

SUMMARY: The document below, dated 26 November 1609, is a bill by the Master and Fellows of Magdalene College claiming the right to re-enter Oxford's Great Garden property at St. Botolph's, Aldgate.

The background to the document below is as follow. According to Stow, when the priory of Holy Trinity near Aldgate was dissolved, King Henry VIII granted it in July 1531 to Sir Thomas Audley (1487/8–1544), who later became Henry VIII's Lord Chancellor. Audley had the priory church torn down, and built a mansion on the property. In addition to the grounds proper of the priory itself, Henry VIII also granted to Audley, on 23 March 1534, a messuage and a 7-acre parcel of ground outside the city walls called the Great Garden which had belonged to the priory. Audley's daughter and heir, Margaret, married Thomas Howard (1538-1572), 4th Duke of Norfolk in 1559, and brought the mansion to the Duke as her marriage portion; the Duke resided there until he purchased the Charterhouse in 1565. However Margaret Audley did not inherit the messuage and Great Garden of 7 acres. By his will of 19 April 1544 (see TNA PROB 11/31, ff. 3-6), Lord Audley left the messuage and Great Garden, along with the rectory of St. Katherine Christchurch, a parish church near Audley's mansion, to the Masters and Fellows of Magdalene College, Cambridge:

Also I give to the said Master and Fellows all that my great garden in the said parish of Saint Botolph's in the tenure of one Cacy [=Casey?] for the yearly rent of £9 by the year, to have and to hold the said parsonage and the said garden, except thereof before excepted, unto the said Master and Fellows and to their successors forever for the finding of such number of the Fellows of the said House as shall be limited by the discretion of mine executors and according to such ordinance as they shall devise for the same;

Also I will that my said executors shall devise and make all such statutes & ordinances concerning the said Master and Fellows and the same House as by their discretions shall be thought reasonable and convenient for the wealth and commodity of the said House.

Contrary to the statutes devised by Lord Audley's executors, the Masters and Fellows sold the rectory, the messuage and the Great Garden on 10 December 1574 to Benedict Spinola (d.1580). On 13 December 1574 the Masters and Fellows conveyed the rectory, messuage, and garden to the Queen by two separate deeds on condition that the Queen would grant the properties to Spinola by 1 April 1575. This condition was presumably inserted because the Master and Fellows were aware that they were in violation of their statutes in selling the properties, and a transfer to Spinola through the Queen would cure any defect in title. Accordingly, the Queen granted the rectory, messuage and Great Garden to Spinola by letters patent dated 29 January 1575.

On 15 June 1580 Spinola conveyed the messuage and Great Garden to Oxford (see TNA C 54/1080).

In the years which followed the sale of the messuage and garden by the Masters and Fellows, its value increased dramatically as a result of its development by Spinola and

Oxford and their tenants, and in 1607 Dr Barnaby Goche (d.1626), son of the poet Barnabe Googe (1540-1594), the then Master of Magdalene, sought to overturn the original sale, basing his case on the fact that the Master and Fellows had not had power to sell the property because of the Statute of 13 Elizabeth, c. 10, a defect which he said had not been cured by the statute of confirmation of grants, 18 Elizabeth, c. 2. Moreover, although it was found by an inquisition post mortem taken on 13 August 1608 (see TNA C 142/305/103) that Oxford had died seised of the Great Garden property, Goche argued that Oxford's son and heir had no legal interest in the property because Oxford had sold his interest in July 1591 to his future brother-in-law, Francis Trentham (d.1626), and Sir John Wolley (d.1596). It is true that Oxford had entered into an indenture of bargain and sale with Trentham and Wolley involving the Great Garden property on 4 July 1591 (for the indenture, see TNA C 54/1393, mm. 22-3). However it does not appear to have been a final sale. Its terms stipulate that Oxford retained the right to request Wolley and Trentham to reconvey the Great Garden property to him, and if they failed to do so, Oxford was to receive the revenues and profits from it for life, and after Oxford's death Wolley and Trentham were to dispose of it for the benefit of Oxford's second wife, Elizabeth Trentham (d.1612). For similar terms found in another indenture of bargain and sale by Oxford to Francis Trentham and Ralph Sneyd (d.1620) of the rectory of Walter Belchamp on 12 March 1592, see Oxford's inquisition post mortem of 27 September 1604 (see TNA C142/286/165).

The document below, dated 26 November 1609 sets out, on behalf of the Master and Fellows of Magdalene College, the reasons why the original sale to the Queen was void, and claims that it is their right to re-enter the premises. The immediate outcome of the 1609 lawsuit is unknown, but in 1620 an injunction was issued against the Master and Fellows of Magdalene for quiet enjoyment of the messuage and Great Garden in favour of Henry de Vere, 18th Earl of Oxford, and one Thomas Wood.

The document has faded; illegible portions of text are indicated by square brackets.

[The Master] and Fellows of Magdalene College in Cambridge, [formerly seized of a] messuage and garden called [the garden] of Christ's Church in the parish of St. Botolph, [in the city of London], by their deed indented [enrolled in] Chancery dated xiiijo die Decembris Anno xvij [=13 December 1574] [did sell the same] messuage and garden to the [late Queen], her heirs and successors, forever, reserving the rent [of 15 li] to be paid to the Master & [Fellows of] the said College and to their successors forever [] the said Queen, her heirs or [successors], could not sufficiently convey and assure the said messuage [and garden to the said] Benedict Spinola and his heirs [] of April next ensuing the date of the said [] to the said Queen [] it should be lawful for the Master and Fellows [into the said premises?] to re-enter

[The said messuage] and garden exceed not in quantity the number of ten acres, and lie within the suburbs of London;

The said College by their charter of foundation have power to purchase only, and plead and be impleaded in any of the King's courts before any of his justices, and that they shall do all things according to the statutes & ordinances of the Lord Audley, their founder, or his executors or assigns, of which statutes one principal is that all grants made by them for longer time than ten years shall be utterly void;

The said late Queen by her letters patent under the Great Seal of England bearing teste the 29th of January Anno xvijth of her reign [=29 January 1575], did grant the said messuage and garden to the said Benedict Spinola, his heirs and assigns, forever;

The statute of confirmation of grants made by and to the said Queen was made Anno xviiiijth Elizabethhe [=1576];

The premises by mean conveyances of bargain and sale by deed enrolled came from the said Spinola to Edward, Earl of Oxford, father of his Majesty's said ward [=Henry de Vere] in fee;

The said Earl Edward by his deed of bargain and sale enrolled dated the fourth day of July Anno xxxiiij Elizabethhe [=4 July 1591] for and in consideration of a sum of money, did bargain and sell the premises to John Wolley & Francis Trentham, their heirs and assigns, to the intent that the said [Earl Edward should] have the premises [reassured] to him upon request for term of his life only, and in default of such [reassurance] that he might [receive] the issues and profits thereof during his life, and of the whole [reversion] or remainder and the entire fee simple to dispose for the most advantage and commodity of Elizabeth Trentham, sister of the said Francis;

The said Earl Edward did, according to the intent of the said deed, receive the profits of the premises during his life, and being seised of divers lands held of his Majesty in capite, about four years now past died, the right honorable Henry de Vere, now Earl of Oxford, being his son and heir, then and yet within the age of 21 years, and in ward to his Majesty for other lands, as appeareth by the inquisition;

And after by an inquisition taken at Guildhall, London, xiiijth Augusti Anno vjto Regis Jacobi [=13 August 1608] it was found that the said Earl Edward died seised in his demesne as of fee of the said messuage and garden now in question. and that the said Earl Henry, his Majesty's ward, is his son and heir;

Upon all these matters the complainants have exhibited their petition of traverse of the said inquisition taken xiiijth Augusti Anno vjto Regis Jacobi [=13 August 1608] into this Court to have license to traverse the said office in [point] of the said Earl Edward dying seized of the premises;

[] complainants have any []

[] the complainants be parties [] and may traverse the

[] in the point of the dying seised [] are notwithstanding they

[] [join] not under the said John Wolley []