

SUMMARY: The documents below are the petition and replication of William Clenche and John Wallys, plaintiffs, and the joint answer of Hugh Crabbe and Nicholas Walshe, defendants, in a lawsuit commenced on 25 April 1600 concerning certain lands, parcel of Oxford's former manor of Thorncombe in Devonshire (now Dorset). The petitioners state that on 2 May 1572, four commissioners authorized by Oxford, Luke Atslowe, Roger Baynes, John Floyde, and Richard Temple, held a court baron and court of survey at Oxford's manor of Thorncombe, at which time the commissioners granted the petitioners William Clenche and John Wallys, and John Wallys, his father, the reversion, after the death of Thomas Pearce alias James, of 'divers closes of land and pasture with th' appurtenances in West Herridge, parcel of the demesnes of the said manor' for the sum of £17. The defendants' position was that the said grant was void for certain reasons, and that moreover, John Freake and Mathew Bragge had purchased the manor of Thorncombe from Oxford, and by their deed of 10 January 1577, Freake and Bragge had granted the lands in question, then in the tenure of Robert Pearce, to John Pearce alias James for the term of two thousand years, and that they held under that grant. For licence granted to Oxford on 2 January 1577 to alienate the manor of Thorncombe to John Freake and Matthew Bragge, see TNA C 66/1153, m. 25. The outcome of the lawsuit is unknown.

Two of Oxford's commissioners, Roger Baynes and Luke Atslowe, later openly embraced the Catholic faith, and left England in the 1570s. According to *The Dictionary of National Biography*, Roger Baynes (1546–1623), the son of Hugh Baynes of Shrewsbury, was admitted to the Middle Temple, and left England after becoming a Roman Catholic. He arrived in Rheims on 4 July 1579, and on 27 August accompanied William Allen to Rome. Prior to leaving England, Baynes had dedicated a work entitled *The Praise of Solitariness*, published in London in 1577, to Sir Edward Dyer. Baynes was for many years secretary to Cardinal Allen, and after the Cardinal's death continued to live in Rome, where he died in 1623. See also Cardinal Gasquet, *A History of the Venerable English College, Rome* (New York: Longmans, 1920), pp. 91-2.

Luke Atslowe left England in 1575, while Oxford was on his continental tour, as indicated in a letter from Oxford to Lord Burghley dated 24 September 1575 (see CP 160/74):

Likewise I shall desire your Lordship that, whereas I had one Luke Atslowe that served, who now is become a lewd subject to her Majesty and an evil member to his country, which had certain leases of me, I do think, according to law, he leaseth them all to the Queen sith he is become one of the Romish church, and there hath performed all such ceremonies as might reconcile himself to that church, having used lewd speeches against the Queen's Majesty's supremacy, legitimation, government and particular life, and is here, as it were, a practiser upon our nation. Then this is my desire, that your Lordship, if it be so as I do take it, would procure those leases into my hands again, whereas I have understood by my Lord of Bedford they have hardly dealt with my tenants.

The activities of Oxford's four commissioners are also recorded in connection with Oxford's manors in Cornwall in 1572 (see AR/1/431-434), while AR/1/435-451 records

Oxford's grant of two leases for 21 years to Roger Baynes of a tenement and woods, parcel of Oxford's manor of Tregenna in Cornwall. Roger Baynes is also mentioned as acting on Oxford's behalf in CP 159/110.

[] 1600 Tothith(?)

To the right honourable Sir Thomas Egerton, knight, Lord Keeper of the Great Seal of
England

In all humbleness complaining showeth unto your good Lordship your poor and daily orators William Clenche of Milborne Port in the county of Somerset, husbandman, and John Wallys of the same parish, yeoman;

That whereas the right honourable Edward de Vere, Earl of Oxford, Lord Great Chamberlain of England, Viscount Bulbeck, Lord of Scales and Badlesmere, was lawfully seised in his demesne as of fee or fee tail of and in the manor of Thorncombe with th' appurtenances in the county of Devon, the custom of which said manor is, and during all the time whereof the memory of man is not to the contrary hath been, that all the lands and tenements within the same manor have been demised and demisable by the lord of the same manor or by the steward or other officer or officers of the same for the time being to any person or persons willing to take the same by copy of court roll for one, two or three lives either in possession or reversion, to hold the same by such copy of court roll for term of one, two or three lives at the will of the lord according to the custom of the same manor by the rents, customs and services thereof due and accustomed;

And the said Earl of Oxford, so being of the said manor with th' appurtenances seised, the second day of May in the fortieth [sic for 'fourteenth?'] year of the reign of our Sovereign Lady Elizabeth the Queen's Majesty that now is [=2 May 1572], one Thomas Pearce alias James then having and pretending an estate for term of his life by copy of court roll of and in divers closes of land and pasture with th' appurtenances in West Herridge, parcel of the demesnes of the said manor, at a court-baron and a court of survey then and there holden by Luke Atslowe, Roger Baynes, John Floyde, and Richard Temple, commissioners appointed by the said Earl under his hand and seal, they, the said Luke Atslowe, Roger Baynes, John Floyde, and Richard Temple, by virtue of the said commission for and in consideration of the sum of seventeen pounds of lawful English money by copy of court roll according to the custom of the said manor did then and there grant unto one John Wallys, now deceased, and unto your said orators the reversion of all the said closes of land and pasture with their appurtenances in West Herridge aforesaid then in the tenure of the said Thomas Pearce alias James, to have and to hold all and singular the said closes of land and pasture with th' appurtenances to the said John Wallys and to your said orators for term of their lives, and the life of every of them longest living successively, according to the custom of the manor aforesaid, immediately when after the death, surrender or forfeiture of the said Thomas Pearce alias James it should happen to become void, by the yearly rent of thirteen shillings and four pence,

suit of court and all other duties, customs and services thereof due and accustomed, of which said sum of seventeen pounds the said John Wallys, deceased, paid unto the said Earl the sum of ten pounds before the said grant, and in the said grant it was mentioned that thother seven pounds should be paid at the feast of St. Michael th' Archangel then next ensuing the said grant, and it is mentioned also in the said grant that if it should happen the said sum of seven pounds or any parcel thereof to be behind at the same feast of St. Michael th' Archangel, that then and from thenceforth the said grant should be utterly void and of none effect, as by the same grant ready to be showed unto your Lordship may appear;

After which said grant so made, and before the said feast of St. Michael th' Archangel, the said John Wallys, now deceased, repaired unto one Leonard Tucker, then bailiff of the said manor, and proffered unto him to th' use of the said Earl the said sum of seven pounds in full satisfaction of the said foresaid fine of seventeen pounds, who willed the said John Wallys to retain the same until the next court to be holden at and for the said manor the fourth day of October then next following, and persuaded him to pay the same in full court, and thereupon the said John Wallys, not knowing any danger that might happen for not payment of the said seven pounds at the very day mentioned in the said grant, the court being within one week after, did retain the same in his own custody until the said fourth day of October, upon which said day at a court holden at and for the said manor of Thorncombe, he, the said John Wallys, did in full court and in full satisfaction of the said fine of £17 pay unto the said Leonard Tucker to th' use of the said Earl the said sum of seven pounds, and caused the then steward of the said manor to endorse the payment thereof on the back of the foresaid grant, and thereupon the said John Wallys thought that there was no danger or hurt might befall him or your said orators touching the same;

Sithence which time the said Thomas Pearce alias James, and the said John Wallys, are both dead, by and after whose deceases the said closes with th' appurtenances ought to come and descend unto the said William Clenche, one of your said orators, for term of his life, and so after his decease unto the said John Wallys, thother of your said orators, for term of his life under the rents, duties and services due and of right incident to the same according to the custom of the manor aforesaid;

But so it is, if it may please your good Lordship, that the possession and interest of the said manor is (sithence the granting of the said copy of court roll) come unto Hugh Crabbe, Nicholas Walshe, and John James, or to two or one of them, or to some other to their or some or one of their use or uses, who having gotten the possession of the said manor have by colour thereof entered upon all the said closes with th' appurtenances granted to the said John Wallys, deceased, and to your said orators as aforesaid, and have contrived amongst themselves divers and sundry secret estates thereof unto divers persons unto your said orators unknown, and yet nevertheless they or some or one of them do keep the possession of the same grounds, and convert the whole benefit thereof to their or some or one of their use or uses, and having gotten into their or some of their hands all the evidences, court rolls, specialties, and writings concerning the said manor, pretending that the grant made unto the said John Wallys, deceased, and to your said

orators as aforesaid is void because the said £7 was not paid unto the said Earl according to the strict words mentioned in the proviso of the said grant, albeit that the same was proffered before the day wherein it was due, and paid within one week after to th' use of the same Earl, and that by the direction of the said bailiff of the said manor, and pretending also that the foresaid closes with th' appurtenances are parcel of the demesne lands of the said manor and so not demisable by copy of court roll according to the custom of the said manor, they have utterly dispossessed and evicted your said orators from the benefit of the same closes, so as your said orators, being poor men and without remedy at the common law to recover the premises, are enforced to seek for relief by petition unto your Honour, they, the said Hugh Crabbe, Nicholas Walshe, and John James, or some or one of them wrongfully detaining the same from your said orators, and purposing utterly to destroy and overthrow th' estate and interest of your said orators, being all the portion which your said orators had left them to live by, contrary to all equity and good conscience, and to their utter undoing forever unless your Lordship's accustomed clemency be unto them extended in this behalf;

In tender consideration whereof may it please your good Lordship, the premises considered, to grant unto your said orators the Queen's Majesty's most gracious writ of subpoena to be directed unto the said Hugh Crabbe, Nicholas Walshe, and John James, commanding them thereby at a certain day and under a certain pain therein to be limited and appointed personally to appear before her Majesty in her Highness' most honourable Court of Chancery, then and there to answer the premises and farther to abide such order & direction therein as to your Lordship shall seem meet to accord with equity and good conscience, and your said orators shall daily pray for the prosperous estate of your Lordship long to continue.

Harris

LM: Huberte

The joint and several answers of Hugh Crabbe and Nicholas Walshe, two of the defendants, to the bill of complaint of William Clenche and John Wallys, complainants

The said defendants, saving to themselves now and at all times hereafter all advantages of exception to th' uncertainty and insufficiency of the said complainants' bill, for answer to so much of the same bill as concerneth them, these defendants, or either of them, they say that they do take it to be true that Edmund [sic], Earl of Oxford, in the same bill named, about thirty years now last past [=1570] was seised in fee or in fee tail of and in the manor of Thorncombe in the said bill mentioned;

And they likewise say that they do not certainly know what the customs of the said manor of Thorncombe have been, but they, these defendants, have heard that the customary [] and tenements of the said manor of Thorncombe time without memory of man (until of late years that the said manor was dismembered) have been demised or

demisable by the lord of the said manor for the time being, or by his steward of the same manor, by copy of court roll for one, two, or three lives in possession, or for one or two lives in reversion after one customary life in possession, at the will of the lord according to the custom of the said manor;

And these said defendants do farther say that they do not certainly know whether there were any such customary estate made or granted by copy of court roll of the land and pasture in the said bill mentioned by the said Earl of Oxford or by his officers unto the said complainants as in their said bill is set forth, but if any such estate were made, yet they, these defendants, have heard that the same was void in law, as well for the causes alleged in the said complainants' bill as for that also the same estate was made and granted (as these defendants have likewise heard) unto the said complainants and to John Wallys, father of the complainant, John Wallys, for the term of their three lives successively in reversion of two lives then in possession of the same lands, contrary to the custom of the said manor of Thorncombe (as these defendants do take it);

And these said defendants do also say that the said Earl of Oxford, being so of the said manor of Thorncombe as aforesaid seised, after, that is to say, about twenty-three years now last past [=1577], John Freake and Mathew Bragge did purchase to them and their heirs (as these defendants have heard) of the said Earl of Oxford, amongst other things, the reversion of the said land and pasture, and were by virtue of their said purchase seised of the same land and pasture (as these defendants have likewise heard) in their demesne as of fee, and being so seised, they, the said John Freake & Matthew Bragge, by their deed indented bearing date the tenth day of January in the nineteenth year of the reign of our Sovereign Lady Queen Elizabeth [=10 January 1577] did demise, grant and to farm let the same land and pasture by the name of all that ground arable & pasture called Herridge containing by estimation forty-six acres more or less lying within the parish of Thorncombe in the said county of Devon and then in the tenure or occupation of Robert Pearce alias James, father of the said John Pearce, or of his assigns, to have and hold the same land and pasture unto the said John Pearce and his assigns from the feast of St. Michael th' Archangel then last past before the date of the said deed unto th' end & term of two thousand years thence next following fully to be complete, by virtue whereof he, the said John Pearce, was (as these defendants do take it) of the said land and pasture or of the reversion and yearly rent thereof possessed accordingly;

And being so possessed he, the said John Pearce, afterwards, that is to say about seven years now last past [=1593] did make his last will and testament in writing, and in and by the same will he did give and bequeath his said interest and term of two thousand years of and in the said land & pasture, after his wife's widowhood and sole life, unto his son, John Pearce, and to the heirs of his body begotten, and moreover in and by the same his said last will and testament he did ordain and constitute Edith, his wife, to be the sole executrix of his said will, and he also appointed this defendant, Hugh Crabbe, and William Vincent and John Burgh the overseers of the same will;

And after, viz., about six years now last past [=1594], he, the said John Pearce, died, sithence whose decease the said Edith hath married and taken to husband the said defendant, Nicholas Walshe;

And sithence also the government of the said John Pearce, the son (he being very young viz., of the age only of six years or thereabout), hath been committed or commended unto this said defendant, Hugh Crabbe;

And by reason thereof also, they, the said Nicholas Walshe and Edith, have delivered the said deed of demise for two thousand years, together with the interest and term therein expressed, to this defendant, Hugh Crabbe, as a legacy for the behoof of the said John Pearce, the son, to be disposed of according to the last will of the said John Pearce, the father, by means whereof he, the said Hugh Crabbe (the said Robert Pearce being also dead), hath lately entered into the said land and pasture in the right and for the behoof of the said John Pearce, the son, and hath demised or letten the same land & pasture to the defendant, Nicholas Walshe, for the term of divers years yet unexpired, yielding therefore the yearly rent of eight pounds for the behoof of the said John Pearce, the son, whereof the sum of four pounds is yearly employed towards the finding and education of the children of the said John Pearce, the father, deceased, as lawful it is for them, these defendants, to do (as they take it);

Without that that to the knowledge of these defendants that the said land & pasture ought to come & descend unto the said complainants, or either of them, after the decease of the said Thomas Pearce alias James and John Wallys, or either of them;

Or that the interest of the said manor of Thorncombe or any part thereof (except only the interest of the said lease of two thousand years for the behoof of the said John Pearce, the son, as aforesaid), is come unto them, these defendants, or to one of them or to some other to their or some or one of their use or uses, as in the said bill of complaint is surmised and alleged;

And without that that they, these said defendants, or either of them, have contrived or made amongst themselves divers and sundry secret estates of the said close of meadow and pasture to any person or persons;

Or that they, these defendants or either of them, have or do detain and keep the same grounds, and convert the benefit thereof to their or one of their own use or uses, other than to the use of the said John Pearce, the son (as before is alleged);

Or that they, these defendants or any of them, have gotten into their hands the evidences, court rolls, specialties and writings concerning the said manor of Thorncombe to th' intent thereby to make void and frustrate th' estate and interest of the said John Wallys, deceased, and of the now complainants, as in the said bill of complaint is likewise surmised and alleged;

And without that that any other matter or thing in the said bill of complaint contained concerning them, these defendants or either of them, material or effectual to be answered unto by them, these defendants or either of them, and herein not sufficiently answered unto, confessed and avoided, traversed or denied, is true to the knowledge of these defendants or either of them;

All which matters the said defendants and every of them for so much as concerneth himself are ready to aver & prove as this honourable Court shall award, and humbly pray to be dismissed with their reasonable costs & charges in this behalf most wrongfully sustained.

John Strode

Captum fuit hoc responsum apud Beamyser in Comitatu Dorset xxiiijto die Maij Anno Regni Regine Elizabethæ &c. xlijo [=24 May 1600] Coram nobis Henrico Derby et Willelmo Hoskyns Comissionarijs virtute Comissionis presentibus annexis

(signed) Henry Derby

(signed) W Hoskins

[=This answer was taken at Beaminster in the county of Dorset on the 14th day of May in the year of the reign of Queen Elizabeth etc. the 42nd before us, Henry Derby and William Hoskins, Commissioners by virtue of the commission annexed to these presents.]

LM: Tothithe(?)

The replication of William Clenche and John Wallys, complainants, against Hugh Crabbe, Nicholas Walshe, and John James, defendants

The said complainants aver their said bill of complaint and every matter, article & thing therein contained to be good, just & true in such sort, order, manner and form as in the said bill of complaint is plainly, justly and truly set forth and declared;

And further say that the said answer of the said defendants is very uncertain and insufficient in the law to be replied unto for divers very manifest and apparent matters, causes and insufficiencies therein contained, and that the matters contained are nothing but imaginations & indirect answers only devised by the said defendants for the delay and further vexation of the complainants;

Without that that any matter or thing in the said insufficient answer set forth or declared material or effectual in the law to be replied unto is true;

All which matters they, the said complainants, are ready to aver & prove as this honourable Court shall award, and prayeth as in their said bill of complaint they have prayed.

Hub

LM: dies 42do