

Clarke, as sureties, who the petitions allege are fully worth the penalty of the bond, and of whose ability and means to meet the obligations entered into by becoming his sureties is clearly and abundantly proven by the depositions on oath of right respectable citizens of said county.

The petitions further state that soon after the execution of said bond the said Clarke caused the same to be laid before the Chief Judge of the third judicial district of this State, who refused to act upon the same without assigning any reason therefor.

The said Clarke finding himself thus repulsed, caused the said bond as he alleges, to be laid before the justices of the Orphans' Court of said county, who also refused to act upon the same unless the Chief Justice aforesaid, would certify to them the sufficiency of the "Real Security," offered by the said Clarke.— And here the committee would beg leave to remark that they have not been able to ascertain from their researches any law upon the statute book, which requires "real security" for the faithful performance of the duties of Sheriff. It is only necessary under the law prescribing the form and penalty of Sheriff's bonds, that the sheriff and his sureties should be worth in actual property the amount of the penalty. The committee therefore, without hesitation, say that the said Justices of the Orphans' Court, acted beyond the scope of their authority, when they required an endorsement from the said Chief Justice of the sufficiency of the "real security" offered by the said Clarke. By the act of 1806, chapter 14, any two justices of the Orphans' Court, are authorized to take sheriff's bonds in the same manner as those of the County Courts.

By reference to which act it will be seen that for this purpose they are constituted a separate and distinct tribunal, entirely independent of the County Courts, and when the bond was laid before them for their action, it was their bounden duty to have acted upon it, without as in this case, invoking the aid of the certificate of the Chief Justice as to the "real security" offered by the said Clarke. The act conferring this power upon these justices of the Orphans' Court required no such duty at their hands.

It is apparant therefore to the committee from this statement of the facts in this case, that the said Clarke has been greatly injured, and not only him but the people of the County, whose sheriff he is, to all legal intents and purposes, for by the proceedings and acts before recited, it is clearly shewn that an attack has been made upon the elective franchise, which under our free institutions has always and properly been watched with