

SUMMARY: The documents below consist of Oxford's bill of complaint filed in the Court of Star Chamber, the answers of the defendants, Oxford's replication, and two sets of interrogatories to be administered to the defendants. The background to the lawsuit is summarized in Oxford's bill of complaint. A lease of the manor of Aveley for 31 years, to commence on 29 September 1585, was forfeited to the Crown, along with his other assets, when John Elliott was outlawed for debt in 1566. Elliott was the husband of Elinor Newton (d.1588), a sister-in-law of William Brooke (1527-1597), 10th Baron Cobham. It was doubtless for this reason that the Queen granted the assets of John Elliott which had been forfeited to the Crown, including the 31-year lease of the manor of Aveley, to another of Lord Cobham's sisters-in-law, Nazareth (nee Newton) Southwell, then the widow of Thomas Southwell of Woodrising, on 19 March 1571. A few months later, on 10 October 1571, Nazareth Southwell assigned the interest granted to her by the Queen to her niece, Anne Elliott, the daughter of Elinor Newton and John Elliott. Anne Elliott subsequently married Robert Harris, and on 6 June 1581, Harris sold his interest in the 31-year lease of Aveley to Oxford. On 30 September 1585, Oxford entered into possession, the 31-year term of the lease having commenced on the previous day.

However as indicated in the interrogatories, a lawsuit over the lease had been in progress for some time before that between Richard Payne and Robert Harris, with Payne (whose reason for claiming an interest in the lease is not disclosed in the documents below) alleging that a defect in the legal process had invalidated John Elliott's outlawry for debt, and that Robert Harris therefore had no legal interest in the lease. The legal procedure to be followed in the case of outlawry for debt is explained in the National Archives as follows:

*If a defendant failed to appear in court, it was the sheriff's duty to apprehend him. Before a declaration of outlawry, writs of capias were issued by the court directing the sheriff to arrest the individual (three successive in civil and minor criminal matters; one or two for treason, rebellion or homicide). If the sheriff still failed to find the defendant, the next step was to sue out a writ of exigent. This said that the defendant could not be found, did not have any goods in that county, and thus could not be attached (securities taken for his appearance) or distrained (goods seized to enforce his appearance). It directed the sheriff to make a proclamation at five successive county courts (in the case of London, at the Hustings), ordering the defendant's appearance upon pain of outlawry. If he had still failed to appear by the fifth proclamation, he was then declared an outlaw.*

It would appear that at least thirty days were required to elapse between the fourth proclamation and the quinto exactus, the fifth call or last requisition of a defendant sued for outlawry. It would also appear from Oxford's bill of complaint, and from the interrogatories on which the defendants were to be examined, that this requirement had been fulfilled in John Elliott's case, and that the date on the writ of exigent certifying this fact had originally been written 'xxj', but that the defendants had pared away the edge of the parchment so that it now read 'xx'. If the latter date were accepted as valid, then the required thirty days had not elapsed, John Elliott's outlawry for debt was invalid, and

Robert Harris had no legal interest in the 31-year lease of Aveley. The situation is explained in this paragraph in Oxford's bill of complaint:

*[T]he third day of July then next following [=3 July 1566], the said Baldwin sued out a writ of exigent directed to the said sheriff of Middlesex returnable in octavis Sancti Hillarij [=21 January 1567] then next following, by force whereof the said John Elliott, being at five several county courts lawfully holden within the said county of Middlesex in due form of law fully demanded, made default, whereupon the said John Elliott was by judgment of the coroners of the same county in due form of law outlawed, which writ of exigent was lawfully and orderly returned by the then sheriff of the said county of Middlesex at the said day of the return hereof, the last of which said county courts was holden at New Brainford [Brentford] in the said county of Middlesex the one and twentieth day of November in the ninth year of your Highness' most prosperous reign [=21 November 1566], and so returned upon the back of the said writ of exigent, the said one and twenty being written with two 'xx' and one 'j', thus 'xxj' at the very last end of a line upon the back side of the said writ of exigent, by reason of which said outlawry your Highness was as well of the interest of the said term of one and thirty years of and in the said manor with the appurtenances as of all and singular the goods and chattels which the said John Elliott had at the time of the said outlawry pronounced lawfully possessed.*

Despite the denials of the defendants in their answers to Oxford's bill of complaint, the circumstances suggest that the writ of exigent had, in fact, been tampered with. The documents make it clear that the person who suggested that the writ should be examined on the very day of the trial was Richard Payne's servant, Richard Masterson, and two of the other men involved in the inspection were Richard Payne's sons-in-law, Edward Berthelet, and Anthony Berthelet. Moreover the fact that Richard Masterson was involved in a lawsuit in 1585 in which Oxford's legitimacy, and therefore his entire inheritance, were called into question (see Huntington Library EL 5870), renders Masterson's motives in actively participating in this second lawsuit involving Oxford highly suspect. It is also significant that Richard Masterson is not mentioned in Oxford's bill of complaint or named as one of the defendants, which suggests that Oxford was unaware of Masterson's involvement until the key role he had played was revealed in the answers of the defendants. The fact that exemplifications, that is, certified copies, of the writ of exigent had been prepared earlier, and that these exemplifications showed the date as 'xxj', rather than 'xx', also offers convincing evidence that the writ of exigent had been tampered with, as alleged in Oxford's bill of complaint. The allegations of tampering were serious, as the defendant John Lennard (d.1591) was *custos brevium*, or principal clerk, of the Court of Common Pleas, whose duty it was to keep all the writs returnable in that court, and the defendants William Stamford and Richard Whalley were two of his clerks, while the defendant Edward Berthelet was a lawyer of Lincoln's Inn.

The outcome of the Star Chamber suit is unknown.

It is said that the defendant Richard Payne died in 1606 at the age of ninety-five, and that he served as a Gentleman Pensioner to King Henry VIII, King Edward VI, Queen Mary, Queen Elizabeth, and King James I (see *The Antiquary*, Vol. XLIV (London: Elliot Stock,

19080, p. 139, available online). His two sons-in-law, the defendants Edward Berthelet of Lincoln's Inn and Anthony Berthelet, were the sons of the printer, Thomas Berthelet (d.1555). From the online edition of *The Dictionary of National Biography*:

*Thomas Berthelet (d. 1555), printer, was probably of French origin, and perhaps related to Jacques Berthelot (d. 1541), bookseller at Caen from 1527 and at Rennes from 1539 to 1541. . . . Berthelet was granted a coat of arms in 1549, and may have retired to live in his house in the adjacent parish of St Andrew, Holborn. He died in London on 26 September 1555, leaving a second wife, Margaret, and two sons: Edward, a lawyer of Lincoln's Inn, and Anthony, still a minor.*

For the will of the printer Thomas Berthelet (d.1555), mentioning his two sons, Edward and Anthony, the defendants in this suit in the Court of Star Chamber, see Plomer, Henry Robert, *Abstracts from the Wills of English Printers and Stationers, from 1492-1630*, p. 11, available online.

For Oxford's assignment of his lease of Aveley to the Queen on 16 May 1588, and other documents connected with the assignment, see TNA E 354/1.

TNA STAC5/O3/35/3

To the Queen's most excellent Majesty.

Complaining showeth unto your most excellent Majesty your loyal and faithful subject, Edward de Vere, Earl of Oxon, Viscount Bulbeck, Lord of Badlesmere and Scales, and Lord Great Chamberlain of England, that whereas one John Ellis, clerk, Master of the Hospital of the late King Henry the Seventh called the Savoy and the four perpetual Chaplains of the same Hospital were seised in their demesne as of fee in the right of their said Hospital of and in the manor of Aveley with the appurtenances in the county of Essex of the clear yearly value of five hundred marks [=£333 6s 8d];

And so seised the said Master and Chaplains afterwards, that is to say the seventeenth day of June in the fifth year of the reign of the late King Edward the Sixth [=17 June 1551], by their indenture sealed with their common seal bearing date the same day and year did demise, grant and to farm let the said manor with the appurtenances amongst other things to one Henry Saxty [=Saxey?] to have and to hold to the said Henry Saxty, his executors and assigns, from the feast of St. Michael th' Archangel which then should be in the year of Our Lord God one thousand five hundred four score and five [=29 September 1585] for and during the term of one and thirty years then next following and fully to be complete and ended, by force whereof the said Henry Saxty was of the interest of the said term of thirty and one years of and in the said manor with the appurtenances possessed;

And so possessed, the said Henry Saxty afterwards, that is to say the fifth day of May in the first year of the reign of the late Queen Mary [=5 May 1554] at Aveley aforesaid by his indenture sealed with his seal bearing date the same day and year did grant and assign all his right, state, title, interest and term of years aforesaid which he had then to come of and in the said manor with the appurtenances to one John Elliott, by reason whereof the said John Elliott was of the said interest of the said term of one and thirty years of and in the said manor and other the premises with the appurtenances amongst other things then to come lawfully possessed;

And he, the said John Elliott, being thereof possessed, afterwards, that is to say in Easter term in the eighth year of your Highness' most happy reign [=Easter 1566], one Ralph Baldwin, gentleman, in your Highness' Court of Common Pleas here at Westminster recovered in due form of law before James Dyer, knight, and other his fellows then justices of your Highness' said Court against the said John Elliott the sum of one hundred and threescore pounds of debt and three pounds damages as by the record thereof remaining in your Highness' said Court of Common Pleas more at large appeareth;

Whereupon afterwards, that is to say the two and twentieth day of May then next following [=22 May 1566], the said Ralph Baldwin sued out of the same Court of Common Pleas a *capias ad satisfaciendum* against the said John Elliott directed to the sheriffs of the said county of Middlesex for that time being, who in due form of law returned the said writ that the said John Elliott was not to be found, whereupon afterwards, that is to say the third day of July then next following [=3 July 1566], the said Baldwin sued out a writ of exigent directed to the said sheriff of Middlesex returnable in octavis Sancti Hillarij [=21 January 1567] then next following, by force whereof the said John Elliott, being at five several county courts lawfully holden within the said county of Middlesex in due form of law fully demanded, made default, whereupon the said John Elliott was by judgment of the coroners of the same county in due form of law outlawed, which writ of exigent was lawfully and orderly returned by the then sheriff of the said county of Middlesex at the said day of the return hereof, the last of which said county courts was holden at New Brainford [=Brentford] in the said county of Middlesex the one and twentieth day of November in the ninth year of your Highness' most prosperous reign [=21 November 1566], and so returned upon the back of the said writ of exigent, the said one and twenty being written with two 'xx' and one 'j', thus 'xxj' at the very last end of a line upon the back side of the said writ of exigent, by reason of which said outlawry your Highness was as well of the interest of the said term of one and thirty years of and in the said manor with the appurtenances as of all and singular the goods and chattels which the said John Elliott had at the time of the said outlawry pronounced lawfully possessed;

And so possessed, your Highness afterward, that is to say the nineteenth day of March in the thirteenth year of your Majesty's reign [=19 March 1571] by your Highness' letters patents under the Great Seal of England bearing date at Westminster aforesaid the same day and year did give and grant the said interest of the said term of 31 years of and in the said manor with the appurtenances unto Nazareth Southwell, widow, her executors and assigns, to her and their own proper use, by force whereof the said Nazareth

Southwell was of the interest of the said term of one and thirty years of and in the said manor with the appurtenances possessed;

And so possessed, the said Nazareth afterwards, that is to say the tenth day of October in the thirteenth year of your Highness' most happy reign [=10 October 1571] by her certain writing sealed with the seal of the said Nazareth bearing date the said day and year last above mentioned did give and grant unto one Anne Elliott her said interest and term of years of and in the said manor with the appurtenances, by force whereof the said Anne Elliott was of the said interest of and in the said manor possessed;

And she thereof so being possessed, afterwards took to husband one Robert Harris, gentleman, by force whereof the said Robert Harris and the said Anne, then his wife, were of the foresaid interest of the said one and thirty years of and in the said manor with the appurtenances as in the right of the said Anne, then his wife, possessed;

And he so thereof being possessed, the said Robert Harris afterwards, that is to say the sixth day of June in the three and twentieth year of your Highness' reign [=6 June 1581] by his indenture of assignment sealed with his seal bearing date the same day and year last above mentioned did bargain and sell to your said subject and his assigns forever all his interest and term of years of and in the foresaid manor with the appurtenances, by force whereof your said subject was of the said interest of the said term of one and thirty years of and in the said manor lawfully possessed;

And afterwards, that is to say in or about the thirtieth day of September in the said year of Our Lord God 1585, your said subject entered into the said manor with the appurtenances and was thereof lawfully possessed;

But so it is, most gracious Sovereign, that one Richard Payne, esquire, pretending title to the said lease and seeking to defeat your said subject's lawful estate and interest in and to the same, in or about Easter term last past dealt and practised with one John Lennard, esquire, then and yet being custos brevium in your said Highness' Court of Common Pleas, to have the same writ of exigent out of the office and custody of the said John Lennard, by whose persuasion, means and practice the said John Lennard was content and suffered voluntarily and willingly the said writ to be brought and carried from hand to hand into divers places and houses in or near your Majesty's city of London, as to Sergeants' Inn in Chancery Lane, the Inner Temple, and elsewhere, contrary to his duty, charge and office, to whom it appertaineth to keep and preserve all your Majesty's writs and records committed to his charge, and not to suffer them to be eloined, carried or had into strange hands;

And the said Richard Payne and John Lennard, confederating themselves with one William Stamford and Richard Whalley, two of the clerks in the office of the said John Lennard, Edward Berthelet, gentleman, and Anthony Berthelet, gentleman, two of the sons-in-law of the said Richard Payne, and one Thomas More, gentleman, with divers other, the said John Lennard by procurement of the said Richard Payne delivered unto them or one of them, or willingly suffered them, the said Stamford, Whalley, Berthelet,

Berthelet and More, or some or one of them, or some other such as they or some of them did appoint, to take & convey out of the said office of custos brevium the said writ of exigent, solely, or among many other together of one bundle, and the same to carry from place to place as aforesaid at the will and pleasure of the said Richard Payne unto such person or persons as he did appoint and to divers others, by reason of which persuasion, practice, voluntary sufferance, confederacy, conveying and carrying of the said writ out of the said office, the said writ of exigent whereupon the said John Elliott was outlawed became and was so near pared or in part cut away upon th' edge of the same as that the said number of 'xxj' was made but 'xx' (viz., by cutting or paring away the number or letter 'j' standing in the very last end of the line on the back side of the said writ near unto the edge or side thereof, and leaving the two 'xx' standing alone), by reason of which cutting or paring away your Majesty is like to be defeated of your interest in and to the goods and chattels of the said John Elliott, and your subject's said interest and title in and to the said lease to be avoided, to the great loss and hindrance of your said subject, which evil and wicked act, although the very author or doer of this paring or cutting away be unknown unto your said subject, yet hath the same happened or come to pass by and through the said offences and misdemeanours of the said John Lennard, Richard Payne and the other persons before named;

And to manifest more plainly unto your Majesty that the said record hath been abused as aforesaid, it doth appear that all the other exigents of the same return within the said county of Middlesex remaining in the said office been and continue written as they ought to be with the said day and the said number of 'xxj', and the very selfsame exigent aforementioned, with the return thereof, hath been before this time under the seal of your Majesty's said Court of Common Pleas exemplified, in which exemplification the said number of 'xx' [sic?] is plain and perfectly expressed, and in like perfect manner are two copies of the same writ and return heretofore taken out under the hands of some clerk and officers having charge of the same;

In tender consideration whereof, and for that the offence and misdemeanour of the said John Lennard, being an officer of so great trust, tending both to the loss of your Majesty and also of your said subject, deserveth to be severely punished, and for that the said losses and harm both to your Majesty and to your said subject hath originally grown by the means of the having and carrying of the said writ out of the said office procured by the said Richard Payne and carried by the said William Stamford, Richard Whalley, Edward Berthelet, Anthony Berthelet and Thomas More, or some one of them, or by some other by their means or procurement, may it please your Highness, the premises considered, to grant unto your said subject your most gracious writs of subpoena to be directed unto the said Richard Payne, John Lennard, William Stamford, Richard Whalley, Edward Berthelet, Anthony Berthelet and Thomas More, commanding them and every of them by the same at a day and time certain and under a certain pain in the same to be limited personally to appear before your Majesty in your court of Star Chamber, then and there to answer the premises and further to abide such punishment for their said offences as to your Majesty's most honorable Privy Council shall be thought meet and convenient, and your said subject shall pray to God for your most excellent Majesty in all felicity long to reign over us.

TNA STAC5/03/35/4

Iurat<sup>{i}</sup> xxixno die Novembris Anno xxxto Elizabethhe [=29 November 1587]

The joint and several answers of John Lennard, esquire, Richard Payne, esquire, Edward Berthelet, and Anthony Berthelet, and William Stamford, gentleman, defendants to the bill of complaint of the right honourable Edward de Vere, Earl of Oxenford, 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 to their understanding uncertain, untrue and insufficient in the law to be answered unto, and the matters therein contained are mere untrue, and of set purpose devised (as these defendants think) only to vex, trouble and molest the said defendants without any good, just or reasonable cause or ground of suit to the said complaint by the said defendants or any of them at any time ministered;

Nevertheless, all advantages of exception to th' uncertainty and insufficiency of the said bill of complaint to the said defendants and every of them now and at all times hereafter to these defendants saved, they, the said defendants, for manifesting and true declaration of the truth touching the contents of the said bill of complaint, sayen and every of them saith that as to the cutting and paring of the said record of exigent contained in the said bill, and touching all and every the misdemeanours jointly or severally in the said bill expressed against them, they, the said defendants and every of them are thereof in such manner and form as in the said bill is set forth not guilty;

And further the said John Lennard, one of the said defendants, to as much of the said bill as concerneth himself saith that oftentimes the sheriffs, or some other that have dealing with the writs, delivered [sic?] all exigents wherein the defendants are outlawed to the plaintiff in the suit, and he keepeth them in his hands so long time as he listeth, and if the defendants will agree with him, he delivereth it to him or his attorney or some other for him or counselleth [sic?] or keepeth out the said writ, and if he agree not with him, he delivereth it unto the Queen's Attorney's office to him from thence a *capias utlagatum*, for to him belongeth to make that process, and so it happened (as he verily thinketh) that the foresaid writ was delivered to and remained in that office a long time about twenty years ago, and might receive detriment there if any there be done to it before it come to *custos brevium* his office;

And further saith that in Easter term last past [=Easter 1587] (as he remembereth) the said Richard Payne and Anthony Berthelet came to the chamber of the said defendant in Lincoln's Inn and said that they had searched for and found in his office a writ, and desired him to go thither with them and see the said writ, and at his coming thither the foresaid Whalley showed him the said writ on a bundle with many other writs, and he looking upon the return on the back thereof, one of them asked him what day, as he took

it, the fifth county court was holden as there it was endorsed, and he, forsomuch as there appeared unto him but 'xx' ["i" erased] said the twentieth day, and further he saith that to his knowledge he never saw nor heard tell of that writ or return before that time;

And also to his remembrance he saith that he, being then required by the said Richard Payne and Anthony Berthelet, or one of them, to cause the said bundle to be brought to the Court of Common Pleas, did so, as his office and duty is to bring any bundle thither at any subject's request for the fee of 2s 4d, and afterwards the Justices of the King's Bench (as this defendant was informed) did send unto this defendant to bring into the said court the said writ of exigent mentioned in the said bill for them to see, whereunto this defendant entered into question with himself whether he should so do or no;

In the end, being advised by the Justices of the Common Pleas so to do, he sent it thither in the bundle as it was by the foresaid William Stamford, his deputy in his office, and one other of his clerks, after which time at the request of the right honourable the Lord Burghley, High Treasurer of England, this said defendant also sent to the said Lord Treasurer the said bundle wherein the said writ was by the said Stamford and Whalley, and did not at any time to his remembrance send the said writ to any other place or person;

And whereas in the said bill it is surmised that all the other exigents of the said return of he [sic] said exigents mentioned in the said bill within the county of Middlesex remaining in the office of this defendant be and continue as they ought to be with the said day and he [sic] said number of 'xxj' short, this said defendant saith that (as he upon search came hither to find) all the said exigents of the said return is but one, and the same is not so written as the said complaint affirmeth (that is to say 'xxj' short, numberwise) but it is written at length, viz., 'vicesimo primo';

Without that that the said Richard Payne did at any time practise with the said defendant to have the said writ of exigent out of the custody of the said defendant, or that the said writ of exigent by the procurement of the said Richard Payne otherwise than is aforesaid was carried from hand to hand and from place to place as in the said bill, under the favour of this honourable court, is very hardly suggested, or that the said writ of exigent was at any time at Sergeants Inn or at the Inner Temple to the knowledge of this defendant otherwise than in a chest in the chapel at the Temple church where do remain thousands of records and writs, and where they have, both sithence he was custos brevium and before time out of mind (as this defendant hath heard), been usually kept for a certain time, and after a certain time spent, as moe and newer writs and records have grown, those older records have been removed from thence to St. Stephens at Westminster, and the newer records placed in the chapel aforesaid;

And without that that the said John Lennard and the said Richard Payne confederating themselves with the said William Stamford, Richard Whalley, Edward Berthelet, Anthony Berthelet and Thomas More, and with divers others or with any of them or with any other the said John Lennard by the procurement of the said Richard Payne delivered unto the said persons above-named or any of them the said writ of exigent, or wittingly

suffered the said persons or any of them or any other, or appointed the said persons or any of them or any other to take and convey out of the said office of custos brevium the said writ of exigent either solely or together with the bundle, and the same to carry from place to place, as is aforesaid, at the will and pleasure of the said Richard Payne in any other manner than the said defendant before hath confessed and declared;

And without that that the said John Lennard, by the persuasion or practice of any of the said defendants, suffered the said writ of exigent to be carried and conveyed out of the office of the said John Lennard otherwise than before is declared whereby the said writ of exigent was so near pared or in part cut away upon the edge of the same that the said number was made but 'xx', viz., by cutting away the number or letter 'j' in such manner and form as in and by the said bill of complaint is very hardly suggested;

And the said Richard Payne, one other of the said defendants, to as much of the said bill as concerneth himself, and to declare his innocency in such matters as therein are hardly set forth against him and others, not confessing the pretended title of the said complainant in and to the said lease or term of years alleged in the said bill, for and concerning the misdemeanours objected against him in the said bill, for further answer saith that about Easter term last past the said defendant came into the office of the said John Lennard, another of the now defendants, and requested to see the said writ of exigent (for that it was reported to this defendant that one of the clerks of the said John Lennard had made out an exemplification of the said writ and return thereof contrary to the record thereof), which being granted, and the said writ perused by the said defendant, having never seen the said writ before, and the default of the said clerk espied, the said defendant in effect requested the said John Lennard that forasmuch as that day there was a jury to pass in the King's Bench in a cause which very much concerned the said defendant, and that by reason of the said false exemplification the said defendant was like to be greatly prejudiced, that it would therefore please the said John Lennard to suffer some of his clerks to bring the bundle of the said writ of exigent wherein the said writ was unto the Hall to be perused by the court if any need should require, whereunto the said John Lennard granted, it being a thing usual, as this defendant hath been credibly informed, time out of mind that custos brevium at the request of any subject is to bring into the court for the fee of 2s 4d any bundle of writs required to be brought;

And afterward the Justices of the King's Bench sending to the said John Lennard for the said writ, the said John Lennard with the privity of the Justices of the Common Pleas (as this defendant hath been informed) did send the said writ upon the bundle by his deputy in his office and one other of his clerks into the King's Bench to be seen of the Justices of the said Court;

Without that that the said defendant at any time practised with the said John Lennard to have the said writ of exigent out of his custody or otherwise dealt therein than this defendant before hath confessed;

And without that that by the persuasion, means and practice of the said defendant the said John Lennard was content and suffered voluntarily the said writ to be carried from

hand to hand into divers places and houses in or near the city of London, as to Sergeants Inn in Chancery Lane, the Inner Temple or elsewhere contrary to his duty in such manner and form as in the said bill is against him very hardly suggested;

And without that that the said John Lennard and the said defendant did confederate themselves with the said Stamford, Whalley, Berthelet, Berthelet and More, the other now defendants, and with divers other for or concerning any such purpose as in the said bill is alleged;

And without that that the said John Lennard by the procurement of the said defendant delivered unto them or any of them, or willingly suffered the said Stamford, Whalley, Berthelet, Berthelet and More, or one of them or any other such as they or any of them did appoint, to take and convey [+from the] office of the custos brevium the said writ of exigent, solely, or amongst many others together of one bundle, and the same to carry from place to place as aforesaid at the will and pleasure of the said defendant unto such person and persons as the said defendant did appoint in such manner and form as in and by the said bill of complaint is suggested;

And without that that the said writ of exigent by the persuasion and practice of the said defendant was carried and conveyed out of the office of the said John Lennard, whereupon the said writ of exigent was so near pared or in part cut away upon the edge of the same that the said number was made but 'xx', viz., by cutting away the letter or number 'j' in such manner and form as in the said bill of complaint is very hardly alleged;

And the said Edward Berthelet, another of the said defendants, for further answer to as much of the said bill as concerneth himself saith that he never had meddling with the said writ of exigent in the said bill of complaint mentioned, neither did see the same before such time as the said writ of exigent was in the King's Bench about Easter term last past showed forth unto the Justices there in a cause concerning the said complainant and th' above-named Richard Payne, one of the now defendants, at which time it did not only appear to this said defendant but also (as this said defendant taketh it) to the whole court that the said writ of exigent upon the return thereof for the fifth county court holden was written with 'xx' numberwise, that is to say for the twentieth day of November, and not 'xxj' numberwise, that is to say the xxj day of November;

Without that the said Edward Berthelet did confederate himself with the said John Lennard, Richard Payne, Anthony Berthelet, Thomas More, and with divers other, or that the said Edward Berthelet by himself or did appoint any other to convey the said writ solely or with any other together of one bundle out of the office of the said John Lennard and the same to carry from place to place at the will and pleasure of the said Richard Payne by reason whereof the said writ of exigent was pared or cut away upon the edge of the same as that the number of xxjty was made but xxty by cutting or paring away the number or letter j in such manner and form as in and by the said bill is suggested;

And the said Anthony Berthelet, another of the said defendants, for further answer to as much of the said bill of complaint as concerneth himself saith that about Easter term last

past, the very day in the morning in which the jury was to pass in trial of the matter for the said lease in the said bill mentioned between one (blank) Reade, pretended farmer of the said now complainant, and Richard Payne, one of the now defendants, as the said defendant and the said Richard Payne were in going to Sergeants Inn in Chancery Lane unto some of the counsel of the said Richard Payne to give instructions for the said trial, that one Richard Masterson, gentleman, servant to the said Richard Payne, meeting with this said defendant and his said master, said there unto this defendant and his said master (to this defendant's remembrance) that he had been in Mr Lennard's office to examine a copy of the said exigent in the said bill mentioned, and thereby (as he affirmed) he did understand that one of the said Mr Lennard's clerks had made out an exemplification thereof disagreeable to the record itself, or words to the like effect, and thereupon he requested this defendant from Mr Canfield, one of the counsel of the said Richard Payne, that the said defendant would take the pains to go with him to Mr Lennard's office to see the said writ to th' intent that the said defendant might give testimony upon the sight thereof according to the truth, whereunto the said defendant willingly agreed, and thereupon presently in company of the said Richard Masterson and others repaired to the office of the said Mr Lennard and desired one of Mr Lennard's clerks to show him the said writ, which the said clerk accordingly did, whereupon the said defendant, espying the default of the said clerk, reprov'd the said clerk for making an exemplification otherwise than the record itself did warrant, and thereupon in the company of the said Richard Payne the said defendant repaired to the chamber of the said Mr Lennard in Lincoln's Inn, who desired him to go into his office to see the said writ, which was all the sight or meddling which the said defendant had with the said writ before the trial above rehearsed at what time the said writ was showed forth before the Justices of the King's Bench;

Without that that the said defendant did confederate himself with the said John Lennard, Richard Payne, Edward Berthelet, Thomas More, and with divers other, or that the said defendant by himself or did appoint any other to convey the said writ solely or with any other together of one bundle out of the office of the said John Lennard and the same to carry from place to place at the will and pleasure of the said Richard Payne by reason whereof the said writ of exigent was pared or cut away upon the edge of the same as that the number of 'xxj' was made but 'xx' by cutting or paring away the number letter 'j' in such manner and form as in and by the said bill of complaint is very hardly suggested;

And the said William Stamford, one other of the said defendants, to as much of the said bill of complaint as concerneth himself, for further answer saith that he this Payne [sic?] by the space of four or five years past was and yet is deputy to the said Mr Lennard in his office of custos brevium, and that in Easter term last past the writ of exigent mentioned in the said bill of complaint was showed unto this defendant by the said Richard Whalley, one other of the now defendants, then and yet being a clerk of the said office, to be examined, which time was the very first time that ever the said writ came to this defendant's hands or that ever he did see the same to his knowledge, and he this said Payne [sic?] upon the first view and examination thereof found the same at that time in such and the same estate and degree as the same exigent now is and ever hath been during all the time that he hath been deputy or clerk in or toward the said office to his knowledge, the which writ he this Payne [sic?] with the said Whalley sithence by th'

appointment of his said master and not otherwise at the several times and to the several places in the answer of the said Mr Lennard before confessed and justified did carry and show forth, viz., twice to the Justices of the King's Bench sitting in court and once to the said Lord Treasurer, the which is all the dealing the said Payne [sic?] hath had with the said writ to his knowledge or remembrance;

And without that that the said Payne [sic?] did confederate himself with the said John Lennard, Richard Payne, Edward Berthelet, Anthony Berthelet and Thomas More, or any of them, or did convey or appoint any other to convey the said writ of exigent solely or with any other together of one bundle out of the said office of custos brevium to be carried from place to place at the will and pleasure of the said Richard Payne by reason whereof the said writ of exigent was pared or cut away upon the edge of the same so as the number of xxj was made but xx by cutting or paring away the number or letter j in such manner and form as in and by the said bill of complaint is very hardly suggested;

And without that that any other matter or thing in the said bill of complaint alleged against these defendants or any of them being material or effectual for these defendants or any of them to make answer unto and herein jointly or severally not confessed, avoided, traversed or denied to the knowledge of these defendants or any of them is true, all which matters the said defendants are ready to aver and prove as this high court shall award, and thereout pray to be dismissed with their and every of their reasonable costs and charges by them in this behalf wrongfully had and sustained.

(signed, as clerk) Edward Berthelet

TNA STAC5/O3/35/2

Jurat{us} xxixno Nouembris Anno xxxmo Elizabeth Regine [=29 November 1587]

The several answer of Richard Whalley, one of the defendants to the bill of complaint of the right honourable the now Earl of Oxford, plaintiff

The said defendant by and for himself saith that albeit by the opinion of his counsel the said bill and the matters therein complained of against this defendant are in law insufficient and such as this defendant is not compellable by this course of suit to answer unto in this honourable court, specially for that the same offences (if this defendant were culpable of the same, as he is not) are to be called in question and punished in other degree than this honourable court useth to give sentence in, as he, this defendant's counsel (under correction of the same court) doth conceive it, nevertheless for the full clearing of this defendant from the said supposed abuses and misdemeanours in the bill specified, of which he this defendant by the said bill standeth unjustly accused, and for the better satisfying of this honourable court touching his intermeddling in or with the said writ of exigent specified in the said bill laid to his charge, he, the said defendant (saving to himself now and at all times hereafter the benefit of exception to the uncertainty and insufficiency

of the said bill) saith that as to the cutting or paring of the said writ of exigent or of the return thereof, and as to all and every such other the misdemeanours and abuses in the bill specified as are examinable in this honourable court and wherewith this defendant is in any wise charged or burdened in or by the said bill, he, this defendant, saith that he is not culpable or guilty of the same or of any of them in manner and form as in the said bill is suggested;

And for further answer saith that true it is that he, this defendant, hath been retaining in and towards the said office of custos breuium mentioned in the said bill by the space of these six years last past, as he taketh it, that is to say, first servant unto William Forrest, deceased, late deputy in the said office, and afterwards clerk there unto Mr John Lennard mentioned in the said bill, and that he, this defendant, by and during all the said time, never heard or knew of any search, question or demand to be had or made (to his knowledge) of or for the said writ of exigent mentioned in the said bill until abouts the beginning of Easter term last past, at which time he, this defendant, by the request of one John Tanner of Cliffords Inn made search for the said writ of exigent in the said bill specified at a place at Westminster called St. Stephens where great numbers of writs and records pertaining to the custos breuium office are, and as he hath heard, of long time past have been kept in chests, having then in his company one David Howell, servant unto the said Mr Lennard and book-bearer in the same office, and after such time as he, this defendant, had found out the said writ of exigent, he, the same defendant, presently without reading over of the same or the return thereof, caused the said David Howell (as the course is) to bring the whole bundle of the writs of that return, whereof the said exigent was one, from the said place of Westminster called St. Stephens unto his said master's office of custos breuium then and yet being kept at Lincolns Inn where the said bundle was laid amongst other bundles there according to the usual manner thereof;

And this defendant saith that in what plight, state and degree the said writ of exigent and the return thereof was at that time when this defendant found out the same at Westminster upon the foresaid search and first view thereof, in the selfsame plight, state and degree and in no other, for anything this defendant hath done or doth know to the contrary thereof, the said writ of exigent and the return thereof now is and ever hath been during all his time of being servant or clerk in and towards the said office, and afterwards the said David Howell, as this defendant remembereth (upon the day of the jury returned or trial had in the court of the King's Bench of and concerning the cause then in variance touching lands in the bill specified) by the appointment or commandment of the said Mr Lennard or of William Stamford, the said Mr Lennard's deputy, brought the bundle wherein the said writ of exigent was filed to Westminster Hall amongst other bundles of writs, and laid them in or near the Court of Common Pleas in a [plac]e(?) where such said writs are commonly laid when they are thither brought;

And the said William Stamford and this defendant or the one of them by the appoin[t]ment of the said Mr Lennard, their master, carried the said bundle wherein the said exigent remained so filed to the Justices of the King's Bench being then sitting in court who (as he heard) had send [sic?] for the same, and there showed them the said writ, and the next day following the foresaid bundle wherein the said exigent so remained being

brought to the said Hall, the same was in like manner carried and showed the same day in the said Court of King's Bench, the which are all the supposed carrying and conveying of the said writ of exigent from hand to hand to sundry person or persons at the will and pleasure of the said Richard Payne which this defendant ever made of or with the said writ of exigent out of the said office as in by [sic?] the said bill is surmised, saving that this defendant and the said William Stamford or the one of them at and by the request of the right honourable the now Lord Treasurer of England carried and showed to his Lordship by their said master's appointment the said writ of exigent so remaining upon the said bundle or file as is aforesaid;

Without that that he, this defendant, did confederate himself with the said John Lennard, Richard Payne, William Stamford, Edward Berthelet, Anthony Berthelet and Thomas More, or with every or any of them, or with any other for or concerning any such purposes or intents as in the said bill is alleged;

And without that that this defendant did by the willing sufferance or delivery of the said John Lennard take or convey out of the said office of custos brevium the said writ of exigent solely or among many other writs together of one bundle, and the same carried from place to place at the will and pleasure of the said Richard Payne unto such person & persons as the same Mr Payne did appoint otherwise or in any other manner than as is before truly confessed, unless the same bundle was carried into the Inner Temple and there laid in a chest standing in a chapel at or near the church there amongst sundry bundles of other writs pertaining to the said office of custos brevium, unto which said chapel or church the said bundle, as he taketh it, might lawfully be carried and remain, and yet to this defendant's knowledge the said writ of exigent or bundle was never in his time in any chest, chapel or other place in the said Inner Temple;

And without that that the said writ of exigent became and so was near pared or in part cut away upon the edge of the same as that the said number of 'xxj' in the bill specified was made but 'xx', viz., by cutting away the letter 'j' by or with the privity, consent, knowledge or procurement of this defendant in such manner and form as in the said bill is surmised;

And without that that anything else in the said bill specified touching or concerning this defendant and in this answer not sufficiently answered, confessed and avoided, traversed or denied is true to the knowledge of this defendant, all which matters this defendant is ready to aver and prove as this honourable court shall award, and prayeth that he may be dismissed out of the same with his reasonable costs in this behalf wrongfully sustained.

TNA STAC5/O3/35/1

The replication of the right honourable Edward de Vere, Earl of Oxenford, plainant, to the joint and several answers of John Lennard & Richard Payne, esquires, Edward Berthelet, Anthony Berthelet, William Stamford and Richard Whalley, gentlemen, defendants

The said complainant for replication saith that his said bill of complaint and the matters therein contained are certain, true and sufficient in the law to be answered unto, and not devised of set purpose only to vex, trouble and molest the said defendants without any good, just or reasonable cause or ground of suit to this complainant by the said defendants or any of them ministered, as in the answers of some of the said defendants is very untruly supposed and alleged, but upon good and just cause;

And moreover the said complainant saith that the answers of the said defendants are uncertain, untrue and insufficient in law to be replied unto;

And the said complainant doth and will aver, justify and maintain his said bill of complaint and the matters therein contained to be just and true, and the said defendants and every of them to be guilty of the said offences wherewith they are charged in such sort, manner and form as in the same bill of complaint is expressed and declared, all which matters this complainant is ready to aver and prove as this honorable court shall award, and prayeth as before in his said bill of complaint he hath prayed.

TNA STAC5/O8/52

Interrogatories to be ministered to Richard Payne, esquire, Edward Berthelet, gentleman, & Anthony Berthelet, gentleman, & either of them, on the behalf of the right honourable Edward de Vere, Earl of Oxenford

1 Imprimis, whether was there not a suit long depending between one Robert Harris, gentleman, & Anne, his wife, or one of them, & you, the said Richard Payne, in the High Court of Chancery for and concerning the same lease of the said manor of Alvetheley [=Aveley] mentioned in the bill of the complainant now in question between the said complainant & the said Richard Payne? And whether did not the same Robert Harris derive down his title in the same suit unto him amongst other things by virtue of th' outlawry pronounced against the said John Elliott upon the said writ of exigent now in question? And whether were you not then a dealer & well acquainted with the same suit in the behalf of the said Richard Payne, and whether did the same Richard Payne or any other of his counsel at any time during that suit go about to impeach or avoid the title of the said Robert Harris and Anne, or either of them, in & to the same lease by reason that the same outlawry was not justly and duly pronounced against the said John Elliott? And what was the reason why the said Richard Payne did not so do if the outlawry against the said John Elliott upon the said writ of exigent were not then duly pronounced against the said John Elliott?

2 Item, what is the reason or what did move you more now at or against the time of the trial in the King's Bench to look & examine the validity of the same outlawry and in what sort & manner the judgment was pronounced upon the said writ of exigent against the said

John Elliott than it did during all the same time the suit was so long depending between the said Robert Harris & you, the said Richard Payne, in the Chancery?

3 Item, how long is it sithence you did last see the same writ of exigent now in question, and at what time did you first see it, & in what place & in whose custody was it then, and upon what occasion did you see it? And whether did you, or any other to your knowledge, will or command any other body than yourself to go and see it, and at what time was it, and by whose counsel or persuasion was the same, & in what sort was the same writ of exigent when you did first see it, and whether was it in such sort when you did last see the same as it was at your first sight thereof? And whether did not you or some other to your knowledge the very night or in the afternoon next before the cause was to be heard in the King's Bench will that the same writ of exigent should be looked into to see if that the last county wherein the judgment of outlawry was pronounced against the said John Elliott were not held within less than one month next after the county next precedent, and who was the party that gave that advice, and who was sent to make that search, and at what time was he sent, and what answer did he bring back, and what was the cause that should at that time rather move you or he that gave that advice than before to make any such speedy search for the same? And whether did not you or some other to your knowledge who gave that advice afterwards say that even as it was thought, so it fell out, or words to that effect?

4 Item, whether do you not know that the same writ of exigent now in question was carried either solely alone or in a bundle amongst others either the same morning in the which the said trial was to be had in the King's Bench or at some other time before that day to Sergeants Inn in Chancery Lane and to the Inner Temple, or either of them, or to some other place in or near about London, and there showed to some such as the said Richard Payne or some other for him did direct & appoint, and to whom was the same so carried or showed & by whose direction or appointment, and by whom was the same so carried or showed and at what time and at whose request?

TNA STAC5/O8/52

Interrogatories to be ministered to John Lennard, esquire, William Stamford and Richard Whalley, gentlemen, and either of them, defendants, at the suit of the right honourable Edward de Vere, Earl of Oxenford

1 Inprimis, whether did you know or have you heard of any suit depending either in the King's Bench or Chancery between the now complainant or John Reade, his lessee, or one Robert Harris, gentleman, or Anne, his wife, or either of them, and Richard Payne, esquire, now one of the defendants, for and concerning the lands & tenements mentioned in the bill of the complainant before the day when the jury did appear in the King's Bench for the trial thereof, & how or by what means did you know or hear of the same, & how long is it sithence you did first know or hear thereof?

2 Item, whether did there anybody at any time before such time as you were spoken unto by the attorney of the complainant for the making of an exemplification of the exigent mentioned in the complainant's bill use any speech or conference with you in or about the same writ or any other writs of the same bundle, and who was the same party, and at what time was it, & upon what occasion did he so?

3 Item, when was the first time that you did see the same writ of exigent against the said John Elliott mentioned in the complainant's bill, & in what place was it, & in whose hands then was the same, and whether was the same then in all points as it was at the time of the showing forth of the same to the jury at the King's Bench bar in Easter term last, yea or not [sic?]?

4 Item, whether be there not divers other writs of exigent or proclamation yet remaining upon the same bundle & upon the same return directed to the same sheriff of Middlesex unto whom this writ of exigent now in question was likewise directed, and whether it was not returned by the said then sheriff of Middlesex upon the back of the said writs that the last county whereupon the coroners did give judgment of outlawry against the defendants named in the said writs of exigent was holden at New Brainford [=Brentford?] within the said county of Middlesex upon the said xxjth [=21st] day of November mentioned in the said bill of the now complainant?

5 Item, whether did you yourself make any exemplification of the same writ of exigent now in question, or do you know of any exemplification made thereof, and who made the same, and when was it made, and whether did you at such time as the said exemplification was made see any copy of the said writ of exigent in paper, & of whose handwriting was the same copy, and whether was not the same copy the handwriting of William Forrest, deceased, and how do you know it to be his handwriting? And whether was the said William Forrest any of the clerks in the office of the said custos brevium, and what place did he there supply, and how long is it sithence the death of the said William Forrest, and whether do not you certainly know, or at the leastwise verily think in your conscience, that the same writ of exigent now in question was put upon the files or bundle in the said office of custos brevium at such time as the said William Forrest did make the same copy, and that the same writ was then fully agreeing with the said copy, or whether did he use to make any copies of writs disagreeing from the writ itself?

6 Item, whether do not you know or certainly remember that the county court wherein the judgment of outlawry was pronounced against the said John Elliott upon th' exigent now in question is written in the said copy to be the xxjth day of November, being written thus 'xxj' short, with two 'xx' and one 'j'?

7 Item, whether did now [sic] you, after such time as the same exemplification was written, examine the same with the said writ of exigent now in question, and who did then help you to examine the same, and whether did not the same exemplification then agree with the said writ of exigent and return thereof to your certain knowledge or as you remember, or else why did you otherwise exemplify the same or suffer the same so to be exemplified, and for what cause did you bring or cause to be brought the said writ of

---

exigent now in question from the said chapel of St. Stephens, and whether was it not to th' intent you should be assured that the same should rightly be exemplified?

8 Item, who or what persons to your knowledge or remembrance did see or handle the same writ of exigent now in question after such time as it came from the said St. Stephens chapel until such time as it was showed forth before the judges in the King's Bench, and where did it by all that time remain, and who had the keeping thereof both during that time and also whilst it was in St. Stephens chapel, and whether did not Richard Payne, esquire, Edward Berthelet, Anthony Berthelet and Richard Masterson, gentlemen, or some of them, or some other by their or some of their procurement see or handle the same, and when did they or some of them so do, & upon what occasion?

9 Item, whether did not the said Richard Payne, Edward Berthelet, Anthony Berthelet & Richard Masterson, or some of them, or some other for them or in their behalf, procure or entreat that the same writ of exigent now in question might be carried forth of the office of custos brevium where it ought to be kept, & who so required the same, and to what place should it so be had & carried, & for what occasion, and whether was not the same writ either solely alone or upon a bundle amongst others either the same morning in the which the said trial was to be had in the King's Bench or at some other time before that day carried by you or by some other to your knowledge by the appointment of the said Richard Payne, Anthony Berthelet, Edward Berthelet, & Richard Masterson, or some of them, or some other by their direction or their friends to Sergeants Inn in Chancery Lane and the Inner Temple, or one of these places, or some other place in or near about the city of London, & there showed to some such as the said Richard Payne, Edward, Anthony, & Richard Masterson, or some of them, or some other of their friends did appoint, and to whom was the said writ of exigent now in question so carried or showed, and by whose direction or appointment, & by whom was the same so carried or showed, and at what time and at whose request?