

they refer to those found in 1st Harris & Gill; The Union Bank *vs.* Ridgely, page 324; Milburn *vs.* State, 1 Md., page 1; Wallis *vs.* Riley's Representatives, 2 Harris & Gill, page 305; and as further authority the decision in 38 English Law and Equity, page 62, pronounced by the highest tribunal in England. There is another grave point to be suggested—the Constitution of Maryland no where provides that Registers of Wills shall give bond.

In the case of Thomas *vs.* Owens, 4 Md., page 189, and Dowling *vs.* Smith, 9 Md., page 242, the Court of Appeals have more than intimated that it is not competent for the Legislature to add anything to the Constitutional tenure of office, unless the power to add is reserved in the instrument itself. There is no such reservation in regard to Registers; so, even if the condition of the bonds conformed to law, it may be doubtful whether a recovery could be had.

The moneys which Hickman is charged with embezzling arose from the tax imposed upon the commissions of executors and administrators, and upon collateral inheritance. These taxes were created by the act of 1844, chapters 184 and 237, and by some oversight, authority is no where conferred upon the Register of Wills of Baltimore city to collect these taxes. Another ground of defence may thus be presented—the language of the statute is confined to the Registers of Wills of the “counties” and Howard District; and it is well known that claims against securities are *strictissimi juris*.

Your Committee are constrained to believe, from the evidence before them, that if the laws applicable to the case had been strictly executed, all the money might have been secured.

Hickman was a defaulter both in July and December, 1857; he made no return according to law, either within thirty days from the first of June, or within thirty days from the first of December of that year. Under these circumstances he was allowed to quit the office, and to keep possession of all his effects until June, 1859, nor was responsibility sought to be enforced by the State until after the prompt and efficient action of Mr. Walsh (who was, in June, 1859, first informed of the delinquency,) had secured four thousand dollars of the money.

It is under these circumstances that the memorialist offers to pay the sum of fifteen hundred dollars, in full discharge of all demands in the premises; and your Committee are of opinion that in the best aspect of the case, the State cannot recover more, even if all the legal defences should prove unavailing.