

pose of or put out on interest, for the purpose of accumulation, until the respective periods at which the said Dennis and Sophia shall become free, and at the expiration of such period shall pay the same to the said Dennis and Sophia respectively, provided, that nothing herein contained shall be construed to affect, or in any way impair the rights or claims of any other person or persons, to or upon the estate of the said Clara Johnson, deceased." Which amendment was read and assented to, and the bill being read a third time, the question was put, shall the bill pass? Determined in the affirmative.

Mr. Price from the committee delivered the following report:

The committee appointed to examine the acts of assembly extending equity jurisdiction to the county courts, and to ascertain whether any, and what amendments, or other modification of the same may be necessary, to the more salutary and perfect administration of equity throughout the state; beg leave to report: That in the opinion of your committee, some more prompt and convenient system of equitable relief, is necessary to the due administration of justice. The people of Maryland have long felt the want of such a system. The court of chancery, at Annapolis, though possessed of the most ample powers, has been found too distant and expensive for the more remote sections of the state, especially on all those minor occasions where its interference might be thought necessary. Frequent attempts have at different times been made by the legislature, to provide a system suited to the demands of public justice. Soon after the revolution, the county courts were invested with a limited jurisdiction, which by subsequent laws was occasionally enlarged until the year 1815, when the same courts were clothed with all the powers and jurisdiction exercised by the chancellor of Maryland, whether the same were derived from the common law, or the acts of the legislature.

Your committee are of opinion, that the system, upon its present basis, can answer but few of the purposes of its institution. The administration of equity can never be perfect, when it is made dependent upon the courts of common law. Equity and law, as systems, are fundamentally different. They are different in their practice, in their forms of proceeding, and in their principles of decision. Neither can either be made to perform with facility the functions of the other. Under the peculiar organization of the courts of this state, the attempt to engraft upon their jurisdiction, the full power of the chancellor, is defeated at once by its own unfitness and incongruity. The judicial districts are composed for the most part of three counties, and the judges in some of them, all reside in one county. In other districts a judge may reside in each county, but remote from the places where the courts are held. The nature and mode of proceeding in a court of equity require, that it should be always open. Motions, orders, attachments, commissions and decrees, are made in the different stages of a suit in equity, whenever the proceedings are ripe for them, and require the constant attendance of the judge. If a judge resided in each county of the state at the several places where the courts are held, the present system, imperfect as it is, might answer in some degree the purposes of its institution. But can this be required of the judges without an enlargement of their salaries, proportioned to the increase of duties and sacrifices imposed upon them.

From these considerations, your committee cannot promise themselves that any modification of the county courts can ever be well adapted to the exercise of equity powers. At the present time throughout the state, with the exception of a very few counties, the county courts have ceased to be resorted to for equitable relief, it being found that though the expenses are greater the delay is less in proceeding before the chancellor.

To establish a system better suited to the attainment of justice in the administration of equity in the several counties of this state, your committee would propose the following plan:

1. Take away the equity jurisdiction of the county courts, abolish the orphans courts, and appoint a man of legal education and attainments to be chancellor for each county, who shall reside in the town or place where the courts are held, and hold his office during good behavior.
2. Invest him with all the powers of the chancellor of Maryland, and annex to his jurisdiction the authority now exercised by the orphans courts.
3. Let his salary be sufficient to ensure respectability both of talents and character in the appointment.
4. Appeals to be taken from his decisions to the chancellor of Maryland.

The above system has been recommended to your committee by the following considerations:

1. Courts of equity, in some shape or other, are indispensably necessary to a full and salutary administration of justice. Accident and mistake, fraud, complicated accounts, matters of trust and confidence, injunctions, specific performances and discoveries, are so many distinct and fruitful subjects of litigation, in which courts of law can afford no relief suited to the nature of the wrong or complaint. Courts of equity are only resorted to in cases where there is no remedy at law. The same considerations therefore, which make these courts necessary to the purposes of justice, evince the necessity of their being so located, as to be open to the daily resort of the people in all parts of the state. Justice should be brought home to every man's door.

2. Under the existing laws of this state, the creditors, heirs and representatives of persons deceased, in the adjustment of their rights and liabilities, are referred to the orphans courts, or courts of equity, accordingly as the question for trial may relate to real or to personal property. Upon the death of a person intestate, administration of his *personal* property is granted by the *orphans court*. If the assets be insufficient to pay the debts, a sale of the *real estate*, upon the application of his creditors, is decreed by a *court of equity*. If the *personal* property be more than sufficient to pay the debts, a distribution of the surplus amongst his representatives is made by the *orphans court*. A division of the real estate, or of the money arising from the sale of it, is made by a *court of equity*. The appointment of guardians, and the settlement of their accounts, is given by act of assembly to the *orphans courts*; and yet the custody of the per-