

SUMMARY: The documents below are the bill of complaint, dated 19 April 1594, in a lawsuit brought in Chancery by Roger Harlakenden (d.1603) against John Bowser, the answer of John Bowser dated 29 April 1594, and the replication of Roger Harlakenden. Harlakenden's claim was dismissed with costs against him by a decree entered on 14 June 1596 (see TNA C 33/92):

Roger Harlakenden, plaintiff, against John Bowser, defendant. Forasmuch as in the entering into the hearing of the matter in question between the said parties this present day it appeareth that the only chief question between the said parties is whether the parcel of land in question called Galles be parcel of the manor of Sheriffs in the county of Essex or the manor of Colne Priory in the said county of Essex, which point or question is meet to be tried at the common law, where a verdict passed against the plaintiff's title before this plaintiff exhibited his bill to this Court;

It is therefore ordered that the matter be clearly dismissed out of this Court to be determined by the course of the common law;

And because the plaintiff brought the matter into this Court after the said verdict had passed against him at the common law, and after such time as the plaintiff had taken the said parcel of lands by several leases from the defendant and from his late father and had paid rent to them divers years for the same, and yet the plaintiff sought in this Court to disprove the defendant's title, therefore the plaintiff shall pay to the defendant 4 marks for his costs wrongfully sustained for this suit.

This lawsuit has a bearing on Oxford's lawsuit against Roger Harlakenden for fraud in the sale of Colne Priory. Oxford claimed that Harlakenden had documents in his possession pertaining to properties of Oxford's which Harlakenden had not purchased, and in his bill of complaint below Harlakenden admits that he had many such documents in his possession:

There came to his hands & possession remaining in the mansion house of the said manor of Colne Priory divers deeds, charters and evidences concerning the said premises, and some that did concern other lands & tenements which lately were the said Earl of Oxenford's

Moreover John Bowser's answer contains the statement that Harlakenden had not dealt honestly with Oxford in the sale of Colne Priory:

The said complainant having purchased or intending to purchase of the said Earl of Oxenford the priory of Colne in the said bill of complaint mentioned, as this defendant hath been informed, in which purchase the said complainant, as this defendant hath been informed, did not use the plainest dealing with the said Earl then putting him in trust and being his lord and master

For the will, dated 13 June 1585 and proved 7 February 1587, of John Bowser's father, Richard Bowser, who purchased the manor of Sheriffs from Oxford, see TNA PROB 11/70, ff. 70-1.

LM: Huberd xix die Aprilis 1594

To the right honourable Sir John Puckering, knight, Lord Keeper of the Great Seal of England [final word obscured by fold in page]

In his most humble manner complaining, showeth unto your honourable Lordship your daily orator, Roger Harlakenden of Earls Colne in the county of Essex, esquire, that whereas the right honourable the Earl of Oxenford that now is, being lawfully seised in his demesne as of fee or of some other estate of inheritance of & in the site of the manor of Colne Priory commonly called Colne Priory or Colne House, and of and in all the demesne lands, tenements and hereditaments with th' appurtenances thereunto belonging situate & being in Earls Colne & Colne Engaine in the said county of Essex;

And the said Earl so being seised of & in the said premises, by his indenture of demise & grant for the considerations therein specified did demise, grant & to farm let unto your Lordship's said orator, amongst other things, all that the site of the manor of Colne Priory commonly called Colne Priory or Colne House with all gardens, orchards, ponds, fishings, courts, yards, barns, stables, buildings & edifices thereunto belonging, together with all the tithe corn belonging to the parsonage of Earls Colne in the said county of Essex, and also all the lands, meadows, pastures, fields, feedings & demesne lands with th' appurtenances at any time belonging or appertaining to the said late priory or which then were or by the space of twelve years last past before the making & date of the said indenture have been taken, used, occupied or enjoyed by your said orator, Jane, his wife, or Richard Kelton, gentleman, or his or their assigns, to have & to hold all & singular the said demised premises with th' appurtenances and any part & parcel thereof to your said orator, his executors, administrators & assigns, from the feast of St Michael th' Archangel last past before the date of the said indenture for & during the term of twenty & one years from thence next ensuing fully to be complete & ended under the yearly rent, covenants & agreements mentioned & contained in the said indenture on the part of the farmer of the premises to be observed, as by the same indenture dated the second day of January in the thirtieth year [=2 January 1588] of the reign of our Sovereign Lady Queen Elizabeth more at large it doth & may appear;

By reason whereof he being lawfully possessed of & in the said premises, there came to his hands & possession remaining in the mansion house of the said manor of Colne Priory divers deeds, charters and evidences concerning the said premises, and some that did concern other lands & tenements which lately were the said Earl of Oxenford's, by occasion whereof in or about the month of September in the one & thirtieth year [=September 1589] of the reign of our said Sovereign Lady the Queen's Majesty that now is John Bowser, citizen & merchant of London, then servant unto the right honourable Sir

Christopher Hatton, knight, late Lord Chancellor of England, deceased, whose father not long before purchased of the said Earl of Oxenford the manor of Sheriffs near adjoining to the said manor of Colne Priory, came unto your Lordship's said orator's house to speak with him, and the said John Bowser then brought with him a letter from his said late lord & master directed to your orator, the tenor whereof followeth, videlicet: 'After my very hearty commendations, whereas I am informed you have in your custody certain court rolls & other evidences which do concern the manor of Sheriffs in Essex which is adjoining to Colne Priory, forasmuch as the same do properly belong to this bearer, my servant, John Bowser, as rightful lord of that manor, these shall be to pray & require you that upon the receipt hereof you will make diligent search for such writings as any way appertain to the said manor, and to deliver the same to my said servant at his repair unto you for them the next week, at which time he shall have cause to use them, being the rather moved to require thus much of you for that my servant doth undertake he will not impeach your possession of any such lands as are belonging to the said manor during the term of your lease in the said priory, which offer I find so reasonable as I think you cannot well deny his demand herein, in the accomplishment whereof I shall take myself pleased at your hands, and so I bid you heartily farewell from London, the 11th of September, 1589', as by the said letter subscribed by the proper handwriting of the said late Lord Chancellor it doth appear;

By reason of which said letter your Lordship's said orator, in accomplishment thereof, accordingly did gratify the said John Bowser, & gave him access & liberty to come where those said evidences & writings were likely to be to peruse & search for them amongst very many deeds, writings & evidences which then remained in your orator's house, where your orator & the said John Bowser, having found many deeds which your orator thought might concern the said John Bowser, whereupon your orator did deliver to him about the number of 17 deeds, evidences & writings, and your orator having urgent occasion to be called away from the place where the said search was made to the keeping of his court at Earls Colne, and having conceived & had a good opinion & confidence in the honest, friendly & faithful dealing of the said John Bowser towards him, therefore he reposed such especial trust in him as your orator departed to the said court and was contented in his absence to permit him, the said John Bowser, & one (blank) Smith, a scrivener of London with him, to search amongst the said evidences & writings upon the said John Bowser's faithful promise that he would stay until your orator should return, and would not remove any of the said deeds & evidences without the consent & privity of your orator;

But now so it is, if it may please your honourable good Lordship, that the said John Bowser, intending as it seemeth as much as in him lieth to challenge or encroach more lands or tenements than to him of right appertained by colour of the said purchase & of having of the deeds & evidences that might testify & bewray the truth, he having in the said search in your orator's absence found many deeds & evidences concerning the manors of Earls Colne & Colne Priory and the lands & tenements thereunto belonging which since your said orator hath lately purchased in the name of his son, Richard Harlakenden, by good & lawful conveyance of the said Earl of Oxford, the said John Bowser did, at the time of his said searching or immediately thereupon, take & carry away or cause to be

taken & carried away out of your orator's possession many deeds, evidences & writings touching the inheritance of your Lordship's said orator's son of & in the said manor of Colne Priory contrary to the trust reposed in the said John Bowser as aforesaid, and so he, having obtained the possession of those deeds, evidences & writings, departed with them from your orator's said house before your orator's return to him again from his said court as aforesaid, and he having thus obtained the said writings into his hands, he hath of late entered upon a piece of ground called or known by the name of the Galle, parcel of the said manor of Colne Priory which is your orator's said son's inheritance, & pretendeth to have good right & title thereunto, contrary to all right, equity & good conscience, to th' utter disinherison of your Lordship's said orator's son concerning the same, except some good order be in that behalf speedily provided by your good Lordship;

In consideration whereof, & for that your orator doth not know the certainty of the writings which he delivered to the said John Bowser nor of those deeds, evidences & writings which he took away from your orator's house in his absence as above, and for that your orator hath not any witness to prove that the said John Bowser did take away any of those said deeds, evidences & writings concerning the said parcel of land called the Galle as aforesaid or any other of the lands & tenements of your orator's [obscured by fold in page] the same was done in your orator's absence & secretly, neither doth he know the certain number [obscured by fold in page] or whether they be contained in bag or box sealed or chest locked, and therefore your Lordship's said orator is remediless for recovery thereof at & by the strict order & course of the common laws of this realm, howbeit in equity & conscience he is to be relieved in that behalf, and for that your orator hopeth that the said John Bowser upon his oath by way of his answer into this honourable Court will declare the truth touching the premises, that it may therefore please your good Lordship, the premises considered, to grant to your said orator the Queen's Majesty's writ of subpoena to be directed to the said John Bowser, commanding him thereby at a certain day & under a certain pain therein to be limited personally to appear before your good Lordship in her Highness' High Court of Chancery then & there directly to answer to the premises, and also to stand to & abide such further order & direction therein as to your good Lordship shall seem consonant to equity & good conscience, and in the meantime that he may be enjoined by th' order of this honourable Court to bring into this Court all such deeds, evidences & writings as any way concern the said premises or any part thereof belonging to your said orator or his said son, to th' end that they may be restored to him or them, or else to be safely kept in some indifferent place to his or their use until such order be in that behalf taken, and your Lordship's said orator shall daily pray to Almighty God for the prosperous preservation of your good Lordship's estate long to continue.

Fuller

LM:Sherbam(?)

Iuratus 29 Aprilis 1594 coram Mat: Carew

The answer of John Bowser, defendant, to the bill of complaint of Roger Harlakenden, complainant

The said defendant by protestation saith that the said bill of complaint against him exhibited into this honourable Court is very untrue, incertain and insufficient in the law to be answered unto for many manifest and apparent imperfections therein contained, and that the same was devised of very set purpose, as this defendant thinketh, by the said complainant, being of a contentious and troublesome disposition, to vex and trouble this defendant by unjust suits and quarrels in law, and not upon any just ground or lawful cause of suit, and that this defendant is not compellable by the ordinary course of this honourable Court to make any answer thereunto;

Nevertheless if this defendant shall be ordered by this honourable Court to make any further answer thereunto, then the advantage of the incertainty and insufficiency thereof to this defendant at all times hereafter served [sic], he, this defendant, for full answer to as much of the said bill of complaint as is any way material or effectual in law or equity to be answered unto, saith that the right honourable Edward, now Earl of Oxenford, in the said bill of complaint mentioned, about the month of June in the six and twentieth year [=June 1584] of her Majesty's reign, being seised in his demesne as of fee or fee-tail of and in the manor of Sheriffs in the county of Essex and of divers lands, tenements & hereditaments thereunto belonging and therewith used and occupied, did by good and lawful assurance and conveyance in law assure and convey to Richard Bowser, deceased, father of the said defendant, and to his heirs and assigns, the said manor of Sheriffs with the appurtenances, and also all lands, meadows, pastures, rents, reversions, services and hereditaments to the said manor belonging or appertaining or therewith used or occupied or reputed and taken as any part, parcel or member thereof or belonging or appertaining thereunto, set, lying and being in Colne Engaine and in other towns in the said county of Essex, as by the perusal of the said deed more at large may appear, of which said premises the said parcel of ground in the said bill of complaint mentioned called the Gawle and divers other parcels of ground now in the possession of the said complainant are parcel, as this defendant thinketh;

By virtue whereof the said Richard Bowser was of the said manor and other the premises seised in his demesne as of fee, as this defendant verily thinketh, and being so seised, did take the issues, revenues and profits of the said manor & also of the said parcel of ground called the Gawle during his life, and did demise(?) the said parcel of ground called the Gawle to sundry persons from year to year or at will, and amongst other to the said complainant, which did continually pay the rents reserved out of the said parcel of ground called Gawle to the said Richard Bowser during his life;

And he, the said Richard, being of the premises as is aforesaid seised, died thereof seised, by and after whose decease the said manor and other the premises descended and came, as of right they ought to descend and come, to the said defendant as son and heir of the said Richard Bowser, by virtue whereof he, the said defendant, entered into the said manor and other the premises and was thereof lawfully seised in his demesne as of fee, as this defendant verily thinketh, and being so seised, the issues, revenues and profits of the said

manor had and did take and receive, and the said complainant, being then farmer and occupier of the said parcel of ground called the Gawle by the demise of the said Richard Bowser at will or from year to year, & sithence the decease of the said Richard by the demise of this defendant, did pay the rents thereupon reserved to this defendant divers years until, about the thirtieth or one & thirtieth year [=1588-9] of her Majesty's reign, the said complainant having purchased or intending to purchase of the said Earl of Oxenford the priory of Colne in the said bill of complaint mentioned, as this defendant hath been informed, in which purchase the said complainant, as this defendant hath been informed, did not use the plainest dealing with the said Earl then putting him in trust and being his lord and master, as this defendant hath heard after or not long before, which his said purchase so by him made as aforesaid, the said complainant refused to pay the said rent reserved as is aforesaid to this defendant for the said parcel of ground called the Gawle, whereupon the said defendant did enter thereinto, and was thereof lawfully seised in his demesne [+as] of fee, upon whom the said complainant re-entered and was thereof seised in his demesne as of fee as by disseisin;

And being so seised, the said defendant did in or about the term of Easter in the five and thirtieth year [=Easter 1593] of her Majesty's reign bring his action of trespass at the common law against the said complainant for the cutting down of certain trees in the said parcel of ground called the Gawle growing, and thereupon did declare against him accordingly, whereunto he, the said complainant, pleading not guilty, the which action came to trial at the last assizes holden at Chelmsford for the county of Essex, where the said complainant, not having any certain title to rely upon, but using colourable shifts for the maintaining of his pretended title, as this defendant hath heard, was nevertheless found guilty of the said trespass by verdict of twelve men, and damages were assessed also for the same trespass, and upon the said verdict judgment hath been given for this defendant against the said complainant this present term of Easter [=Easter 1594], as this defendant is informed, and therefore this defendant doth demand judgment of this honourable Court whether after a lawful descent of the said(?) parcel of ground called the Gawle, and after a verdict & judgment also had in form aforesaid, the same Court will proceed to any further examination of the title of this defendant in and to the said parcel of ground called the Gawle;

And as to the residue of the matters in the said bill of complaint mentioned, and first as to the pretended lease in the said bill of complaint mentioned surmised to be made by the said Earl of Oxenford to the said complainant of the site of the manor of Colne Priory with divers other lands and tenements in the said bill of complaint mentioned, this defendant saith that he cannot conceive to what purpose the said complainant doth make mention of the said lease in his said bill of complaint, for this defendant saith that the said lease can in no wise impeach the interest and title of this defendant in the said manor of Sheriff's nor(?) any part or parcel thereof, the same lease being made divers years after the said purchase of this defendant's father of the said manor of Sheriffs;

And if the said complainant have any purpose or intention, by colour(?) of inserting the said lease into his said bill of complaint, to examine witnesses for the proof thereof to the prejudice of any other person not party to this suit interested in the lands or tenements

by the said lease pretended to be demised to the said complainant, he, this defendant, demandeth judgment of this honourable Court whether he, the same complainant, by any such subtile practice or devise shall be admitted to examine any witnesses for the proof of the said lease to any such purpose;

But if the said complainant's meaning by the mentioning of the said lease be to entitle himself to the evidence of the said Earl in the said priory house then being concerning the said Priory of Colne, he, this defendant, saith that as he is told by his learned counsel, he, the same complainant, can by no means entitle himself to those evidences by the same lease for that there is no special grant thereof contained in the said lease, so as the interest of the said evidences did remain, notwithstanding the said demise, in the said Earl, & the custody and trust thereof only to the use of the said Earl being in the said complainant, so as if the said complainant did take upon him to deliver any of the said evidences in the said bill of complaint mentioned to this defendant or any other without warrant for the delivery thereof from the said Earl, the same did discover him, the same complainant, to be a man of small trust and of large conscience, and little regarding the truth and faith that he ought to bear to the said Earl, then his lord and master;

And this defendant further saith that true it is that this defendant about the time in the said bill of complaint mentioned came to the said complainant, then dwelling at the said priory house of Colne, being recommended to him by the letters of the late right honourable Sir Christopher Hatton, knight, late Lord Chancellor of England, for the obtaining of him such evidences then and there being which concerned the said manor of Sheriffs, being this defendant's inheritance, which evidences the said Earl of Oxenford had bargained and sold to this defendant's father, whereupon the said complainant gave licence to this defendant & one Smythe, then procured by this defendant, to make search amongst the said evidences of the said Earl in the said priory house then being for some evidences concerning the said manor of Sheriffs, and whether upon that search they found any such evidences or no this defendant doth not now remember, but this defendant is verily persuaded that if there were any then found, and if he, this defendant, did carry any evidences away with him at that time, they were none other than such as concerned the said manor of Sheriffs, and such as were delivered by the said complainant's own hands or consent to this defendant;

Without that the said Earl of Oxenford did by his indenture bearing date the second day of January in the thirtieth year of her Majesty's reign demise to the said complainant the site of the said manor of Colne Priory and other the lands, tenements and hereditaments in the said indenture mentioned to the knowledge of this defendant;

And without that to the now remembrance of this defendant the said complainant upon any such search as in the said bill of complaint is mentioned did deliver to this defendant about the number of seventeen deeds, evidences and writings, as in the said bill of complaint is untruly alleged;

And without that that this defendant hath any intent or purpose by colour of the said purchase of the said manor of Sheriffs or by having any deed or evidences by the delivery

of the said complainant or otherwise to challenge or encroach to himself more lands and tenements than to him of right do appertain, as in the said bill of complaint is untruly alleged;

And without that this defendant in the said search made in the absence of the said complainant did, to the knowledge or remembrance of this defendant, carry away from the said priory house any deeds or evidences concerning the manors of Earls Colne and Colne Priory, or that he did take or any way cause to be taken and carried away out of the possession of the said complainant any deeds, evidences or writings touching the inheritance of the said complainant in the said manor of Colne Priory to the knowledge of this defendant contrary to any supposed trust reposed in this defendant, as in the said bill of complaint is also very falsely surmised;

And without that this defendant, having obtained the possession of the said deeds and evidences and writings, departed [] from the said complainant's house before any such supposed return of the said complainant from his said court to the now remembrance of this defendant, for as this defendant doth remember, he did take his leave of this complainant before he departed from the said house;

Or that this defendant hath made any entry into the said parcel of ground called the Gawle other than is and hath been lawfully [sic?] for him to do, as he verily thinketh;

Or that the said parcel of ground called the Gawle is parcel of the said manor of Colne Priory, as in the said bill of complaint is very untruly alleged;

And without that any other matter or thing in the said bill of complaint mentioned and in this his answer not sufficiently answered, confessed and avoided, traversed or denied, is true;

All which matters the said defendant is ready to aver and prove as this honourable Court shall award, and prayeth to be dismissed with his reasonable costs and charges by him wrongfully sustained in this behalf.

Ruggeley

LM: Hubberd

LM: Huberd

The replication of Roger Harlakenden, esquire, complainant, to the answer of John Bowser, defendant, mr(?)

The said complainant for replication saith that his said bill of complaint is very true, certain and sufficient in the law to be answered unto, and that the same is grounded upon

just and lawful cause of suit, and this complainant doth and will aver, maintain and prove the same and every matter and thing mentioned and contained in the said bill of complaint to be true in such sort, manner and form as therein the same been very truly expressed and declared;

With this that the said John Bowser, intending to challenge more lands and tenements than to him of right appertaineth by colour of having the deeds and evidences which he did take out of this complainant's house mentioned in the said bill, the said defendant, immediately after the search specified in the said bill in this complainant's absence, found many deeds and evidences concerning the manors of Earls Colne and Colne Priory and the lands and tenements thereunto belonging which he did take and carry away or caused to be taken and carried away out of this complainant's possession, contrary to the trust reposed in the said defendant, and thereupon entered upon the parcel of ground called the Gall mentioned in the said bill, and pretended title thereunto in such sort, manner and form as in the said bill is truly alleged;

Without that that the said parcel of land called the Gall and divers other parcels of ground now in the possession of this complainant do belong or appertain to the manor of Sheriffs in the said answer mentioned, or therewith have been used, occupied, reputed and taken as any part, parcel or member thereof, or that Richard Bowser, father of the said defendant, did in his lifetime receive the issues, revenues and profits of the said parcel of land called the Gall, or demised the same to sundry persons from year to year or at will in such sort, manner and form as in the said answer is untruly suggested;

And without that that this complainant was farmer and occupier of the said parcel of ground by demise of the said Richard Bowser at will or from year to year, or, sithence the decease of the said Richard Bowser, by the demise of the said defendant did pay to him the rents thereupon reserved in such sort, manner and form as in the said answer is untruly suggested;

And without that that this defendant, in or touching the said purchase between the Earl of Oxford and him, did not use plain dealing with the said Earl;

Or that the said defendant was seised in his demesne as of fee of and in the said premises in such sort, manner and form as in the said answer is untruly suggested;

And without that that the said parcel of ground is lawfully descended to the said defendant;

Or that this complainant by the delivery of the said evidences to the said defendant hath discovered himself to be a man of small trust or of a large conscience, or little regarding the truth and faith that he ought to bear to the said Earl in such sort, manner and form as in the said answer is untruly and slanderously suggested;

And without that that any other matter or thing mentioned and contained in the said answer material or effectual in the law to be replied unto, and herein not sufficiently replied unto, denied, traversed or confessed and avoided, is true;

All which said matters and things this complainant is and will be always ready to aver and prove as this honourable Court shall award, and humbly prayeth as before in his said bill he hath prayed.

Fuller

LM: Ho(?)