

and served on the said Gilbert Murdock, and acting as his agents, and with his consent, secretly and with great haste continued, and

has no other proof. Whereupon, it was prayed, that they might be produced before the auditor, &c.

HANSON, C., 28th March, 1799.—Ordered, that the complainant do forthwith produce to, and lodge with the auditor for the purpose of his stating an account between the parties, every book in his, the complainant's possession, which contains any entry, memorandum, or statement, relative to the matter in dispute between them; and to the account to be stated in conformity to the decree in this cause lately passed.

On the 13th of April, 1799, the auditor filed a report, in which he said, that in obedience to the decree, after having given notice to the parties, and having received what further testimony they chose to produce, he had stated accounts Nos. 1, 2, 3, 4, and 5. That account No. 1, was a copy from the books of complainant, commencing in the year 1775, which appeared to have been adjusted and settled by arbitrators, and after charging interest, the balance struck on the 14th of June, 1787, which then amounted to £160 0s. 4d. That for this account there did not appear any other evidence, or voucher, except the waste books and ledger, lodged by the complainant where the original entries appeared to have been made. That No. 2, was an account of the ferriages received by the complainant for his proportion of tolls as entered in his cash book monthly, commencing on the 23d of May, 1786, to the 31st of October, 1796. And from this view of the profits, the auditor had made an estimate on the back of said account of the probable monthly receipts at said ferry. That No. 3, was an account stated from the balance on account No. 1, which was stated in that manner, in order that the private accounts, and the account for the profits of the ferry might be distinct. That in this account, the defendant had credit for his half of £145 7s. 9½d. being sundry receipts which he had exhibited, and which do not appear to have been entered on the complainant's books; they appear to be accounts against E. and S. Norwood; but how far the complainant was concerned in the whole of the said debts, the auditor cannot say. The balance due the complainant, on this account, including interest to this day, amounted to £68 18s. 3d. That account No. 4, was the complainant's proportion of ferriages from the 6th of September, 1795, to the 23d of June, 1796, with interest thereon to this day, amounting to £164 9s. 2d. That account No. 5, was a further account of ferriages from the 1st of November, 1796, when the defendant moved the ferry-boat, &c. from the old ferry to the new ferry erected on his own landing, amounting to £554 1s. 5d. exclusive of interest.

HANSON, C., 25th May, 1799.—On the complainant's motion it is Ordered, that the auditor's report and the accounts by him stated in this cause, shall be approved, ratified, and confirmed: unless exceptions thereto be filed on or before the 1st day of August next: provided a copy of this order be served on the defendant before the fifth day of July next.

On the 27th of July, 1799, the defendant filed exceptions to the auditor's report; first, for that the account, No. 1, was not an account settled, or acquiesced in by the complainant or defendant, and is erroneous and unjust; and was so proved by the said Zachariah M'Cubbin, particularly in the item of £400, charged by the defendant for difference of soil, &c. which was the