

authentic instrument of those whose signature it bears; and, if the pecuniary condition of the obligors be known to the Chancellor, he approves or disapproves of it accordingly; but, if the Chancellor has not himself a full knowledge of the situation of the obligors, then their sufficiency must be certified to him by some other Judge, by a justice of the peace, or by one of the solicitors of the Court; upon which the bond is at once approved without notice to the opposite party, or further inquiry of any sort; (k) for it has rarely, if ever, happened, that the approval has been opposed, as by exceptions to bail in error, or to special bail; and, if any such were taken, there does not appear to be any settled mode of proceeding, by which to cause the sureties to justify, to ascertain their sufficiency, or to have better sureties given, which would not be attended with much trouble and delay. Such certificates of sufficiency, it is certain, are, in many cases, too easily obtained; yet there appears to be no adequate mode of correcting the evil. The Court might censure or punish one of its own solicitors who should carelessly or unworthily certify sureties to be sufficient whom he knew were not so; but the Chancellor can exercise no such authority over a Judge, or a justice of the peace; and yet the most of such certificates come from justices of the peace. The Legislature may provide some mode of guarding against these evils; *Votes & Pro. Ho. Del., 4th February, 1825*; but until they have done so, this Court must, in general, follow the existing and long established practice. The Court does not, however, mean to say, that such certificates are to be considered as, in all respects, final and conclusive evidence of the sufficiency of the sureties offered; on the contrary, exceptions may be taken and proofs read; and then, if the sureties offered, on a fair estimate of the whole, and on due consideration of all circumstances, appear to be insufficient, the bond will be rejected. (l)

From all that has been presented to the Court, in the case under consideration, and on making a fair estimate of the pecuniary *ability of all the obligors in the bond, which the
28 Court is asked to approve, there appears to be an ample sufficiency to answer the amount of the decree should it be affirmed. This Court cannot allow itself now to depart from the existing practice, or undertake to introduce any new rule in restraint of the right of appeal, which seems to have been always most liberally

(k) *MCMULLEN v. BURRIS*.—A decree having been passed appointing a trustee to sell lands to pay debts, he filed his bond accordingly, which was endorsed thus: "Wm. Pinkney is well acquainted with the circumstances of Mr. Thomas, and begs leave to inform the Chancellor, that the within bond is ample security for the performance of his trust." Upon which it was "approved A. C. HANSON, Chan. 8th October, 1792." Similar in *Deale v. Stewart, 1794*; *Cole v. Garretson, 1795, &c., &c.*

(l) Some provision has been since made in relation to this matter by 1826, ch. 200, s. 15.