

The amendment was read as follows:

Amend Section 15 by striking out the words "except judges of probate courts" on the third and fourth lines of the section.

MR. MACDONALD—I do not suppose there is a lawyer in the sound of my voice who will disagree with me upon the principle of the amendment proposed. I cannot say that I have any hope that it will escape the fate that has befallen amendments to this article, as a general rule, but I would like to examine the mind and the conscience of each lawyer upon the floor of this house and ask him, and if I could get him out of this room, or at any place where his expressions would not be made public, he would agree with me. Every man knows that before these probate judges some of the most intricate and important propositions of law are brought; that in cases where the validity of wills are contested, and many other matters of the administration of the probate law of this State, a skilled lawyer is infinitely more required, as a rule, to occupy the seat of probate judge than in most any other court. Now we have all had that experience. Every man in this Convention who has practised law has had it, and yet, for some reason which might be very easily stated, but which never has been frankly stated, it has been the practice and the custom of the State of Alabama to except probate judges from the operation of the very salutary rule that all judges should be learned in the law. Why has it been? As I say, it has been known to all men, and I do not care to state it myself, but we all know it, and that very reason, it may be, Mr. President, will result in this amendment taking the ordinary course.

MR. ROGERS (Sumter)—What is the reason that exempted them from being learned in the law?

MR. MACDONALD — Because some of the very eminent citizens of the respective counties in this State considered it a very fat office, and there were more of them than lawyers in the counties.

MR. ROGERS (Sumter)—There are still more.

MR. MACDONALD—And there are still more. I say that is the reason that this amendment will probably take the course the other amendments have taken, but, if we are here to do what is just, right and proper, to do what our past experience as lawyers or as litigants—if there are any of that unfortunate class in this Convention shows to be the facts we will adopt this amendment. Why, we go before a judge of probate who has not attempted and does not propose to attempt to acquire any knowledge of law, and we submit to him questions relative to the construction of instruments, of wills, and the validity of wills, which I say requires technical learning of the very highest order, and lawyers gravely argue such propositions between Judges of Probate, who do not