is equal & impartial; Tho, Parishioners rather than Churchwardens are answerable for Partiality, it being their Business to attend the Vestry, & see that the Rate is fairly made. It cant be Law, that the Order should be quashed, because Notice was not given by the Clerk or Vicar, but it will be good, if given by the Churchwardens. At the Meeting, it was unanimously agreed, there sh^d be a Levy of threepence in the Pound, to reimburse the Churchwardens; at that Assessment, the Def^t would be liable to pay more than he is now rated which amounts only to. 1 3/4. Another pays 2 another 2 1/2. Proof is sufficiently made of Notice being given in the Church, & the Meeting held in consequence of it. The Rule by which the Rate was made, is also ascertained, viz. by a Pound Rate, & not arbitrarily; It is true, the Rate was not regularly signed in Vestry, as it should have been, but was prepared afterwards; but this Irregularity is not sufficient to set it aside —

Rates ought to be exactly equal, but there is great difficulty in making them so; the main difficulty is that the Churchwarden, W. Thomas, is charged a farthing in the Pound, less than the other Party, & he must know the value of his own Land.

the Rate was made & assessd by the Parishioners, who considerd it as equal, & all paid their quotas except the Defendant; the Rate itself is not exhibited, but the Defence itself supports it.

The Question is, wh^r the Court, should say, the def^t ought to be dismiss^d, & the Rate be declared void with respect to him.

a General, or a Great Inequality will certainly quash a Rate, but it would be going too far to set it aside upon a Slight Inequality, especially where the Complainant pays less than the Assessment agreed on.

Caution should be used, on one hand, against establishing Rates, which are wilfully made unequal — On the other hand, One would not give an Opportunity or Pretence to Country Fellows to harrass & ruin Parishes, by trifling & vexatious Law Suits.

Where a Party thinks himself aggrieved & overrated he should offer, what he thinks he ought to pay, If the Def^t had said, This Rate is not good, because others pay less in proportion, than myself, but I offer so much, specifying what he allowd to be a reasonable Charge, that would have made a difference But in the present Case no Tender has been made:

Sentence for Pltf with Costs

with respect to the Def^t I must therefore pronounce the Rate good, he being understated in proportion to others tho, he is assess^d higher than the Churchwarden: upon the whole, I think he ought to pay the Sum demanded, having made no Tender of a less Sum, & be decreed to pay some Costs: to be heard on Taxation next Court.

Arches — Grene N° 172 Price v Long & Holland, Bird — Stevens

Dr Wynne — Dr Harris

Q. Wh^r Witn^s examin^d viva voce without taking down their Depons will found if p: Pt in a Sentence?

Dr Harris — I am Council in this Case for the Respondents: This Suit was begun by a Presentation of the Churchwardens of Weobly, at the Visitation of the Chancellor of Hereford in 1766, stating that the Church was in repair; except the Chancel, the Pavement whereof, had been for some time past, & then was out of Repair, & should be repaired by the Rev: Magnus Price the Vicar, & Jn Birch Esq. Impropriator, who has the Great Tythes; 15 Jan: 1767. Process issued agt. Price, Birch who were cited, &c.

The Vicar appeard in Person, & Mr Birch by his Proctor; the Presentment was read, & Price & Birch, alledged, that they were not obliged to repair the Chancel, jointly, or severally. The Judge then assigned the Churchwardens to justify their Presentment; they undertook to do so.

9 April the Proctor for the Churchwardens, prayd leave to proceed in a Summary way; Price was there, & did not dispent; Compulsorys were decreed for the Churchwardens to bring what Witnesses they thought proper. Depons were taken in Court viva voce, or rather Minutes of the Substance of such Depons.

Dr Wynne — The Charge must be reduced into Articles, that the Parties may object if they please, to any thing impertinent being admitted.

Tracy Atkins AAA — The D. Chancellor would not allow Witnesses to be examined viva voce to prove Exhibits. The Course & Practice of the Court, is the Law of the Court. The whole Proceedings in the present Case are a mere Nullity

Dr Harris — Our Presentment supplies the Place of Articles, no Objection was taken thereto, & an Issue was given; I have been restrained to the Prosecution of the Appeal to which full faith ought to be given; the Court will follow as far as possible the Intention of the Parties The Question is, whether on this Evidence, the Sentence of the Judge below was right.

Dr Clay Judge — When you appeal from a Definitive Sentence, you appeal from every kind of Grievance; you may object to any part of the Proceedings; They are not properly before the Court; It is usual on a Presentment for a