

SUMMARY: In the Chancery case below, the petitioner, Edward Atslove (d.1594), husband of Oxford's cousin, Frances Atslove (nee Wingfield), states that Oxford had leased the manors of Chesham Higham and Chesham Bury in Buckinghamshire to Edward Atslove's brother, Luke, Oxford's servant in the early 1570s. At some time prior to this lawsuit in November 1574, Luke Atslove had assigned his lease to Edward Atslove. The assignment appears to have been the result of Luke Atslove's decision to leave England and travel to the continent where he could practice his Catholicism openly. He died in Padua circa 1575. As Edward Atslove's petition indicates, the central issue in the lawsuit was the right to cut down oak, ash and elm trees on the manors, with Atslove asserting that the right belonged to the lord of the manor and his lessee, and the defendants asserting that the right had belonged to themselves, the copyhold tenants, time out of mind. That copyhold tenants would have had the right to cut down valuable timber trees at their will and pleasure seems anomalous. It is likely that the practice began during Oxford's minority due to lack of proper supervision of Oxford's estates by the Court of Wards, and that the copyhold tenants were reluctant to abandon a lucrative, albeit illegal, practice when Oxford came of age and leased the manors to third parties. An interesting feature of the case is that the usual remedy was not available to Edward Atslove, that is, presentment to the manor court, because those who would have given judgment in the manor court were the very copyhold tenants who were unlawfully felling the trees. Moreover Atslove states that he fears a riot if he pursues his remedy at common law because of the large number of tenants involved. The lawsuit demonstrates the practical problems experience by a lord and/or his lessee in administering estates which were remote from his own place of residence.

To the right honourable Sir Nicholas Bacon, knight, Lord Keeper of the Great Seal of England

Complaining showeth unto your good Lordship your daily orator Edward Atslove of London, doctor of physic;

That whereas the right honourable Edward de Vere, Earl of Oxford, was seised in his demesne as of fee of and in the manors of Chesham Higham and Chesham Bury in the county of Buckinghamshire, within which manors the custom is and always time out of mind hath been that the lords of the said manors ought to have and always have had all the oaks, ashes, elms and other trees growing upon any lands or tenements holden by copy of court roll of any the said manors, and that no tenant by copy of court roll of any of the said manors ought or may fell, cut down or take any of the said oaks, ashes, elms or other trees growing upon any of the said copyholds, and if any such tenant do fell or cut down any such trees as is aforesaid, that such his felling and cutting down is and always hath been a forfeiture of all the copyhold lands and tenements whereupon any such trees so felled or cut down did grow, and that it shall be and always hath been lawful to and for every lord and lords of the said manors or of any of them, immediately after the felling of any such trees and after presentment thereof by the tenants of the said

manor at a court holden within the same, to enter into any such copyholds and the same to seize and take as forfeited by the custom aforesaid;

And the said Earl so being seised, by an indenture of lease bearing date the (blank) day of (blank) in (blank) year of the reign of our Sovereign Lady Queen Elizabeth demised the said manors to one Luke Atslowe, brother of the said complainant, for the term of divers years yet to come and unexpired, and farther by the said indenture covenanted and granted to & with the said Luke and his assigns that it should and might be lawful to and for the said Luke and his assigns to have, take, fall, cut down and carry away to his and their own proper use all the said woods at all times seasonable during the term aforesaid, by force whereof the said Luke Atslowe was of the said manors lawfully possessed, and so possessed by his sufficient deed granted and assigned all his said term of and in the said manors and other the premises to your said orator, by force whereof your said orator was and is of the said manors lawfully possessed, and so ought as tenant and farmer of the said manor to the said Earl by the custom and covenant aforesaid to have and enjoy all the said trees so growing upon any of the said copyhold lands or tenements of any of the said manors;

But so it is, if it like your good Lordship, that Thomas Grover, Richard Grover, Richard Gate, John Turner, Richard Woodhouse, Robert Benning, Thomas Lovett, Richard Birch, Richard Harding, John Birch, Thomas Twichell & John Baldwin of Chesham Magna in the said county of Buckinghamshire, yeomen, and divers other copyhold tenants of the said manors have confederated and conspired together to defraud both the said Earl and your said orator, his said farmer, of all the said woods so of right belonging unto them, affirming that themselves may lawfully cut down the same woods and that the lord ought to have nothing to do with the same, and thereupon daily cutting & spoiling the said woods to th' disinheritance of the said Earl and to the loss & damage of your said orator of all the said woods, contrary to all right, equity & good conscience;

In consideration whereof, and forasmuch as your said orator can have no knowledge nor understanding who cutteth down any of the said woods (albeit much hath been felled) forsomuch as all the said tenants are confederate & linked together against your said orator as is aforesaid, and forasmuch also as [+if] your said orator doth charge the said tenants at any courts of any of the said manors to enquire of any of the said offences they will make no such inquiry, notwithstanding their oath, affirming that the said matter is no offence at all, and if your said orator should seize their said copyholds the said seizure were doubtful to be maintained by the common law before presentment of the said effects in the said courts which your said orator cannot obtain as is aforesaid, and forasmuch also as your said orator can ne may have any action of waste by the due course of the common law, and if he might have the said action or any other, yet your said orator therein should deal with a multitude and so what tumult or inconvenience might ensue upon such suit is much to be doubted, and so is your said orator without any convenient remedy by the course of the common law for the obtaining and enjoying of his said woods against your said defendants, neither can he have any orderly and peaceable remedy, therefore notwithstanding that the said Thomas Grover and the said other offenders do continually waste & spoil the said woods to the great disinheritance of the said Earl and to the great

harm of your said orator except your Lordship's favourable and accustomed goodness be unto your said orator in this behalf extended, may it therefore [+please] your good Lordship, the premises considered, to grant unto your said orator the Queen's Majesty's most gracious several writs of injunction to be directed to the said Thomas Grover, Richard Grover, Richard Gate, John Turner, Richard Woodhouse, Robert Benning, Thomas Lovett, Richard Birch, Richard Harding, John Birch, Thomas Twichell & John Baldwin, commanding and enjoining them and every of them there and every of their tenants, servants, deputies, and assigns whatsoever that they or any of them or any other by their or any of their procurement, practice, or consent shall not at any time hereafter (until farther order shall be taken to allow them so to do in this honourable court) fell or cut down any of the said woods or trees or any part thereof under a certain pain in the said injunction to be contained, and also the Queen's Majesty's most gracious several writs of subpoena to be directed unto the said Thomas Grover, Richard Grover, Richard Gate, John Turner, Richard Woodhouse, Robert Benning, Thomas Lovett, Richard Birch, Richard Harding, John Birch, Thomas Twichell & John Baldwin, commanding them and every of them thereby to be and personally appear before your good Lordship in the Queen's Majesty's most honourable court of Chancery at a certain day and under a certain pain therein by your good Lordship to be limited and appointed, then and there to answer the premises and farther to stand to & abide such further order and direction as to your good Lordship shall seem most to stand with right, equity and good conscience, and your said orator shall not cease daily to pray to God for your good Lordship.

The answer of Thomas Grover, Richard Grover, Richard Gate, John Turner, Richard Woodhouse, Robert Benning, Thomas Lovett, Richard Birch, Richard Harding, John Birch, Thomas Twichell and John Baldwin, defendants, to the bill of complaint of Edward Atslowe, doctor of physic, complainant

The said defendants for answer sayen and every of them saith that the said bill of complaint against them into this honourable court exhibited is uncertain, untrue, (and as they suppose) insufficient in the law to be answered unto, and the matters therein contained, devised and imagined to put the said defendants to wrongful costs and charges, th' advantage of exception to the insufficiency whereof unto the said defendants now and always hereafter saved, the said defendants for farther answer thereunto sayen and every of them for a full declaration of the very truth of the cause saith that true it is that the said defendants and their ancestors and they from whom they claim are and have been time out of mind copyholders either of the said manor of Chesham Higham or Chesham Bury in the said county of Buckingham by copies made to them and their heirs according to the custom of the said manor, and that the custom of the said manor have been time out of mind of man (to these defendants' knowledge) that the copyholders of the said manors might lawfully fell and cut down all manner of oaks, ashes, elms and other trees growing in and upon their said copyholds when and as often as they would at seasonable times and convert them to their own proper uses and behoofs, and that usage hath by like time run accordingly without interruption (to their knowledge), whereupon the said defendants having as large copies and liberties as their ancestors and those from

whom they claim aforetime have had (to their understandings) in as ample manner together with all profits and commodities thereunto belonging, have according to their custom of late time in very troth felled and cut down divers trees growing in and upon the said copyhold lands according to the suggestion of the said complainant, as well and lawful is for them to do (as they verily think);

Without that that the custom of the said manor of Chesham is and always hath been time out of mind that the lords of the same manors ought to have and always have had all the oaks, ashes, elms, and other trees growing upon any lands or tenements holden by copy of court roll of any of the said manors (to their knowledge);

And without that that no tenant by copy of court roll of the said manor ought or may fell or cut down or carry away any oaks, elms, and other trees growing upon any of the said copyholds (to their understandings);

And without that any such felling and cutting down is and hath been a forfeiture of all the copyhold lands and tenements whereupon any such trees so felled and cut down did grow (that they ever knew or credibly heard);

And without that that it hath been always lawful to and for every lord and lords of the said manors or of any of them immediately after the felling of any such trees and after presentment thereof by the tenants of the said manor at a court holden within the same to enter into any such copyholds and the same to seize and take as forfeit by the custom aforesaid;

And without that that the said defendants have conspired & confederated together to defraud the lord of the said manor of all his said woods or demeaned themselves any other way or in any other sort than they may lawfully do (as they think);

And without that that any other matter or thing in the said bill contained material or effectual to be answered unto and herein not sufficiently resisted or avoided, denied or traversed, is true, all which matters the said defendants are ready to aver and prove as this honourable court shall award, and prayen to be dismissed out of the same with their reasonable costs and charges in that behalf most wrongfully by them sustained.

The replication of Edward Atslove, doctor of physic, complainant, to the answer of Thomas Grover, Richard Grover, Richard Gate, John Turner, Richard Woodhouse, Robert Benning, Thomas Lovett, Richard Birch, Richard Harding, John Birch, Thomas Twichell & John Baldwin, defendants

The said complainant saith that the said answer of the said defendants and the matters therein contained are uncertain and insufficient in the law to be replied unto, and that the said bill of complaint and the matters therein contained are true, certain and sufficient in the law to be answered unto, the insufficiency of which said answer to this complainant at

all times hereafter saved, for replication he doth and will aver and maintain his said bill of complaint and every clause, article and sentence therein contained to be just, sufficient and true in manner and form as in the same is truly alleged;

Without that that the custom of the manor of Chesham Higham and Chesham Bury in the county of Buckinghamshire have been time out of mind of man that the copyholders of the said manor might lawfully cut down & fell all manner of oaks, ashes, elms and other trees growing in and upon the said copyholds when & as often as they would at seasonable times and convert them to their own proper uses and behoofs;

And without that that usage hath by like time run accordingly without interruption, and if any such custom were, yet is the same against the law and could never have a good or reasonable beginning for that that if any copyholder do commit waste, the same is in law a forfeiture;

And without that that there is any other matter mentioned in the said answer material to be answered unto and not herein sufficiently answered, traversed, confessed, denied or avoided, all which matters etc.

The rejoinder of Thomas Grover, Richard Grover, Richard Gate, John Turner, Richard Woodhouse, Robert Benning, Thomas Lovett, Richard Birch, Richard Harding, John Birch, Thomas Twichell and John Baldwin, defendants, to the replication of Edward Atslowe, doctor of physic

The said defendants say that the said replication and the matters therein contained are insufficient in the law to be rejoined unto, and that the said answer is certain and sufficient in the law to be replied unto, and the matters therein contained true in such sort, manner and form as they be therein expressed, and do and will aver and prove all and every thing and things in the said answer expressed and set forth to be good and true in such manner and form as they been within the same contained, with that the said defendants are ready to aver and maintain that time whereof there is no memory of man to the contrary it is and hath been the use and custom within the manor of Chesham Higham and Chesham Bury in the said county of Buckingham that the copyholders of the said manor might cut down and fell the woods and trees growing in and upon the said copyholds at their pleasure at convenient & seasonable times, and that the said copyholders time out of mind have cut, sold and converted the woods and trees growing upon the said copyholds unto their own use and that the usage hath run accordingly without interruption that can be heard or known, and further that the said custom is a good usage and custom in law and might have a good and reasonable beginning for that that herein is to appear that no parcel of the said copyholds there is and can be taken no other profit or commodity in or of the same save only woods, without that that any other matter or thing in the said replication contained and here in this rejoinder not sufficiently confessed or avoided, denied or traversed, is true, all which matters the said defendants

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are ready to aver and prove as this honourable court shall award, and prayen as before in their answer they have prayed.