

SUMMARY: The documents below are the interrogatories and depositions in two lawsuits concerning the right of presentation to the church of Nether Yeldham brought in the High Court of Chancery, the one by Roger Harlakenden's nephew, George Harlakenden, against Thomas Josselyn, the son of Roger Harlakenden's brother-in-law, Henry Josselyn (d.1587/8) of Torrells Hall, Essex, and his wife, Anne (nee Torrell) Josselyn, and the other by Thomas Josselyn against Roger Harlakenden and George Harlakenden.

The lawsuits concerned a deed made by Oxford in 1574/5 granting to his then receiver, Richard Kelton (d.1578), the right to the presentation of the church of Nether Yeldham. Richard Kelton's then wife, Jane (nee Josselyn) Kelton, was the daughter of Sir Thomas Josselyn (b. 1507, d. 24 October 1562) and his wife, Dorothy (nee Gates) Josselyn (d.1583?). Richard Kelton's wife, Jane, was thus the sister of Henry Josselyn (d.1587/8), and the aunt of the latter's son, Thomas Josselyn, the complainant in one of the two lawsuits below and the defendant in the other. For the will of Sir Thomas Josselyn (b. 1507, d. 24 October 1562), see TNA PROB 11/47, ff. 213-14. For the will of Dorothy (nee Gates) Josselyn (d.1583?), see TNA PROB 11/65, ff. 79-80. For the will of Henry Josselyn (d.1587/8), see TNA PROB 11/72, ff. 36-7.

After the death of Richard Kelton in 1578, his widow, Jane (nee Josselyn) Kelton, was granted administration of his estate. According to the deposition of Richard Kelton's nephew, Thomas Kelton of Petworth, Sussex, below, Richard Kelton gave two-thirds of his estate in his lifetime to his wife, Jane (nee Josselyn) Kelton, with the remaining one-third to be divided between his nephew, Thomas Kelton, and his niece, Jane Kelton. Two years after Richard Kelton's death, his widow, Jane (nee Josselyn) Kelton, married Roger Harlakenden (d.1603), but before her marriage, as indicated in the depositions below, she transferred the assets she had inherited from her late husband, Richard Kelton (d.1578) in trust to her brother, Henry Josselyn (d.1587/8), and her first cousin, Geoffrey Gates of Lincolns Inn, the son of Geoffrey Gates (d.1554?), one of the brothers of Jane (nee Josselyn) Kelton's mother, Dorothy (nee Gates) Josselyn (d.1583?). For the will of Geoffrey Gates (d.1554?), see TNA PROB 11/37, f. 123. For other documents concerning Jane (nee Josselyn) Kelton's transfer of her inherited assets to her brother, Henry Josselyn (d.1587/8), and her first cousin, Geoffrey Gates of Lincoln's Inn, prior to her marriage to Roger Harlakenden, see ERO D/DPr 175, ERO D/DPr 176, and ERO D/DPr 177.

The depositions in the lawsuits were taken in 1595, the deponents being Roger Harlakenden (d.1603); Roger Harlakenden's servant, Robert Cobbe; John Tanner, an attorney of Cliffords Inn and Oxford's former steward of Colne Priory and other properties; Edward Josselyn, the brother of Henry Josselyn (d.1587/8) and Jane (nee Josselyn) Kelton; Geoffrey Gates of Lincoln's Inn, a first cousin of Jane (nee Josselyn) Kelton; and Thomas Kelton, a nephew of Richard Kelton (d.1578) and, as mentioned above, a beneficiary to whom Richard Kelton had left a one-third interest in his goods, to be divided between Thomas Kelton and his sister, Jane Kelton.

As indicated in a note at the beginning of Roger Harlakenden's deposition, it was later voided. A memorandum dated 26 January 1596 attached to the depositions states that the Lord Keeper ordered Roger Harlakenden's deposition to be suppressed on the ground that it was improper for his testimony to be taken as a witness when he was 'a principal man whom the suit concerneth'. The memorandum points out that Thomas Josselyn had been the first to file suit, but that George Harlakenden had then filed a separate suit against Josselyn in order to be in a position to take a deposition from his uncle, Roger Harlakenden, a dubious procedure which was quashed by the Lord Keeper. It should further be noted that Roger Harlakenden's verbatim account of his alleged conversation with his former brother-in-law, Henry Josselyn (d.1587/8), could not be challenged by Henry Josselyn himself, who was now deceased.

Roger Harlakenden's presentation of his nephew, George Harlakenden, to the rectory of Nether Yeldham in 1593 apparently prompted Thomas Josselyn to bring suit against Roger Harlakenden and George Harlakenden. Then, as noted above, Roger Harlakenden, who claimed to have inherited the right of presentation from his late wife, rather than bring suit himself against Thomas Josselyn, had his nephew, George Harlakenden, bring suit against Josselyn so that he, Roger Harlakenden, could testify as a witness, a procedure which the Lord Keeper disallowed since the facts of the case were such that Roger Harlakenden was clearly a party to the action, not a witness.

The outcome of the two lawsuits is unknown. It seems likely that the Court would have required Roger Harlakenden to compensate Thomas Kelton and his sister, Jane Kelton, for their one-third interest in the right to present to the rectory of Nether Yeldham. Roger Harlakenden states in his deposition that Jane (nee Josselyn) Kelton had put her inherited assets in trust prior to her marriage to Roger Harlakenden merely because her friends and relatives were uncertain that he could adequately support her. However Thomas Kelton states in his deposition that there was an additional reason why Jane (nee Josselyn) Kelton put her assets in trust before her marriage to Roger Harlakenden, namely that she had been unable to obtain administration of Richard Kelton's assets until an agreement was reached whereby the assets were put in trust to preserve not only the interests of Jane herself, but also those of Richard Kelton's nephew and niece, Thomas Kelton and Jane Kelton.

However with respect to the principal issue in the two lawsuits, it would appear that Roger Harlakenden prevailed. His nephew, George Harlakenden, became rector of Nether Yeldham:

The Episcopal records show that . . . at the Archdeacon's court held in Coggeshall in April 1593 [George Harlakenden] produced a licence to teach grammar, granted to him in February by the Bishop of London. However, he left Earls Colne soon afterwards; his uncle had bought the right to present to the rectory of Great Yeldham for one turn, and when a vacancy occurred in September 1593, he presented George, who stayed there for many years – 'a diligent and preaching minister' according to Puritan testimony.

See Merson, A.D., Earls Colne Grammar School, Essex: A History (Colchester: Benham and Company, 1975), pp. 18-19.

For the will of Roger Harlakenden (d.1603), see TNA PROB 11/101, ff. 392-3.

Transcripts of most of the documents below can also be found on the Earls Colne Project Database website at <http://linux02.lib.cam.ac.uk/earlscolne/equity/17500010.htm>.

Harlakenden contra Josselyn
Hillarius(?) 37 Elizabethhe Regine

Lnne(?) xxvjo die Ianuarij Anno Regni Elizabethhe Regine xxxvijto Inter Thomam Joselyn Querentem Rogerum Harlackenden et Georgium Harlackenden defendentes

[=[] on the 26th day of January in the 38th year [=26 January 1596] of the reign of Queen Elizabeth between Thomas Josselyn, querent, Roger Harlakenden and George Harlakenden, defendants]

Whereas the plaintiff hath a suit depending in this Court against the said defendants touching the right of presentation to the church of Nether Yeldham in the bill mentioned, so likewise hath the said George Harlakenden exhibited a bill into this Court against the said plaintiff concerning the same cause;

And having thereupon examined divers witnesses, amongst which the said Roger Harlakenden, one of the defendants, is examined as a witness although the cause doth chiefly concern him, as it is alleged by Mr Phillippes, being of the plaintiff's counsel, only of purpose to use the benefit of his testimony;

It is therefore ordered by the right honourable the Lord Keeper of the Great Seal of England that Saturday come sennight be given to the said George Harlakenden to show cause wherefore publication should not be granted of the examination of the witnesses so taken by him, and wherefore the examination of the said Roger Harlakenden, in respect he is a principal man whom the suit concerneth, should not be suppressed, and if upon warning hereof give to the defendant's attorney in this Court, he, the said defendant, shall not show good cause to the contrary, then the same is to be ordered accordingly.

Lawrence Washington

There was not any cause shown at the day given by this order, nor yet is, being the 9th of this instant month of February, 1595 [=9 February 1596].

Lawrence Washington

[Endorsed]

Lne(?) xxvjto die Ianuarij Anno Regni Elizabethe Regine xxxvijto Inter Thomam Joselyn Querentem Georgium Harlackenden et alia(?)]

[=[] on the 26th day of January in the 38th year [=26 January 1596] of the reign of Queen Elizabeth between Thomas Josselyn, querent, George Harlakenden and others(?)]

[Text at top left partly obscured]

27 Februarij 1594 coram Matthaes Con(?)

20 Maij 1595 ut supra

[] Maij vt supra

Interrogatories to be ministered on the part and behalf of George Harlakenden, clerk, complainant, and Thomas Josselyn, esquire, defendant

Inprimis, whether do you know the parties, plaintiff and defendant?

Item, whether do you know that the now Earl of Oxenford did by his deed dated about the 17th year [=1574/5] of her Majesty's reign give & grant unto one Richard Kelton, gentleman, deceased, the first and next avoidance, presentation and free disposition of the parish church of Nether Yeldham in the county of Essex, & how came you to the knowledge thereof?

Item, whether do you know that Jane Kelton, widow of the said Richard Kelton and administratrix of the goods and chattels which lately were of the said Richard Kelton, did in her widowhead convey & assign over the said deed & gift of the said advowson, presentation and free disposition of the said church of Nether Yeldham to any person? If yea, to whom, and whether was the same assignment so made meant and intended to be to the use of such person to whom the same was made, or in trust only to the use of the said Jane, and what sum of money or other consideration was given for the same to your knowledge, and how came you to the knowledge thereof?

Item, whether have you heard or do you know that Henry Josselyn, esquire, father to the defendant, did at any time in his lifetime upon his oath or otherwise confess and declare that the said Jane Kelton, sister of the said Henry Josselyn, did by the persuasion of himself & other her friends in her widowhead convey and assign over all or any part of her goods in trust to her friends to her use? Upon what considerations did they persuade her so to do, and to whom, as you have heard or known him confess, did she so assign any part of her said goods and chattels, and whether did the said Henry confess any part of her said goods to be assigned to himself in trust to her use or no?

Item, whether do you know or have credibly heard that the said Jane did in her widowhead give and convey unto Thomas Kelton, gentleman, and Jane, his sister, a third part of all or the most part of the goods and chattels which were the said Richard Kelton's whiles he lived, and whether did a third part of the said grant of the said advowson pass unto the said Thomas and Jane, his sister, by the said gift?

Item, whether have you heard the said Jane in her lifetime make any claim or challenge to the said deed of the gift of the said advowson as to her own proper goods, and whether did the said Jane in her lifetime possess and enjoy all or any part of her goods so assigned over in trust notwithstanding the said assignment, and what goods and chattels did she so enjoy to your knowledge?

Mr Gates to both of the interrogatories

[Text at top left partly obscured]
(illegible)
15 Maij 1595

Interrogatories to be ministered to Edward Josselyn, esquire, produced on the part and behalf of George Harlakenden, clerk, complainant, against Thomas Josselyn, esquire, defendant

Inprimis, whether have you heard or do you know that Jane, late the wife of Roger Harlakenden, esquire, did in her lifetime make claim to the deed of the advowson of the parish church of Nether Yeldham, and whether did she say that the right, property and interest of the said deed of the said advowson did of right belong unto her, the said Jane, and that the assignment or delivery of the said deed of the said advowson made to one Henry Josselyn, her brother and father to the said defendant, was but in trust only to her use only, and not otherwise?

Item, whether have you heard or do you know that Anne Josselyn, widow of the said Henry Josselyn, was executrix or administratrix of the goods and chattels of the said Henry Josselyn, her late husband, and whether did the said Anne in her lifetime dispose of or give the said advowson to any person? If yea, to whom, and whether hath or did the same person to whom the said Anne did give or dispose the said deed likewise give, sell or convey away the said deed and her interest thereunto to any other person? If yea, to whom? And what further can you depose or say touching or concerning the said advowson?

hec examinacio vacat per ordine [=This examination voided by order]

LM: vacat per

Roger Harlakenden of Earls Colne in the county of Essex, esquire, aged 56 or thereabouts, sworn & examined the 6 of February Anno 37 Elizabethhe Regine [=6 February 1595], deposeth & saith as followeth:

1 That he knoweth both the parties, plaintiff & defendant, & he saith the one of them is his own nephew, & the other is his nephew by marriage.

2 That he knoweth & is most assured that the right honourable Edward, now Earl of Oxenford, about the time mentioned in the said interrogatory, viz., the 17 year [=1574/5] of the reign of her Majesty that now is, by his deed bearing date about that time did grant unto the said Richard Kelton, deceased, the first & next avoidance or presentation to the church of Nether Yeldham in the county of Essex, & he came to the assured knowledge thereof by seeing the deed of the said presentation granted by the said Earl, for this deponent, coming into that country, married the widow of the said Richard Kelton.

4, 3 To the 3 & 4, that at such time as this deponent was a suitor to Mrs Kelton, the widow of Mr Richard Kelton to whom the said Earl granted the said presentation, & was thought likely to speed of his wife, some of her friends, doubting, fearing or not well knowing this deponent's estate, advised her secretly to make over such things as she had to her friends she trusted best, that whatsoever happened she might be sure of her own, & she herself, though she hoped well, yet considering their counsel was good, gave her consent to the same, & thereupon she conveyed divers things to divers persons, her friends, in trust, & amongst the rest this grant of presentation she granted to Mr Henry Josselyn, being her own brother & the defendant's father, but after their marriage, when she left all doubting, & knew this deponent's estate to be good, she told this deponent of that she had done, & was willing he should have those things in his own possession & keeping, whereupon this deponent meeting with his brother Josselyn at Romford in Essex, amongst other speeches said thus unto him, 'Brother Josselyn, I have heard my wife speak of a grant made by my Lord of Oxford to her late husband, Mr Kelton, of the presentation to Yeldham parsonage, & I understand you have it; I would willingly see it', & Mr Josselyn answered, 'Brother, it is in my keeping, & I am willing to deliver it unto you when you will, & when you come to my house at Torrells Hall, I pray you call for it & you shall have it, & if your occasion be to use it sooner, I pray you send for it & it shall be sent you', & he saith that his said wife told him that her assignment of the said grant to Mr Josselyn was only in trust, & was done by her said brother's persuasion, & Mr Josselyn himself also confessed the same to this deponent, & he saith he never heard of any considerations given by the said Henry Josselyn for the same, & he hath heard his late wife say many times & often that she knew & was well assured that if her said brother, Mr Henry Josselyn, were living when this thing was drawn in question by the defendant, her said brother would not for a thousand pounds have made any challenge to the same or have claimed the same, being but put in trust with it to his sister's use, & more he saith not to these articles.

5 That he hath divers times heard his late wife & others also report that in her widowhead she conveyed to her brother-in-law [sic?], Mr Thomas Kelton, & to his sister, Mrs Jane

Kelton, the third part of the goods & chattels which were her late husband's, as he taketh it, & thus much he hath heard by Mr Josselyn's reports also, & that by virtue of this grant Mr Thomas Kelton & his said sister have divers times claimed & do now claim the 3 part of the presentation aforesaid, but whether the 3 part of that presentation do pass by that grant or not he knoweth not.

[The following paragraph crossed out in the original]

That the said Jane, this deponent's late wife, did in her lifetime make claim to the said advowson as to her own goods, viz., unto two parts thereof, allowing the 3 part thereof to pass by virtue of the said grant made as is aforesaid to Mr Thomas Kelton & his sister, & claimed also 2 parts in her lease & allowed a 3 part thereof to pass by the said grant, & she enjoyed, used & occupied her said lease of Colne Priory, & some other of her goods notwithstanding they was assigned over to Mr Gates in trust, & as for the presentation, she had no use for that till the time came of presentment, & more he saith not to this interrogatory.

Roger Harlakenden

[Endorsed]

Harlakenden contra Josselyn

+Roger Harlakenden
+ Robert Cobbe
+John Tanner
+Edward Josselyn

Hillary 37 Elizabethhe Regine

19 ffebruarij Anno 37 Elizabethhe Regine [=19 February in the 37 year of Queen Elizabeth
[=19 February 1595]]

Robert Cobbe of Earls Colne in the county of Essex, yeoman, of the age of 31 years or thereabouts, sworn & examined the 19th of February in the year aforesaid, deposeth etc.

1 interrogatory. That he knoweth the parties, plaintiff & defendant.

2 That this deponent hath seen a deed under the hand & seal of the right honourable the now Earl of Oxford, the date whereof he doth not now remember, by which deed the said Earl did grant unto Richard Kelton, gentleman, deceased, named in this interrogatory, the first & next avoidance, presentation & free disposition of the parish church of Nether Yeldham in the said county of Essex mentioned in this interrogatory.

3 That he cannot depose.

4 That at the assizes holden at Chelmsford in Essex in summer last was seven years [=1587], as he now remembereth, he, this deponent, heard the said Henry Josselyn named in the interrogatory, father to the said defendant, being produced as a witness in a cause between one John Aylmer, plaintiff, & Roger Harlakenden, esquire, defendant, say upon his oath that the said Jane Kelton named in this interrogatory, sister to the said Henry Josselyn, was in the time of her widowhead persuaded by himself & other her friends to assign & convey over such things as she had to her friends in trust to her use, and further the said Henry Josselyn then said that the reason why they persuaded her thereunto was for that a marriage was likely to be had between the said Roger Harlakenden & her, the said Jane, the said Roger being a mere stranger in the country and unknown to her friends, and lest he should not prove a man of that ability to maintain her as they had hoped for, they persuaded her so to assign and convey over such her things to her friends in trust as aforesaid, to th' end that if he, the said Roger Harlakenden, should not prove a man of that ability they took him to be, she might be relieved with her own, and that upon that persuasion, she, the said Jane, did assign one lease of the site & demesnes of Colne Priory to one Geoffrey Gates, gentleman, & some things to him, the said Henry Josselyn, in trust as aforesaid, and further to this interrogatory he saith he cannot depose.

5 That of his own knowledge he can depose nothing, but hath credibly heard said that the said Jane did in her widowhead give and convey unto Thomas Kelton, gentleman, & Jane, his sister, named in this interrogatory a third part of all or of the most part of the goods & chattels which were the said Richard Kelton's while he lived, but whether a third part of the grant of the said advowson did pass by the said gift unto the said Thomas & Jane, his sister, or not this deponent knoweth not, nor more can depose to this interrogatory.

6 That he, this deponent, hath heard the said Jane in her lifetime about 8 or 9 years since make account & reckoning of the said deed of the said advowson as her own proper goods, and that it was meant and intended both by her, the said Jane, and he, the said Roger Harlakenden, her husband, that George Harlakenden, the now complainant, should have the benefit thereof when the same should become void, and this deponent further saith that he knoweth that notwithstanding the aforesaid assignment she, the said Jane, & the said Roger Harlakenden, her said husband, did enjoy the said lease of the said site & demesnes of Colne Priory, and further to this interrogatory he cannot depose.

Robert Cobbe

John Tanner of Cliffords Inn, one of the attorneys of her Majesty's Bench at Westminster, aged 43 or thereabouts, sworn & examined the 27 of February Anno 37 Elizabethhe Regine [=27 February 1595], saith etc.

1 That he knoweth both the parties, plaintiff & defendant.

2 To the 2, he can depose nothing material, but such a speech he heard since the beginning of this suit as this interrogatory mentioneth, & before the suit began, viz., immediately upon the death of the last incumbent he heard such a thing spoken of, but he knoweth nothing thereof whereby he may safely depose anything touching the same.

3 To the 3, he cannot depose anything material.

4 That this deponent was towards a cause & attorney for the same between Mr Roger Harlakenden or some other his farmer & one John Aylmer, which cause upon an issue joined between them received a trial at the assizes at Chelmsford about seven years now past, & the issue was whether Jane Kelton, being then the wife of Mr Roger Harlakenden, did in her widowhead & before her marriage with him convey a lease of the site of the manor of Colne Priory & of other lands in the same lease conveyed to one Mr Gates of Lincolns Inn, & he doth very perfectly remember that Mr Henry Josselyn was produced for a witness for Mr Harlakenden & brought in to testify on his part, & the evidence Mr Josselyn then gave was to this effect, viz., that at or about such time as there was a determination or conclusion of a marriage to be had between the said Roger Harlakenden & Mrs Kelton, being the sister of the said Mr Josselyn, Mr Harlakenden being not that countryman, but unknown unto her & her friends, & his estate uncertain what it might prove whether good or ill, it was thought by her fit in discretion, & advised by him & others her friends as good policy, to make such things over to her friends in trust as she then had in her hands, & he named then the site of Colne Priory as a thing that was conveyed upon the same advice & consideration, & he said directly & there deposed that she did convey over the said lease of the site of Colne Priory & such other things as were in the said lease contained to the said Mr Gates in her widowhead, & this he saith he very assuredly remembereth, for the trial of the said cause was against the said Aylmer, the client of this deponent, & that either there was a verdict given against his said client or else his client was non suit upon that evidence given, & more he cannot say touching this interrogatory.

5 That he hath heard that the said Jane did in her widowhead make a conveyance of goods to Mr Thomas Kelton & his sister, but of what part or how much she conveyed this deponent cannot depose.

6 That he cannot say anything more to this or any other of these articles, saving that he well knoweth that Mr Harlakenden did enjoy the said lease of Colne Priory after marriage with his wife, & was of all men accounted the proper owner thereof for anything this deponent knoweth or hath heard to the contrary, & he well knoweth that he did let it, sell it, dispose of it, & every way deal with it & use it as men do by their own, & this he knoweth the better for that the Lord of Oxford, being the owner of the inheritance of the same, this deponent was steward both of that & other things the said Earl had thereabouts, & also he dwelled then & dwelleth now within 2 or 3 miles of the same.

John Tanner

Edward Josselyn of High Roding in the county of Essex, esquire, of the age of 47 years or thereabouts, sworn & examined the 15th of May in the year aforesaid.

1 That he remembereth that Jane, late wife of the said Roger Harlakenden, named in this interrogatory, did demand of him, this deponent, the deed of the advowson of the parish church of Nether Yeldham, and said it did belong unto her, with many more words & speeches which this deponent cannot now call to present remembrance, but as he remembereth, the effect of her speech was that the advowson made over to the said Henry Josselyn was a thing done in trust, or words to such effect.

2 That as far as he remembereth, the said Anne Josselyn, widow of Henry Josselyn, was executrix of the goods & chattels of the said Henry Josselyn, the which Anne in her lifetime did give the said advowson to him, this deponent, and he saith that he, this deponent, did afterward give the said advowson unto his brother-in-law, the said Roger Harlakenden, and all his right and interest therein.

Edward Josselyn

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Geoffrey Gates of Carbrooke in the county of Norfolk, esquire, of the age of fifty years or thereabouts, sworn and examined the 22nd of May in the 37th year [=27 May 1595] etc.

To the first, he saith that he knoweth the defendant, but not the complainant.

To the second, he saith that he did once see the grant of an advowson by the said Earl of Oxon unto Richard Kelton of a church in Essex, but what date it bore or what was the name of the church this deponent remembereth not, & this deponent saw it in the chest of the defendant in his mother's lifetime, being required by her to look for divers writings she then had occasion to use, and at the said time or shortly after in the presence of this examinant she gave it unto Mr Edward Josselyn, her husband's brother, to this deponent's remembrance.

To the third, he saith that at the same time the said Anne Josselyn, widow, mother of the defendant, told this deponent that the said Jane Kelton, widow, had given the said advowson unto Henry Josselyn, her husband, but th' assignment thereof this examinant never saw nor could find at that time, nor knoweth whether there be any such or no, but only that of late he hath heard Thomas Josselyn, the defendant, say that he hath an assignment of it made to his father, & he thinketh he would not have so said except it were true, but this deponent doth not think that there was any money given for it by the said Henry Josselyn, & to what use it was given this examinant knoweth not, but that, as he remembereth, he once heard the said Jane Kelton say it was upon trust to her own use; otherwise, the great goodwill which was between them considered, this deponent would

have thought she had meant it to the benefit of some one of her sons if he had proved meet for the ministry.

To the 4th, he saith to his remembrance he never heard of the said confession of the said Henry Josselyn but of Mr Roger Harlakenden of Colne, husband of the said Jane, & Jane herself, for he was not at the assizes when the matter was tried, but he verily believeth there was such an assignment, and as this deponent was informed by the said Roger Harlakenden long before this suit commenced, this deponent's name was used in it as upon trust, & his hand to it, but yet this deponent hath forgotten it, but if he saw it, he well knoweth his own hand, & therefore the reason of the making thereof, except this deponent saw it he cannot remember, but he assuredly thinketh it was but upon trust to her own use.

To the 5, he saith he hath often heard of the said Roger & Jane, his wife, & of the said Thomas Kelton and the said Henry Josselyn in his lifetime that the said Thomas & Jane, his sister, were to have a third part of all the goods which were the said Richard Kelton's in his lifetime, but whether by his will or by her assignment this deponent, as(?) a thing little pertaining to him, never enquired.

To the 6, as he thinketh, but his remembrance is not perfect therein, the said Jane at one time as he came out of Norfolk to London or else from London into Norfolk by Colne where the said Jane, his cousin-german did dwell, she did ask this deponent if he never saw the advowson amongst the writings of her sister, the widow Josselyn, & this deponent said yes, and to his remembrance told her that the said widow Josselyn had given it unto the said Edward Josselyn as is before said, & she answered it was not hers to give, but he certainly remembereth she was earnest with this deponent about an £100 of money which she left in trust with the said Henry Josselyn, her brother, to have it paid, and to his knowledge her husband & she always enjoyed all her goods, notwithstanding her assignment, during her life.

Geoffrey Gates

The said Geoffrey Gates, being further examined upon other two interrogatories in a several piece of parchment, by virtue of his oath deposeth & saith:

To the first, he can no further say than before he hath said.

To the second, he saith to his remembrance the said Anne Josselyn was by her husband's will made executrix & did administer his goods, but whether by virtue of his will or by letters of administration taken by her he knoweth not, neither can say any further to it than before but that he hath heard his cousin, Edward Josselyn, say he delivered the said advowson unto Roger Harlakenden upon his request, & at another time, before the delivery, talking with the said Edward of it, this deponent asked him why he did not inquire whether the incumbent were in life or no, lest his advowson, not being known of,

any other might present, & so breed him trouble if he meant to take profit of it, and as he thinketh, the said Edward told him then that his sister Harlakenden made claim to it, and further he cannot depose.

Geoffrey Gates

Thomas Kelton of Petworth in the county of Sussex, esquire, aged 42 years or thereabouts, sworn and examined the 23 of May Anno 37 Elizabethhe Regine [=23 May 1595]

To the first interrogatory, he saith he knoweth the parties, plaintiff & defendant.

To the second, he knoweth that the Earl of Oxenford that now is, about the time mentioned in the same interrogatory, did give and grant unto Richard Kelton, gentleman, deceased, the first and next avoidance, presentation and free disposition of the parish church of Nether Yeldham in the county of Essex, and this he the better knoweth for that the said Richard Kelton was uncle to this deponent, and one whom this deponent attended on at the time of obtaining the same advowson from the said Earl, and this deponent hath sundry times read the writing of the said advowson, being under the hand and seal of the said Earl.

To the third, this deponent saith that he knoweth that Jane Kelton, late wife of the said Richard Kelton, was administratrix of the goods and chattels of the said Richard, and this he knoweth for that one John Josselyn, gentleman, brother unto the said Jane, going about to obtain & get th' administration of the said goods & chattels in the said Jane's name alone, could not have it so to her granted for that the interest of the full third part of all and singular the goods, chattels & debts of the said Richard were in his lifetime, being in perfect memory, by him given and granted to this deponent and Jane, his sister, after which time this deponent, upon the especial trust and confidence he reposed in the upright and just dealing of the said Jane, did himself obtain, in the said Jane's name only, the said administration, nevertheless under this condition, that the said Jane should equally and justly deliver and assure unto the said deponent and Jane, his sister, the full third part of all the said goods, chattels and debts of the said Richard, for performance whereof there was by Henry Josselyn, esquire, brother to the said Jane, and other friends indifferently chosen by both parties, an allotment & proportion thereof set down and agreed upon by both parties, and for more indifferency and better performance of the said agreement there was in trust only and by consent of both parties delivered by this deponent into the hands and custody of the said Henry Josselyn not only the said writing of the said advowson but also a lease of the site & demesnes of Colne Priory before that granted from the said Earl of Oxenford to Richard Kelton, and divers other goods and things upon mere trust to keep to the use of both parties and not otherwise, which lease for divers good & necessary causes agreed upon by the said Jane Kelton th' elder and this deponent and Jane Kelton, his sister, was in trust assigned and set over to one Geoffrey Gates of Lincolns Inn, gentleman, cousin-german to the said Jane th' elder,

notwithstanding which assignment the said lease remained in the hands and custody of the said Henry Josselyn of purpose to be kept in safety and security for both parties, and this this deponent knoweth for that he and the said Jane, his sister, had interest to the third part of the said advowson, who of their said third part never gave any assurance or release by writing or otherwise to any person thereof, but held the same for his own and his said sister's benefit, and hath to sundry persons made offer of sale of the said advowson, and that if there were any assignment made of the said advowson by the said Jane unto the said Henry he, this deponent, verily thinketh & is persuaded the same to be but of mere trust, for that they both knew she had interest as she had to all the residue of the goods and chattels of the said Richard, her husband, but unto two parts only of the said advowson, and that there was not any intention in the said Jane to defraud him and his said sister of their said third part thereof, nor that the said Henry would give consent in any other sort, being a man of good and conscionable condition and carriage towards all men, considering the trust reposed by this deponent in the said Henry for safety of his interest therein, the contrary whereof in his lifetime he never uttered or showed to this deponent or any other to his knowledge.

To the 4th and 5th interrogatories, this deponent saith as before he hath deposed to the third interrogatory, and more he cannot say.

To the 6th, this deponent saith that to his knowledge the said Jane never made claim or challenge to any further or other interest in the said advowson or any other the goods and chattels of the said Richard but only unto two parts thereof, and further that he, this deponent, being in account with Roger Harlakenden, esquire, her husband, for sundry reckonings betwixt them at the house of the said Roger in Earls Colne in the county of Essex about the 11th day of January 1589 [=11 January 1590], this deponent made demand and asked allowance of the said Mr Harlakenden of the third part of the said advowson, and that in the presence of Clement Stonard & William Harlakenden, gentleman, at which time and place the said Jane, being present, gave her consent thereunto, and willed the said Roger Harlakenden, then her husband, to agree and conclude thereupon.

Thomas Kelton