

**HILL V. MANCHESTER AND SALFORD WATER-WORKS COMPANY** (ENTERED AS A SPECIAL JURY, BUT TRIED BY A COMMON JURY).

—This was an action on two bonds for 100*l.* each, dated August, 1813, to which the defendants pleaded, besides the general issue, fraud and covin, the statute of limitations, and a set-off.

The **SOLICITOR-GENERAL** for the plaintiff: The defendants had become very considerably indebted to various persons, and had given their acceptances to a very great amount, and in 1813 they resolved to call in these acceptances, and give bonds instead. In that year the plaintiff gave up acceptances to the amount of 1,100*l.*, and obtained instead eleven bonds, on two of which this action was brought. The plaintiff had also, in 1815, given up acceptances to the amount of 1,100*l.*, and had taken bonds in the same manner, and an action had been on a former occasion brought on a bond of each set, when a verdict was given for the plaintiff, which, after much discussion and deliberation, the Court refused to disturb, so that it was extraordinary that the Company should refuse to pay these bonds, and put the plaintiff (or rather Messrs. Masterman and Co., the Bankers, who were the real plaintiffs, as holding the bonds for valuable consideration) to the trouble of bringing another action. The Company had applied for, and obtained an order for a Special Jury, upon which, after all, they did not choose to act, so that it appeared that the application was made only for the purpose of delay.

The execution of the bonds having been proved,

**Sir James Scarlett**, for the defendants, submitted that the plaintiff ought to be nonsuited, on the ground that the bonds were not granted according to the powers contained in the Company's Act of Parliament of the 53*d* Geo. III.

The **LORD CHIEF JUSTICE** did not think that there was sufficient ground for a nonsuit, and directed that the cause should proceed.

**Sir J. Scarlett** then addressed the Jury. The Company had

“*neither interest nor inclination to resist a just demand; but, whether they were mistaken or not, they were decidedly of opinion*

“*that this was an unjust demand, and one founded in fraud and*

“*that this, therefore, thought it their duty to resist it by all*

“*legal means in their power.*” With respect to the verdict and judgment in the former action, it appeared, from the judgment of the

“*Court, as delivered by Lord Tenterden, that the ground of the*

“*decision was, that although the bonds might not have been made*

“*strictly in terms after the Act of Parliament, they had been sub-*

“*sequently ratified by a solemn deed of the Company.*” At that time

“*the deed referred to was not produced, but it was now in Court,*

“*and it would be shown that the same objections applied to the*

“*deed as to the bonds. Before the establishment of the Manchester*

“*and Salford Water-works Company, the plaintiff and others had*

“*formed a Company, not by Act of Parliament, called the Stone*

“*Pipe Company, thinking to make a fortune by making stone pipes*

“*and selling them to the different Water-works Companies. This pro-*

“*ject did not succeed, and then the plaintiff and others got the Com-*

“*pany in question established by Act of Parliament, and, in their*

“*capacity of managers of the Stone Pipe Company and Directors of*

“*the Manchester and Salford Water-works Company, contrived to*

“*throw the losses of the former Company on the latter, without notice*

“*to or the consent of the general body of proprietors of the Water*

“*Company. The acceptances and bonds, to the amount of 16,000*l.*,*

“*were given for materials which were entirely useless to the Water*

“*Company; and he would prove, that neither with respect to the*

“*bonds nor the deed authorizing them, had the provisions of the*

“*Act of Parliament been complied with, and, if he succeeded in*

“*this, it would follow that the bonds were void. There were two*

“*Acts of Parliament, of which that of the 53*d* Geo. III. was the*

“*second. By that Act the Company was empowered to raise an*

“*additional capital to the amount of 48,000*l.* by bonds, and at a*

“*General Meeting of the proprietors, held at Manchester in August,*

“*1813, it was ordered that the money should be accordingly so*

“*raised, with the view that it should be actually advanced and*

“*applied to the purposes of the Company. By the Act a General*

“*Annual Meeting was to be held, and the Act also authorized any*

“*five of the proprietors to call Special General Meetings by advertise-*

“*ment, for the consideration of special matters, to be specified in*

“*the advertisements; and at any such Meeting, ten proprietors,*

“*holding 200 shares, might make orders binding the Company in*

“*relation to such special matters. After the General Meeting in*

“*August, 1813, the plaintiff and some other proprietors in London,*

“*in the year 1814, advertised a Special General Meeting—“to*

“*consider the general state of the Company and other*

“*special matters”—not specifying what these special mat-*

“*ters were. The meeting took place, and was adjourned*

“*several times till April, 1815, without any advertisement or notice*

“*of any of the adjournments, and it was then ordered that the*

“*bonds should be executed and sealed, not for raising money, but to*

“*take up acceptances which the plaintiff and others had procured*

“*for useless materials which had belonged to the Stone Pipe Company,*

“*and the bonds were dated August, 1813, in order to give them a*

“*colour of having been given in pursuance of the resolution of the*

“*General Meeting of that date. It was at the same adjourned*

“*Meeting of April, 1815, that it was ordered that the Company's*

“*seal should be affixed to the deed purporting to ratify the bonds.*

“*The whole of these proceedings as to the bonds and the deed were*

“*unauthorized by the Acts of Parliament, and therefore not binding*

“*on the Company.*”

Evidence having been given in support of this defence,

The **SOLICITOR-GENERAL** ridiculed the idea of fraud and covin,

when the plaintiff had given up his bills on the Company, payable

immediately for bonds not payable till the expiration of five years

from the date. As to the deed of recognition, the Company's seal

was affixed to it, and it was not competent to them now to say that

the seal had been improperly affixed, for it was in evidence that

they had acted on the deed, and fully recognised it as valid.

The **LORD CHIEF JUSTICE** put it to the Jury whether the book

produced in evidence contained true and genuine entries, without

fraud, of what passed at the meetings above referred to. If they

should find in the affirmative, that would raise the question of

law as to whether the provisions of the Act of Parliament had been

complied with.

The Jury found that the entries were true, and that there was

no fraud.—Verdict for the plaintiff.

**SAME V. SAME.**—This was an action on two other bonds of the

same description.—Verdict for the plaintiff.