

the other surety may be destitute of commercial credit, it is impossible, looking to his property, to consider him merely a *nominal* party.

The great and only question in such cases as the present, is to ascertain, whether the party who is successful in the inferior court, has, in the sureties in the bond, a secure indemnity for the injury he may sustain by the appeal, and whether this appears by looking to the value of the estate of each surety, or, by an aggregation of the worth of all, does not seem to me to be material. If the sureties in the bond taken collectively are sufficient, the bond is sufficient, and must be approved.

It is therefore ordered, that this petition be dismissed with costs, to be taxed by the Register, and that the appeal bond be approved.

The order ratifying and confirming the sale, was affirmed by the Court of Appeals, on the 21st of June, 1850, for the reasons assigned by the Chancellor, and the cause remanded to this court. On the 26th of June, the complainants filed their petition, praying that the cause might be reinstated and referred to the Auditor, with directions to state an account making proper allowances to the complainants and purchaser out of the surplus proceeds of sale, for the injury which they have sustained by the said appeal, and that a writ of *habere facias possessionem*, may be issued to put said purchaser in possession of said premises. An order was the same day passed referring the case, according to the prayer of this petition, and granting a writ of injunction directed to the defendants to deliver possession to the purchaser.

The Auditor stated an account in compliance with this order by which he applied the net proceeds of sale, first, to the payment in full of the complainants' claim for the purchase money due to them, with interest to the day of sale, amounting to \$4,920. The interest was then calculated upon this whole claim as of that day, to the date of the affirmance by the Court of Appeals, of the order ratifying the sale, 21st of June, 1850. This interest amounted to \$630 58. This claim was stated with reference to a credit of \$600, to be allowed as of the 27th