

ment of Mr. Stirling, and being taken, the amendment was agreed to.

Mr. CLARKE. I move to further amend this article by adding these words:

"And no other oath or qualification of voting ought to be required as a condition of the exercise of elective franchise, than such oath or qualification as may be prescribed by this Constitution."

Mr. RIDGELY. That is hardly germane to the article under consideration, which relates to oaths of office.

Mr. CLARKE. We are upon the question of test oaths and qualifications—

Mr. RIDGELY. For office.

Mr. CLARKE. It may be a question whether the subject under consideration is one of test oaths and qualifications, or the one of holding office. It may be considered that this article 36, relates to tests and qualifications in respect to one thing, and I propose to extend it to another. However, if gentlemen prefer to pass it over now, I will not press my amendment, but will withdraw it, and present it at another time, perhaps as an independent article.

The amendment was accordingly withdrawn.

No further amendment was offered to article 36.

#### RELIGIOUS BEQUESTS, &c.

Article 37 was then read as follows:

"That every gift, sale or devise of land, to any minister, public teacher or preacher of the gospel, as such, or to any religious sect, order or denomination, or to or for the support, use or benefit of, or in trust for any minister, public teacher or preacher of the gospel as such, or any religious sect, order or denomination, and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use or benefit; and also, every devise of goods or chattels, to or for the support, use or benefit of any minister, public teacher or preacher of the gospel, as such; or any religious sect, order or denomination, without the leave of the Legislature, shall be void; except always, any sale, gift, lease or devise of any quantity of land not exceeding five acres, for a church, meeting house or other house of worship, or parsonage, or for a burying ground, which shall be improved, enjoyed or used only for such purpose; or such sale, gift, lease or devise shall be void."

Mr. STOCKBRIDGE. I move to strike out this article altogether.

Mr. CLARKE. And restore mortmain?

Mr. STOCKBRIDGE. And restore anything. This article is a part of the original Declaration of Rights of 1776, and was incorporated in the bill of rights at that time, I presume, under the impression that some danger might arise from the establishment of large church establishments in this State. If there ever

was any such danger, the time has certainly long passed when there was anything to be apprehended from that source. The chief practical effect of such a provision at this time is to prevent the enjoyment of small gifts and small legacies by those for whom they were intended; and to prevent a person from disposing of his property by will or gift, as he may see fit to dispose of it. I do not know that we have had a session of the Legislature for a long time, that there have not been applications, and special laws passed to authorize gifts of this kind. And I do not think there ever has been any objection raised to granting the application, except perhaps technical objections; I think the Legislature has always granted it, where they found it possible to do so. Sometimes between the making of the will and the making the application to the Legislature, rights of heirs have attached, and it has become impossible to give effect to the purpose of the testator. Seeing no harm in striking out this article, but much inconvenience resulting from retaining it, I hope the article will be stricken out, so as to permit gifts to be made to the small churches in the country.

Mr. MILLER. I hope this article will not be stricken out. This article but carries out the policy adopted in this country of making divorce between the Church and State final and eternal. The danger which this article guards against, is a danger which had existed in England for many years, the dying out of estates by what is called mortmain, and giving them to church establishments, and making those estates inalienable ever after. The same danger exists here to-day as existed there then. If you strike out this article you will allow teachers of religion, and especially those of a certain church, to get around the death-beds of persons and induce them to give their property to churches and ministers of the gospel, and when it shall once become vested in that church, it will be inalienable for ever after. They will hold on to it, be it ever so little, and go to work and get somebody else to give a little more, until we shall have an overgrown establishment holding fast a large portion of the property in this State. I am opposed to any such thing as that, and in order to prevent it for all time to come, I am in favor of retaining this article.

Mr. STOCKBRIDGE. I will add but a few words to what I said before. The object which the gentleman from Anne Arundel (Mr. Miller) proposes to accomplish, by retaining this article, almost always will fail of being attained with this article in our Declaration of Rights. It is very well understood by the persons to whom he refers that such an article as this exists: but they have ways of evading its operations, and it is evaded every day. The chief hardship falls upon the small churches; some obscure