

1810.

Gover
vs
Hall

and book-keeper to *Giles*; made at different times considerable payments on his bond for £1106 14 1 $\frac{1}{2}$; and in February 1763, acknowledged in writing the account and settlement of 1756, reserving only the right to correct errors, if any.

By an act of the legislature this cause is placed in the same situation for decision in which it stood on the appeal from the decree of the chancellor of the 22d of December 1797, and presents two questions for the consideration of the court.

First. Whether the settlement of the 12th of June 1756, and the bonds passed by *Garrett* to *Giles*, shall be opened and set aside, and *Benedict Edward Hall*, as executor of *Garrett*, be entitled to an account of all the profits of the works from the year 1751 to 1765, and be let in for any and what proportion of the profits? And

Second. Whether as administrator *de bonis non* of *Peter Dicks*, he shall be let in for one sixth of the profits of the works for the same period?

With respect to the claim in right of *Garrett*, it is contended that the settlement and bonds of the 12th of March 1756, ought to be set aside on two grounds:

First. That they were procured by fraud, artifice, misrepresentation and threats; and

Second. That there are errors and mistakes in the settlement.

On the first ground of relief, it is alleged in the bill that *Giles*, becoming impatient of the rising fortune of *Garrett*, formed the fraudulent design of working him out of the concern, and of getting into his own hands the sole management and property of the works, and with that view artfully brought about the partnership of the 13th of November 1753, into which his two sons are stated to have been admitted as equal partners, without any consideration; and that in furtherance of the same project, *Garrett* was turned out of the management of the works, on the 1st of January 1754, and sent to *England* on a frivolous pretext, and *David Cakwell*, who is represented as the tool of *Giles*, and wholly devoted to his interest, appointed manager in his place.

But the fraud inferred from these transactions does not appear, and the intent ascribed to *Giles*, to embarrass and injure *Garrett*, seems to be an unfounded conjecture. The