

than we otherwise should do. But if the majority of this House are determined to clothe the County Court with all the powers and jurisdiction of the Orphans' Court, although he believed that the circuits, as proposed by the gentleman from Somerset, are sufficiently small, he must yield that opinion to the determination of the majority of this body, and give a judge to each county in Maryland. The question before us cannot be finally settled until we have ascertained the determination of a majority of the Convention touching the Orphans' Court. It is well known that he had been in favor of maintaining the Orphans' Court as a separate independent tribunal. A majority may not concur in that view. If he was overruled on that point, he was prepared to make the judicial circuits rather smaller than he should otherwise consent to. He presumed other gentlemen are similarly situated; and if so, they would co-operate with him in postponing this question, in order to decide whether we are to have Orphans' Courts or not. With that view he now made the motion to postpone, for the time being, the further consideration of the ninth section of the report, and to take up the tenth section for consideration.

Mr. HICKS. If it is in order, I wish to say that I intended, at the proper time, to call attention to this difficulty. I am one of those who are unwilling to have the Orphans' Court system made elective by the people; and I am so thoroughly satisfied that the abolition of the present Orphans' Court system must operate against the interests of the people, that I cannot vote for the section with that proposition contained in it. If the time of the Convention were not so precious, I should give a variety of reasons for this opinion. In the first place, our present Orphans' Court system is familiar to all of us. We have, it is true, not a majority of members learned in the law; but they are sound, well-judging, discreet, practical men; and in my county I think the system would certainly equal any newly-organized one.

Mr. RIDGELY inquired whether Mr. H. was in order.

The PRESIDENT. The Chair thinks not.

Mr. HICKS. I was about to indicate my reasons for moving, at a proper time, as I intended to do, to strike out from the bill reported by the gentleman from Prince George's (Mr. Bowie) that part which looks to giving to the judges to be appointed, Orphans' Court jurisdiction. Our Orphans' Courts, as now arranged, are taken from that class of men who are eminently practical. They understood as much about the administration of testamentary law, and a great deal more than many members of the legal profession. In our county we have at the head of that court a man of the most excellent good sense, of long experience and great integrity.

Mr. BUCHANAN called Mr. H. to order.

The PRESIDENT ruled that he was not in order.

Mr. HICKS yielded the floor.

The motion to postpone was agreed to.

Mr. THOMAS moved to amend the tenth sec-

tion by striking out from the word "law" in the 5th line, these words:

"They shall also have exclusive jurisdiction in all matters relating to last wills and testaments, executors and administrators and guardians, within their respective limits, and all and every other power which the orphans' courts of this State now have, or which may be hereafter prescribed by law."

Upon offering the above amendment,

Mr. T. said: I make this motion in order to test the sense of the house whether or not they will abolish the Orphans' courts and clothe the county courts with those powers. I presume that every member of the Convention has formed an opinion with regard to this, and is prepared to vote upon it. I wish to say, however, that I entertain a decided preference for the Orphans' Court system. I would leave to the people of the counties the right to elect whether there should be one or three judges; and to decide whether to elect judges to the Orphans' Court without reference to their qualifications as lawyers. The great majority of questions, in my judgment, that come before the Orphans' Court are of a character that can be decided and disposed of better by intelligent business men, mechanics, merchants or farmers, than by lawyers themselves. They can settle the accounts of executors, administrators and guardians, better than lawyers, because they know the value of the work and the labor done, the material found, and all the items of the account.

Mr. HICKS. The idea just expressed by the gentleman from Frederick (Mr. Thomas) is precisely that which I intended to express; and I only wish to add a remark or two. Some gentlemen may be alarmed at the expense incurred in continuing this as an additional court. I suppose that in Baltimore city and county this may be a somewhat heavy tax, but it is a most trifling tax upon the people of Dorchester Co. I do not know any thing in relation to this court in other counties, or in relation to the character of the judges, but with us it is composed of sensible business men taken from the various parts of the county. The consequence is that this court, by some one or by all of its members, is acquainted with most of the executors and administrators who have business before it. They know who of them are men to be relied upon, and who would be disposed to make improper charges. The families or wards of most of these individuals are known to some one of the court, and of course they can give their information to the others. They understand the nature of almost every tittle of business that comes before them. My own impression is, and I have had some little experience in this matter, that the judges of that court, though not legal men, are among the most discreet and judicious men of the community. Legal men may be better qualified for some things connected with this court, but generally it is practical men and not legal men that are required. The duties are plain, which every common-sense man can understand, and I would prefer three judges elect-