

This Congress asserted and maintained the rights of their fellow-citizens as Englishmen ; and, following the example of " their

large amount, he employed the plaintiffs to build a ship as proposed, and engaged Patrick Simpson, since deceased, to take charge of her when built as master : that the plaintiffs in compliance with their agreement built and launched a ship, which was called the *Maryland Merchant*, and the greater part of her rigging, tackle, and furniture, were bought and set up in her, and several officers and sailors were hired to navigate her on her intended voyage ; but Smith having received all or the greatest part of the subscription money, embezzled so much of it, that he was unable to fit her for sea ; that he had not paid these plaintiffs for their work and labour, and had besides involved them and Patrick Simpson in liabilities for several considerable sums of money on account of the ship ; that the subscribers and contributors to the building of the ship in this state of things, seeing their prospects of deriving any advantage from their subscriptions to be almost hopeless, and feeling kindly disposed to enable these plaintiffs if practicable to obtain some reimbursement for their losses, transferred and assigned all their interest in her, except some sails paid for on account of D. Dulany, to the value of £120, to these plaintiffs and Patrick Simpson. That afterwards some of the seamen, who had been hired on account of the ship, instituted a suit in the vice-admiralty court of this province before the Honourable Charles Calvert then judge of the said court, against the ship and tackle, &c., and by a decree of that court she was condemned and sold for the sum of £600, which was brought in and deposited with the said judge of the vice-admiralty court ; out of which the seamen's wages having been paid there was left a balance of £309 ; after which Patrick Simpson was paid £102, and William Cummings £6, leaving a residuum of £201 ; to which these plaintiffs are entitled as assignees of the subscribers. That Charles Calvert the Judge having that money in his hands died intestate, and administration on his estate having been granted to Rebecca Calvert, she thus obtained it ; after which she by her last will appointed these defendants her executors and died, and these defendants having taken upon themselves the execution of her will, thus became liable for that amount to these plaintiffs : Whereupon they prayed that the defendants might be compelled to pay them the said sum of money, &c.

On the 17th of February, 1735, the defendant Benjamin Tasker disclaimed any interest in, or any authority to intermeddle with the money mentioned in the complainant's bill, he having before the Commissary General entered on record his renunciation of the executorship of the testament of Rebecca Calvert deceased ; and he also disclaimed any right whatever to the administration of the estate of Charles Calvert deceased. The two other defendants by their answer admitted the facts set forth in the bill ; but they averred, that the said Charles and Rebecca had made no profit from the money in their hands ; that they as well as these defendants had always been and were then ready to pay the same to any persons justly entitled to it, and to whom they could be safe in paying it, &c. The case was thus submitted on bill and answer.

17th February, 1736.—OGLE, Chancellor.—Decreed, that the defendants George Plater and Onorio Rozolini do pay and deliver unto the complainants the said sum of £201 currency, upon such security being given to the master of this court as he shall judge sufficient by a bond of the penalty of £400 currency, payable to him, with condition to pay and satisfy to any person or persons such proportion of the said £201 as such person or persons shall appear to be justly entitled to after deduction of costs expended in this suit by both parties, which is hereby ordered and directed to be paid out of the said sum of £201 currency.—(*Chan. Proce. lib. I. R. No. 2, fol. 761.*)