

quently, all the testimony collected and returned by the auditor in this case has been taken according to the long and well established course of the Court.

and Henry P. Jowles, the testator of the defendant Dryden, forcibly took possession of all the lands which had so descended, or been devised to the plaintiff, and held possession thereof until after he attained his full age, and recovered the same, from those who claimed under them, by actions of ejectment. (*Cheseldine's Lessee v. Brewer*, 1 H. & McH. 152.) That they sold timber from the land, and took all the rents and profits thereof without rendering any account whatever, or paying anything for the same; or allowing anything for the support and education of the plaintiff. Whereupon, it was prayed that the defendants might render an account of the rents and profits, and the interest thereof, which were or might have been of the plaintiff's lands; and that the plaintiff might be otherwise relieved in the premises according to equity.

The defendants answered separately; but all nearly to the same effect. They admitted that the said Kenelmn Cheseldine had made his will, appointing guardians to his pretended children; and soon after died seized of several tracts of land; but denied that he had, or could devise the lands in question to the plaintiff; because they were held by him, as devisee in tail, from his father, with remainder over, on failure of issue, to his three sisters; and, he dying without lawful issue, the lands passed accordingly to the testators of these defendants. They further admit, that when his alleged father died, he was about four years of age. These defendants in answer, say, that a certain Mary Sheppard, the complainant's mother, who lived at the house of his alleged father, at the time of his death, in a short time thereafter, removed from it, and quietly delivered possession of the house and plantation to Messrs. George Forbes, Henry P. Jowles, and Thomas T. Greenfield, on behalf of themselves, and their wives, the devisees in remainder, without any demand of dower, or other right therein; and that they entered upon, and took possession of the lands, and received the rents and profits accordingly. These defendants further admit, that the plaintiff brought an action of ejectment, and recovered as stated; but allege, that no actual marriage was proved on the trial in that action, to have been had between the said Mary Sheppard and the said Kenelmn Cheseldine, the putative father of the plaintiff: that it was given in evidence in that action, on the part of the defendant, that the minister of the parish, where the said Knelemn lived, several times admonished him and Mary for unlawfully cohabiting together; and thereupon he informed the minister, that he had been married to Mary by Parson Scott; who, on inquiry, declared he had not married them; and upon the said Cheseldine being told of it, and again admonished, he told the minister that they had been married by one Priest Gulick; who, upon inquiry, also declared, that he had not married them. Whereupon, the minister informed the Governor, who ordered the then Attorney-General to prosecute him: and he was accordingly presented for unlawfully cohabiting with the said Mary. Upon which a *venire facias* was issued against him to answer the presentment; but, that the Attorney-General entered a *nolle prosequi*; and that during such unlawful cohabitation he had declared, he had intended to marry her, but thanked God he had not done so, swore he never would, and turned her out of his house, with the plaintiff in her arms; and declared, about five months before his death, she was not his wife; that after his death she went over to Virginia to procure a false certificate from Parson Breeton of his having married them; who declared he had not married