

meetings of the court. If a contested will comes up, the issues are made up, a considerable job, too, and the case goes into the county court. During a fourteen years' connection with the orphans' court, I have known but two appeals taken from the orphans' court. Will cases have been decided in the orphans' court, but in a large number of cases they are taken to the county court. It may be, as the gentleman from Prince George's said, that a judge of the orphans' court had boasted that he had never read the testamentary system. We cannot always make men do what they ought to do. The plainest man can take up the little testamentary digest by Dorsey, and understand that. The judges keep that upon their desks for reference. I regret that I am not myself learned in the law, and so it may be with most of the judges; but I undertake to say that the judges of the orphans' court understood more about testamentary law than a great many lawyers do. That branch of law is looked upon by members of the profession as a small sort of thing, and they make the most inferior executors and administrators that I have ever known. It seems to me as if many members of the Convention look at this matter as though it were a mere question of the elevation of particular individuals. I look at it far differently. I consider these tribunals as to be established not for the benefit of the occupants of the bench, but for the benefit of the people who do not understand law.

It is not to be expected that the people are to be benefited by placing in these positions others than men of high character, who will mete out equal justice to all. With a view to the employment of such men, I am in favor of good salaries, and stated salaries, such as will secure to us the very best talent in the State of Maryland. In the orphans' court, however, we want sensible and practical men, who will know when an account brought before them is extravagant, and who will ascertain whether the minors are assisting the administrator in his business, &c., and who will commute the charges when made extravagant in particular cases. These are things which must be taken up practically, and which can be well attended to by men in the plainer walks of life. I think that there can be no better system than the present, allowing the people to elect their own judges, and they will select men who will take care of their true interests.— I consider the duties which they have to perform as being of a most important character, and I am therefore especially anxious that the orphans' court system should be such as to result in benefit to the whole community.

Mr. SMITH. I am decidedly in favor of the orphans' court as at present constituted, save and except the number. I agree perfectly with the gentleman from Baltimore city upon that subject. One judge is amply sufficient. I see no reason why the judge should be familiar with the particular condition of the man whose estate is before them, for the purpose of doing justice to that estate. The administrator is bound by all the obligations of his oath to do justice. I am in favor of electing the judge by the people. It is a local matter entirely confined to the counties;

and I think the people are at all times competent to select their officers; and I see no reason for restricting them to the legal profession. For years past I think the orphans' court has been admirably conducted. And I think it will be conducted still better when the people select their own agents. At present, so far as my knowledge extends, you will rarely find more than one gentleman in the orphans' court competent to transact the business. The other members are useless—totally unnecessary. If the judge is to be a legal man, then in the settlement of estates lawyers must be employed, and in a very short time the legislature will, by their action, render it necessary. Technicalities will soon grow up, and every thing will be in such a state of confusion that lawyers must necessarily be employed by administrators. I have sometimes been in the habit of settling estates, and I have never had any difficulty in their adjustment in the courts of Allegany county. Every thing has gone on smoothly, and I am disposed think it will so long as this is kept from the legal profession. I have no idea that the whole community should be made subservient to the legal profession. This is not necessarily a part and parcel of their avocation. I think that plain matter-of-fact business men are more competent to transact the ordinary business of any section or neighborhood than legal men; and I think, sir, if we had fewer lawyers we could get along much more comfortably. [Laughter.]

Several MEMBERS. And fewer doctors. [Renewed laughter.]

Mr. SOLLERS. Mr. President, I do not rise for the purpose of protecting the legal profession. The history of their deeds is written in pages of living light all over the political and judicial history of this country, from the very commencement of its existence to the present hour. It is not for me to defend it; and it is not for that purpose I arose. I arose for the purpose of saying I approve of the plan of having a judge of the legal profession in the orphans' court. If the fraud and corruption perpetrated in these orphans' courts could be disclosed to members of the Convention, I venture to affirm that there is not a man here who would not wish a legal judge to preside over it. I have known cases in my own county where estates have been defrauded of ten and fifteen thousand dollars, and I unhesitatingly say that it was in consequence of fraud perpetrated by the executor, and the ignorance of the judges. We all know these facts. The gentleman from Dorchester (Mr. Hicks) tells us about the widow and the orphan. It is the widow and the orphan whose cause I stand here now to advocate, when I ask that the judge may possess a legal knowledge sufficient to protect their interests. It is because the executor and administrator passes his account *ex parte* that frauds are committed, the judges not being able to detect those frauds. I shall offer an amendment hereafter to abolish the office of register of wills, &c.

Mr. WEBER. I have had some difficulty in determining how to vote on the motion to strike out. I am not a member of the legal profession, but my judgment is, that it would be best to have a lawyer to preside in the Orphans'