

*ex parte* accounts of guardians and administrators, should be taken merely as *prima facie*. That is perfectly right. But when has the court of appeals ever decided that the decisions of a court of competent jurisdiction, made upon a contest between parties, are not as binding and conclusive as the decisions of the highest courts of the land? They are conclusive; and when their decisions are called in question, and considered as merely *prima facie*, it is because they are *ex parte*. And in that case, the *onus* lies upon those who endeavor to overturn those accounts, to show where the error lies.

I say, moreover, that according to my observation, the decisions of the orphans' court in the State of Maryland are more generally sustained than those of the county courts. It shows you how miserably the whole county system has worked under the present arrangement, if you will take up the 5th vol. of Gill, there were seventeen cases affirmed, and twenty-four reversed. In 4th Gill, there were twelve cases affirmed, and thirty-one reversed. I repeat that the decisions of the orphans' court have been less frequently reversed, according to my experience and observation, than those of the county courts.

There is nothing in the present system that works wrong, except that there should be one judge instead of three. I would favor letting the people elect that judge. I see no argument in favor of three judges in the proposition of the gentleman from Caroline (Mr. Brown) to district the counties, and to elect one from each district.

I give notice that I shall, at the proper time, submit a *projet* with regard to the judicial districts. I think that seven judicial districts for the State of Maryland are enough; six exclusive of the city of Baltimore, and Baltimore constituting the seventh. I would give one judge to each judicial district, (except Baltimore city, which requires more judges,) to have common law and chancery powers. Let the judges be kept at work as they ought to be, and this would be sufficient. I shall vote, therefore, to keep the orphans' court as it is, excepting that I wish one judge instead of three, and to have that judge elected by the people.

Mr. SPENCER. If a man dies and leaves a will, it goes into the orphans' court for settlement. If he happens to leave no will it is carried into the chancery court. Now, I ask if the orphans' court administers so large a portion of the real estate, whether that is not the proper place for the administration of it all?

There were gentlemen in this body who contend that the present orphan's court system cannot be improved, and that the law is now well understood in that court. Sir, this is not so. There are great mistakes committed in that court to the injury of all parties. They must necessarily be so. The proceedings are *ex parte*, and many nice questions of law arise.

I have known instances where, from errors of this kind, after twenty or more years repose in estimated security, an honest and faithful admin-

istrator and his securities have been brought into court, his proceedings and the judgment of the orphans' court reversed, and he thrown into heavy and irreparable loss. But a short time ago I defended an aged gentleman in a suit of this kind. The estate on which he had administered was insolvent. The orphans' court directed it to be sold, including a few negroes. It was sold publicly and fairly, and the administrator gave a large price for the negroes in open market. He accounted with the court and closed his administration promptly. The deceased left infant children, and a small real estate, the personal estate still being insolvent; and a small debt resting on his real estate, the administrator, prompted by his kindness, paid it off. After the lapse of some twenty years, the negroes having increased in value, and the children having arrived at age, they sued the bond of the administrator. The county court overruled the decision of the orphans' court, and a heavy sum was recovered against him.

The errors committed by orphans' courts do not appear on appeals. If so, they might be remedied. The proceedings being *ex parte*, most generally, there are no parties in court to appeal. When recovered, it is generally after the lapse of years, by suits on the bonds of administrators.

Mr. HICKS. The gentleman from Baltimore city, (Mr. Brent,) has pointed out the great number of reversals of cases coming up from the county court to the court of appeals. I am perfectly satisfied that they very far exceed those coming up from the orphans' courts. I am opposed, however, to the view taken by that gentleman in relation to the number of judges of the orphans' courts. I prefer three, for the reason that these orphans' courts are very cheap courts, and most beneficial to the people. A class of people go into these courts, unlike those going into any other of the courts of your State. They are executors and administrators, and particularly widows and orphans. If you have a judge sitting only once in three months, or once in three weeks, ninety-nine out of every one hundred of those who are driven there by calamity, would be unknown to him entirely. Their feelings would be wrought upon by the calamity which had so recently befallen them, and must go before a stranger. But under the present arrangement, when they go before the court, thus arranged, having a judge from different parts of the county, they will certainly have the sympathy of at least one of the judges, who will respect their feelings and their grief; and through that individual, the entire court would feel a greater sympathy than if the parties were altogether unknown. If you have single judge, there will be a want of sympathy and due respect in many cases, not by design, but because it is unnatural to extend the same attention to the afflicted feelings of strangers as to friends or acquaintances.

But there is another objection. I declare most positively, that it is totally out of the question for any one judge—I care not how familiar in the law, or how industrious in his habits he may be—to supervise the great amount of business that must necessarily come before him at the