The King v. *Oakley*, 10 *East*, 494; 2 *Fonb.* 238; 1 *Blac. Com.* 461. And by the common law, as well as by positive legislative enactment, a guardian of an infant is bound immediately to take possession of his ward's real and personal estate; to manage it to the best advantage; and to account for its rents and profits. *Co. Litt.* 88; 2 *Fonb.* 243; *Hay* v. *Conner*, 2 *H. & J.* 347; *Brodess* v. *Thompson*, 2 *H. & G.* 120; 1798, *ch.* 101, *sub-ch.* 12. It could not, therefore, be necessary for these plaintiffs to aver, as a foundation of their claim to relief, that the guardians of these infant devisees had received the rents and profits of their estate; or, in other words, that they had performed their legal duty; since that must be presumed; and a guardian himself surely could not be permitted to rely upon the fact of his own negligence for his own benefit. *Gregory* v. *Mighell*, 18 *Ves.* 331; *Parker* v. *Mackall*, *post*, *note*. (*e*)

(*e*) COX *v.* CALLAHAN.—This bill was filed on the 15th of December, 1790—It states that the plaintiff, while an infant, became seized of a certain tract of land as devisee of his late father; that his mother was entitled to dower therein; that she married John Railey, who afterwards became the guardian of the plaintiff; that Railey held the land to which the plaintiff was entitled, and took the rents and profits, but never paid or accounted for them; that he made his will, and appointed the defendant Chaires his executor, who received the crop of the plaintiff's land; that the lands of which John Railey died seized, descended to his heir Charles Railey, who devised them in part to the defendant Benton, and in remainder and wholly to the defendant Callahan, whom he appointed his executors and died; that John Railey's personal estate was insufficient to pay his debts; and that neither he, in his life-time, nor any of the defendants since, have paid or accounted to the plaintiff for the rents and profits of his lands. Prayer for an account, and for general relief.

The defendants answered, proofs were taken, and the case was thereupon brought before the Court.

HANSON, C., 25th January, 1793.—This cause standing ready for hearing, and being submitted to the Chancellor without argument, the bill, answers, depositions, exhibits and other proceedings were by him read and carefully considered. And the matters stated in the bill appearing to him to be true; and he thereupon being of opinion, that the complainant is entitled to an account of the profits of his real estate, whilst in the hands of his guardian John Railey, notwithstanding the valuation thereof by appraisers, and to an account also of the profits, whilst the said estate was in the hands of the said Railey's executors; and that the amount of the said profits, after deducting the expenses of maintaining and educating the complainant, and the taxes and other just charges, if any, on the land aforesaid, together with interest on the balance from the time of the complainant's arrival at full age, ought to be paid to him, out of the personal estate of the said Railey, or if that estate be insufficient, out of the real estate which hath descended from the said Railey.

It is thereupon Decreed, that the defendant John Chaires do, on oath, account with the complainant for two-thirds of the profits of that part, containing three hundred and seventy-five acres of a tract of land, called Low's Arcadia, which was devised by Christopher Cox, father of the complainant,