

volve upon the Legislature, who can really know nothing about it, but upon the county commissioners of the several counties, who are abundantly competent.

[This modification is made in the amendment above.]

Mr. CHAMBERS. I suggested to the gentleman, when he was upon the floor, the question of the propriety of including the changing of the names of persons. It is no part of the gentleman's purpose, I presume, to give legislative powers to the court. There is no mischief in this State greater than that which has been complained of and which this section is designed to remedy; that is, the interference of the Legislature in cases where individual rights are concerned, and where parties have no opportunity of being properly represented and heard. A large portion of the catalogue of cases enumerated is of that character. I go earnestly with the gentleman in advocating the principle upon which he proceeds.

At the same time we are not to exceed that principle. If I understand him, the principle which should regulate our course, is that the Legislature should adopt general rules, lay down certain principles; that a defective deed, for instance, shall be amended under particular circumstances, and the facts which constitute those circumstances are to be brought to the notice of the court, and if within the principle established by the Legislature, the court can furnish the remedy.

I do not see that that can be the case in the particular instance suggested of changing names. Usually names are changed from considerations furnished by some relative or friend of the party who desires to have his name changed. It would be very difficult to enumerate all the cases in which such a change is necessary. I undertake to say that not much time has been wasted by legislation in that particular. I do not think it can be said that the Legislature can well lay down general principles upon which the court can determine whether the facts constitute the case that is provided for. I object strongly to putting a case before the court where they are not to judge of the conformity of the facts with the law, but to exercise their discretion with regard to the facts and the law too. That is legislation; and that power I do not think the court ought to be requested, or obligated, or even permitted to exercise.

I do not know that I have made myself distinctly understood. Let us look at the amendment. The Legislature is forbidden to grant a new trial. It is altogether wrong for the Legislature to do that, because that is a matter to be governed by the practice of the courts. The Legislature have been in the habit of amending defective deeds. That is all wrong. General principles have been laid down, and the courts have nothing to do but to ascertain whether the facts of a particular case are

within the principles which govern in the form of the law of the State, and if so to pass it or reject it. The Legislature makes the law; but the fact is submitted to them by *ex parte* testimony, and very often only a portion of the facts, and they exercise the right to judge of the law and the fact.

So with regard to other cases. Let the Legislature adopt the principle upon which the courts are to act, and let the courts carry out those principles, upon the establishment by proof of the particular cases provided for. I do not understand how the courts, in the case of changing names, are to be instructed by any general principle which can regulate their practice in particular cases.

Mr. STOCKBRIDGE. I would like to inquire of the gentleman from Kent, whether in his remarks he opposed the whole amendment, or merely this provision which he desires to be stricken out.

Mr. CHAMBERS. My proposition is simply to strike out that particular item enumerated.

Mr. RIDGELY. It appears to me that if this amendment were divided and the questions brought up for the consideration of the house, *seriatim*, it would facilitate progress very much. If in order I would ask for a division of the question.

The PRESIDENT. It is susceptible of division.

Mr. MILLER. I have some objections of a general character to the whole amendment offered by the gentleman from Baltimore city (Mr. Stockbridge.) I doubt the practicability of effecting by general laws such things as his amendment covers. We have had fifteen years experience under the present Constitution of the State, in which such provisions in several instances have been incorporated. The most important propositions are such as affect the counties locally, and the laws in relation to the powers and duties of our county commissioners, or road supervisors, and relating to the school fund and matters of that kind. The obligation upon the Legislature, under the existing Constitution of the State is to pass laws making the powers and duties of the county commissioners and road supervisors, uniform throughout the State. The article in the present Constitution in reference to county commissioners, provides that they shall be elected by general ticket, &c., and proceeds:

"Said commissioners shall exercise such powers and duties only as the Legislature may from time to time prescribe; but such powers and duties, and the tenure of office shall be uniform throughout the State; and the Legislature shall, at or before its second regular session, after the adoption of this Constitution, pass such laws as may be necessary for determining the number for each county, and ascertaining and defining the powers, duties, and tenure of office of said commissioners."