

sembly, and paid by the said counties and city respectively," and insert "shall receive such compensation, to be paid by the said counties and city respectively, as is now or may hereafter be fixed by the general assembly."

Mr. HESS. I accept that amendment.

The amendment of Mr. HESS, as modified, was as follows: strike out all after the word "Baltimore" where it first occurs in section twenty-four, and insert "the qualified voters of the city of Baltimore and of the several counties of the State shall, on Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven, elect three men to be judges of the orphans' court of said city and counties respectively; one of the said judges first elected shall hold his office for two years, one for four years and the other for six years; and at the first meeting after their election and qualification, or as soon thereafter as practicable, they shall determine by lot, which one of their number shall hold his office for two, four, and six years respectively, and thereafter there shall be elected as aforesaid, at each general election for county officers, one judge to serve for the term of six years. No person shall be elected judge of the orphans' court unless he be a citizen of the United States, and resident for twelve months in the city or county for which he may be elected at the time of his election; each of said judges shall receive such compensation, to be paid by the said counties and city respectively, as is now or may hereafter be fixed by the general assembly."

The question was taken upon the amendment and it was adopted.

The substitute for the section, offered by Mr. THOMAS, was withdrawn.

No further amendment was offered to the section.

Section twenty-five was then read as follows:

Sec. 25. The said orphans' courts shall have all the powers now vested in the orphans' courts of this State, subject to such changes therein as the legislature may prescribe; and in addition to the jurisdiction now exercised by the said courts; they shall have and exercise in relation to the real estate of deceased persons, concurrent jurisdiction with the circuit courts sitting as courts of equity, and it shall be the duty of the legislature to make such modifications of existing laws as may be requisite to give full power and effect to this provision.

Mr. STIRLING. I move to strike out the words "and in addition to the jurisdiction now exercised by said courts," &c., to the end of the section. I think this was based upon a different idea from that which we have adopted. The committee, in framing this section, had in view a small number of circuits, with three judges to each circuit, and a different system of orphans' court. We have

provided a large number of circuits, and left the old system of orphans' court to stand. The reasons, therefore, for putting this provision in the section do not now exist.

The question was upon the amendment of Mr. STIRLING.

Upon this question Mr. WICKARD called for the yeas and nays, which were ordered.

The question was then taken, by yeas and nays, and resulted—yeas 34, nays 37—as follows:

Yeas—Messrs. Goldsborough, President; Billingsley, Blackiston, Bond, Briscoe, Chambers, Crawford, Cushing, Daniel, Dennis, Dent, Duvall, Edelen, Farrow, Gale, Greene, Hodson, Hollyday, Hopkins, Horsey, Kennard, Lansdale, Mitchell, Miller, Morgan, Murray, Parker, Parran, Peter, Purnell, Ridgely, Sands, Stirling, Thomas—34.

Nays—Messrs. Abbott, Annan, Audoun, Brown, Carter, Cunningham, Davis, of Washington, Dellinger, Ecker, Galloway, Hatch, Hoffman, Hopper, Johnson, Keefer, King, Larsh, Lee, Markey, Mayhugh, McComas, Negley, Nyman, Pugh, Robinette, Russell, Schley, Schlosser, Smith, of Carroll, Smith, of Dorchester, Sneary, Swope, Sykes, Todd, Wickard, Wilmer, Wooden—37.

The amendment was accordingly rejected.

Mr. SANDS, when his name was called, said: I shall vote "aye" because this provision would require the judge of the orphans' court to be a man versed in equity law and practice, and that he cannot be without study and experience. No man taken from among the people is fit to exercise the equity jurisdiction of the State. I therefore vote "aye."

Mr. THOMAS. I move to amend by inserting after the words "real estate of deceased persons" the words "not to exceed the value of one thousand dollars." That would give the orphans' court jurisdiction in relation to the real estate of deceased persons not to exceed the value of one thousand dollars. It appears to me that if we give any jurisdiction to the orphans' court in relation to the real estate of deceased persons, it should not exceed the sum of one thousand dollars. That sum would cover the real estate of nine-tenths of the persons whose estates would go into the orphans' court. Those interested in the estates of poor men, of men who die with only a thousand dollars worth of real estate, would go there. But those interested in other estates of larger amount would take the other horn of the dilemma and go into the equity courts. This does not deprive the equity court of concurrent jurisdiction. And I would much rather go to an equity court to wind up a large estate.

Mr. PUGH. My objection to the amendment is this; it seems to me it would defeat the very object for which this section was drawn. Persons with very large estates have the privilege of going into the equity courts.