

was could not readily be found. For although the Convention had decided by a vote of 61 to 21 that the Orphans' Court should be retained, and that chancery power should be given to the judges of the county court, the gentleman set himself against that vote. And he (Mr. T.) could say that he would not have persevered even in a good cause beyond that example. Now it was said that he was about to vote to put one judge on the bench of the Orphans' Court, and that in doing so we were going to sanction the plan of the gentleman from Prince George's. There was still a great difference between the two. By his (Mr. Thomas's) vote he was forced to countenance an Orphans' Court system altogether different from the one he preferred. He might be compelled to take a defective arrangement of the Court with one judge only. He preferred three judges for the Orphans' Court. But it was not the peculiarity in having one judge that recommended the measure to his adoption. He saw in this measure one redeeming feature that gave to it an advantage over that of the Judiciary Committee. The one judge of this Orphans' Court was to be paid a per diem allowance out of the treasury of the county, but the one judge of the Judiciary Committee is to be paid from the State Treasury.

There was this difference between the two schemes. He had practiced in the Orphans' Court and in the County Courts. He had been more successful before judges and jurors than he had been in the Orphans' Court. It was true that he had been overruled in the Orphans' Court more than once, and could not therefore be biased, as the gentleman supposed. But why, he asked, did he prefer that system to this Court to which the people were generally accustomed? Because there was in the Orphans' Court no system of special pleading—an old antiquated system of proceeding, not founded in common sense, but an artificial system built up in an age that was proud of a scholastic learning that many now repudiate; a system which required the memory to be more exercised than the understanding to comprehend it. He wished to see every man, whether educated as a lawyer or not, eligible to the Orphans' Court bench, if he had the requisite qualification in other respects.

Mr. BOWIE. I profess to give them common law jurisdiction.

Mr. THOMAS. And chancery jurisdiction also. No man was acquainted with the defects of the forms of proceeding in chancery more thoroughly than the gentleman himself. Under the orphans' court the proceedings were informal, the mode of proceeding was different from that of the courts of the counties. Any man of sound judgment and business habits was competent to preside there. Here was a wide, broad distinction between the proposition of the gentleman from Prince George's, and that he was willing to take as an alternative. He was for an orphans' court organized with three judges. If that could not be had, he would prefer a court with

one judge to one judge system of the committee, because, as he had said, these judges of the orphans' courts were to be paid a per diem, and they were not to be paid from the Frederick county treasury, but they were to be paid by the people of the county whom they were to serve. Mr. T. concluded by withdrawing the motion to postpone indefinitely.

Mr. DAVIS renewed the motion to postpone indefinitely.

He said, this is a very important question: one in which the people have and feel a deep interest. From all other Courts we may escape:—we may either decline to follow what we consider our just rights through the uncertainties of courts of law; or to prevent litigation may submit to injustice and wrong. But from the Orphans' Court none can escape. Sooner or later every man's property passes through this tribunal. Hence its great importance to all persons and to all parts of the Commonwealth.

He came here with some prejudices against the system of the Orphans' Court as at present organized:—he had been a member of that court in his county a short time only, but long enough to discover what he thought the imperfections of the system;—he knew that there were complaints among the people against it, but before he voted for a new system, he wished to be satisfied that it was an improvement and better than the old.—The argument in favor of the old system, and he admitted that it was a strong one, was that the people were familiar with it. They had long been accustomed to transact business in it, and it was a court which every man, however humble or diffident he may be, could approach without difficulty. If you adopt the single judge system as proposed by the gentleman from Prince George's (Mr. Bowie,) the practical result, he thought, would be to place the Orphans' Court in the hands of the legal profession. You introduce forms and technicalities to which the people are not accustomed, and will thereby be likely greatly to increase the cost and expense of transacting business in that court. He had no prejudices against that profession. He respected and honored its members, in their appropriate sphere. But the salary and position is not sufficient to tempt a good lawyer to accept it; and of all classes of men save him from a third or fourth rate lawyer. If we cannot have choice of the profession, give us a man of sound practical sense from the ordinary pursuits of life, such a man, guided alone by a sense of right and justice, will seldom be wrong. In nine times out of ten, his decisions will stand the test of legal criticism. If the choice then, lies between the proposed and the old system, he must yield up his prejudices and go back to the old. It is due to candor to confess that his prejudices against the old system, have been very much removed since he came here. He had felt it his duty to seek information from those whose learning and experience qualified them to judge, and the result was a conviction that the old system was better than any which had been or was likely to be proposed in this body. He should therefore vote against the plan of his friend from Prince