

With regard to the taking of testimony under the authority of a special order of the court, before a justice of the peace, I have not

from the sale of timber from the said land and otherwise; to which the defendant hath not given any answer, although required so to do by the complainant's bill. The complainant, therefore, prays that the said defendant may amend his answer as to the same, and give in a full and sufficient answer to the complainant's bill of complaint.

At May term, 1745, the counsel for the defendants admitted the answers to be insufficient and imperfect in the several particulars excepted to; and therefore consented that the exceptions aforesaid be adjudged good and sufficient; and the answers insufficient in the particulars in the exceptions mentioned; and that the matters excepted to for scandal and impertinence be expunged; and the answers stand as to the other particulars; and the defendants pay the usual costs; and the scandal and impertinences contained in the said answers were accordingly expunged.

Upon motion of the counsel of the complainant, alleging that the scope of the complainant's bill was to have an account, and to obtain satisfaction for the rents and profits of his lands while they were unjustly withheld from him, together with the interest thereof; it appearing by the bill and answers, that the complainant's right to the said lands had been adjudged to him by due course of law; and therefore, that the only matter under consideration of this court, was the quantum of the rents and profits, and the interest thereof; and the loss sustained by the complainant by his lands being withheld from him; the case was submitted for a decree to account, &c.

27th May, 1746.—BLADEN, *Chancellor*.—The counsel on both sides being present, and the counsel for the defendants not objecting, but confessing to what was moved for on behalf of the complainant, this court doth *Decree*, that the Hon. George Plater, Esq. Messrs. Abraham Barnes, John Hicks, and James Mills, or any three or two of them, take an account of the issues and profits of the land mentioned in the bill of complaint, during the infancy of the complainant; and the time he was kept out of possession of the said lands; and, if need be, to examine evidences concerning the same; and return their proceedings thereon into the court, with all convenient speed.

Under which order, on the 23d of February, 1747, the following return was made, *to wit*: 'we the subscribers, three of the persons named in the order hereunto annexed, do in obedience thereto, humbly certify, that after due notice had been given to each and every of the defendants in the same cause, that we intended to meet at the house of the petitioner, situate on the premises mentioned in the bill of complaint, on Tuesday, the 26th day of January, instant, in order to execute the power given by the said order; and being so met; there were also Messrs. George Hamilton, who intermarried with the daughter of George Gordon, Kenelmn T. Greenfield, oldest son and heir at law of Col. Thomas T. Greenfield, and James Forbes only son and heir apparent of Mrs. Dryden Forbes, in whose presence and hearing were sworn, as evidences, Col. Jos. Jordan, Thomas Shanks, John Bond, John Hult, John Long, Jos. Shanks, John Boulton, Edmund Boulton, and Thomas Brewer, from whose several examinations it appears plainly to us, that the petitioner was out of possession of the land and premises, in his bill of complaint mentioned, from the spring of the year, 1718, to the latter end of October, 1739; during all which time the greatest and best part of the tract of land called Mattapony. was held and occupied by George Forbes, deceased, and the rents, issues and profits of the same;