

1860. This is also agreeably to natural reason. The fact that *all the voters of one district* were free and untrammelled, can no more sustain the validity of an election, than the fact that *some voters in all the districts* were free and untrammelled, however few they may be. The question is, was there a choice by the people of the county.

The incumbents of the office of Judge of the Orphans' Court, appeared by their counsel, Isaac D. Jones, Esq., before your Committee but a little while before the investigation had been concluded. On request of the Chairman, the counsel furnished him with a list of witnesses and a written statement of what he expected to prove by them, (which paper is filed herewith,) and (as we are informed by the Chairman,) agreed that with the evidence already taken and what he proposed to prove, his case should be submitted. The Committee concluded that the facts stated in the offer, even if proved, could not affect the judgment of this House, or the right of the case. Your Committee, however, file the application herewith, to have what effect it may upon the judgment of the House.

Afterwards, the counsel for the incumbents offered an additional application in writing, and although the facts as before stated would show that the case had been closed, the said last mentioned paper is also herewith filed. The contestants for the same office did not appear by counsel until an equally late day with the incumbents, and submitted their case on the evidence then before your Committee.

In accordance with the views herein before expressed, your Committee recommend the adoption of the following resolution:

Resolved, By the House of Delegates, That the late general election held in Somerset county, on the fourth day of November last, among other purposes for the election of three Judges of the Orphans' Court, a Register of Wills, and a Clerk of the Circuit Court for said county, so far as the said offices are concerned, is hereby declared illegal and void, and the persons now filling the said offices, claiming to hold the same under the aforesaid election, are hereby removed, and their respective offices declared vacant.

All of which is respectfully submitted.

JOHN S. TYSON, JR., Chairman.

GEO. B. WESTCOTT.

CHAS. B. HITCHCOCK.

WM. FRAZIER.