

HOUSE OF
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1691.

been parties to the suits between Wilkins and Appellant, and fearing they should be defrauded of their parts of the freight, according to the account as made up. Their cause was heard by the Lords Commissioners together with that in which Wilkins was Plaintiff against Appellant, with whose previous verdicts the Court declared itself dissatisfied. The order complained of is just, Respondents never yet having had any trial with Appellant for their shares of the freight. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned* by J. Somers.

(b.) 14 Dec. Answer of Michael Wilkins. Respondent, having a previous account with Stanier and Morgan, on a voyage to Sally, still unsettled, and being anxious to go to Bordeaux, to secure the high freights there caused by the rumour of a French war, agreed to ship Appellants' wines at the same freight that Appellant should obtain, on his behalf, from Stanier and Morgan, who were delaying payment of their debt. On reaching Bordeaux he heard that Appellant had never come to any agreement with Stanier and Morgan for 3*l.* per tun, as Appellant falsely informed him he had, and accordingly he had it inserted in the Bills of Lading, to pay freight according to agreement, and, if no agreement, at 10*l.* per tun, being the rate then ruling. On Respondent's return, Appellant at first did not insist on any such pretended agreement, but the account was made up at the higher rate. Prays that the Appeal may be dismissed with costs, as vexatious. *Signed* by Respondent (by his Attorney Edward Ames) and by Robert Otterburne.

454. Dec. 1. Bishop of Ely's Estate Act.—Amended draft of an Act for settling a Fee-Farm rent of 100*l.* per annum upon the Bishop of Ely and his successors, to be issuing out of Hatton Garden, in the County of Middlesex and the messuages thereupon erected, and for settling and assuring the same, subject to the said rent, upon Christopher, Lord Viscount Hatton, his heirs and assigns for ever. The Lords' Amendment (Com. Book, 3 Dec.) is a purely verbal one. The Commons' later Amendments are given in C. J., X, 584. [Read 1st this day; Royal Assent, 24 Dec. (L. J., XIV. 667, 701.) 3 W. & M. c. 6 in Long Calendar.]

Annexed:—

(z.) 3 Dec. Lords' Amendment to the Bill. [Made in Committee and reported this day. Com. Book; L. J., XIV. 671.]

455. Dec. 1. Curtis' Estate Act.—Amended draft of an Act for the more speedy payment of the debts of Elizabeth Curtis, Widow, late deceased, and performance of an agreement touching the same, made between Charles Curtis in his life time and Edward Earle, according to a Decree in the High Court of Chancery. The Amendment is to add the Saving Clause at the end. [Read 1st this day; Royal Assent, 24 Feb. 1691-2. (L. J., XIV. 667; XV. 93.) 3 & 4 W. and M. c. 30 in Long Calendar. Com. Book, Dec. 4, 5, 14, 17.]

Annexed:—

(a.) 17 Dec. Letter from Mr. Appleton, dated 7 Dec., consenting to the passing of the Bill. [Read in Committee this day. Com. Book.]

456. Dec. 2. Burton v. Muschamp.—Petition and Appeal of Philip Burton, Gent. Complains of an Order of 17 Dec. 1690 and other

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orders of the Court of Chancery, setting aside the enrolment of certain decrees made in Petitioner's favour and confirmed on a Bill of Review. Prays that Respondent, now a prisoner in the Fleet, may be ordered to answer, and that the said Orders may be reversed. *Signed* by Appellant; *Countersigned* by Wm. Whitelocke (whose signature is copied) and H. Finch. L. J., XIV. 669. [The Cause was heard on 19 Dec. 1691. *Sir William Whitelocke* (for Appellant): There were three causes depending in 1676. On 14 May 1678 they were all heard. *Mr. Finch* (for Appellant): What we complain of is an Order of the Commissioners for opening the enrolled Decrees. The Chancery had no power in this matter, and yet they have taken upon themselves to do it. This was signed and enrolled in a former Chancellor's time, and yet they say, We will open the cause. The Order is 17 Dec. 1690. The L. North confirmed (*sic*). Order of 11 Nov. 1678, the L. Jeffreys confirmed that order and ordered it to be enrolled. *Sir William Williams* (for Respondent): This enrolment was made but in 1685, and not confirmed by three Chancellors, as they say. We have the Minutes here. *Sir Thomas Powys* (for Respondent) is heard. *Counsel* are heard in reply and read Orders for examining the cause as to the fraud in obtaining the enrolment. *Counsel* withdrew, the Speaker reported and the House ordered the Decree and Orders to be set aside. (MS. Min.; L. J., XIV. 684.) See also under 14 Nov. 1692.]

Annexed:—

(a.) 10 Dec. 1691. Answer of Henry Muschamp. The orders complained of are just and consistent with the practice in Chancery, the enrolments having been defective and irregular. Prays that the Appeal may be dismissed with Costs. *Signed* by Respondent. *Endorsed* as brought in this day.

457. Dec. 2. Old Governors of Birmingham School v. New Governors of Birmingham School. Petition and Appeal of Samuel Carter, Esq., Isaac Stanton, George Wyrley, William Colmore, William Doley and Thomas Rowney, the Old Governors of the Free Grammar School of Birmingham in the county of Warwick, on the behalf of themselves and the other Governors of the said School, that have by them been duly elected Governors of the said School. Complains of a Decree in Chancery of 10 July 1691, ordering the enrolment of a surrender to Charles II. of the old Charter of the School, granted by Edward VI., which surrender had been signed by some of the then Governors, on the requirement of the King, but had not been enrolled. The new Charter granted by James II. made the person who had procured the surrender a Governor, although he was not an inhabitant of the town, and reserved the right to remove the Governors and Master at the King's pleasure. The Old Master, who had acquitted himself to the satisfaction of the town, has been removed, and some school land let for building a Popish chapel, much to the inhabitants' disgust. The enrolment is invalid, not having been made in the reign of Charles II. No breach of trust can be alleged against Appellants, who, on the contrary, with their predecessors, have increased the School revenue from 20*l.* to 300*l.* a year, besides having built lodgings in Katherine's Hall, Cambridge and there allowed 70*l.* a year to poor Scholars bred up in the School. Pray that the Decree may be reversed. *Signed* by all Appellants except Doley and Rowney; *Countersigned* by J. Somers and Ja. Stedman, whose signatures are copied. L. J., XIV. 669. [The Cause was heard on 9 Jan. 1691-2. *Mr. Trevor* (for Appellants) opens the Cause. *The Solicitor-General* (for Appellants): The cause is new and without precedent. Reads the Grant of 5 Edward VI. *Mr. Finch*