thereof the following proviso:

"Provided no practice or system of pleading, other than those now existing, be introduced into said orphans' court."

Mr. F. said, I fear that the *projet* of the gentleman from Kent, gives the judges more power than I should be willing to give them. It may be that he will permit none but lawyers to come before the court, and introduce special pleading.

My object is to avoid that, and to retain the present system.

Mr. GRASON. I believe this is the first time I ever made the motion in my life; but I now call for the previous question.

Mr. BOWIE. Will the gentleman withdraw that motion for a moment. I wish to move to strike out all that relates to an appeal from the judge and the register of wills to the county court. I will renew the call for the previous question if the gentleman desires it.

Mr. GRASON withdrew the motion.

Mr. BOWIE. I am quite satisfied that the gentleman from Kent was not aware of the practical results that would follow from allowing appeals from the register of wills to the county court; first of all, making him, in effect, a judge of the orphans' court. The register of wills is to receive all the fees and perquisites which belong to that office. In every case of an appeal, a record is to be made out to be sent to the revising judge. We all know the enormous costs which attend the transmitting of records. Here there is a premium offered to the register of wills to have his judgment appealed from. I submit it to the gentleman from Kent whether it would not be better to strike out this feature, and take away the temptation arising from the fees for transmitting records to every appeal.—It would be an alarming state of facts growing necessarily out of the system, because combining in one person the offices of judge and clerk. I hope some modification will be made. I desire a system to be devised by which some portion of the burdens now imposed upon the circuit judges may be taken off, as very properly suggested by the gentleman from Queen Anne's, (Mr. Grason.) I have been laboring day after day to introduce some wholesome and useful reform in the judiciary system. I have endeavored to engraft upon the Constitution a system which would bring home justice to every man's door, by giving a judge to each county, believing it in

the end to be cheaper I shall now vote for any well-digested plan by which the chancery jurisdiction may be taken from the circuit courts.—I do not think the system of the gentleman from Kent will answer that purpose. Of all the plans yet brought forward, I think this is the most defective; because it gives an inducement to the judge so to decide that there shall be an appeal, in order that he may, as register of wills, receive the fees arising on appeals.—Thousands and thousands of orders and judgments are passed every day; and when parties are unable to go to the cost of appealing, they will have to suffer, no matter what injustice may have been committed by the register.

Mr. CHAMBERS. Will there be any orders then passed by the register of wills not now passed by the court? And will there be any more interest then to promote an appeal than there is now, and always has been, upon the part of the register?

Mr. BOWIE. I think there will be, and I will put the case. Now the judges give a decision, for the error of which the register is not answerable. By the gentleman's plan, the register is the very party from whose judgment the appeal is to be taken. I ask you, if he were a dishonest man, whether he would not have all his judgments appealed from? If he was looking merely to his fees as register of wills, would not every appeal increase those fees? I wish to see a system proposed which will be more useful than that now existing; and I will co-operate with any gentleman who will give to the orphans' court, chancery jurisdiction within the circumscribed limits of a county. At a proper time, I shall submit my amendment, should the previous question not be sustained. I understand that it is not now in order.

Mr. GRASON renewed the motion for the previous question.

Mr. BOWIE demanded the yeas and nays, which were ordered, and being taken, resulted ayes 39, noes 39, as follows:

*Affirmative*—Messrs. Sellman, Howard, Lloyd, Dickinson, Chambers of Cecil, Miller, Spencer, Grason, George, Wright, Fooks, Thomas, Johnson, Gaither, Biser, Annan, Sappington, McHenry, Felson, Thawley, Gwinn, Stewart of Baltimore city, Brent of Baltimore city, Sherwood of Baltimore city, Ware, Fiery, John Newcomer, Harbine, Michael Newcomer, Davis, Brewer, Weber, Holliday, Slicer, Fitzpatrick, Parke, Shower, Cockey and Brown—39

*Negative*—Messrs. Chapman, President, Morgan, Blakistone, Dent, Hopewell, Ricard, Lee, Chambers of Kent, Mitchell, Donaldson, Dorsey, Wells, Randall, Dalrymple, Bond, Jenifer, Buchanan, John Dennis, James U. Dennis, Dashiell, Williams, Hicks, Hodson, Goldsborough, Eccleston, McLane, Bowie, Sprigg, McCubbin, Dirickson, McMaster, Hearn, Jacobs, Magraw, Schley, Kilgour, Waters, Anderson and Smith—39.

So the previous question was not sustained.

The question being then taken upon the amendment moved by Mr. Fitzpatrick, resulted—ayes 3; noes 26. So the amendment was agreed to.