

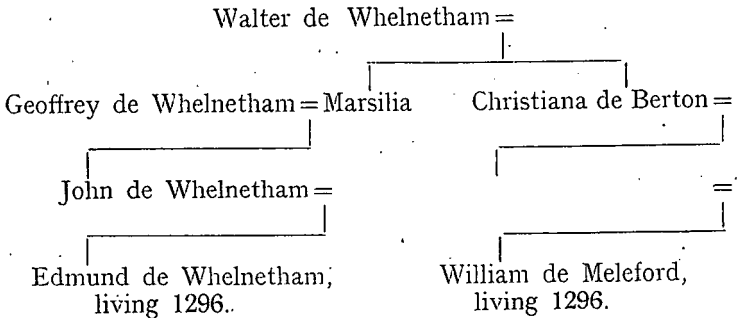
WHELNETHAM MAGNA.

SUIT RE ADVOWSON (1286).

(Assize Roll, 1256, m. 54, P.R.O.).

A THIRTEENTH CENTURY LAW SUIT.

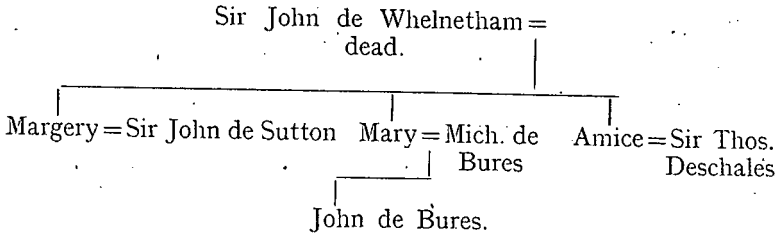
The cause here printed, which was tried at the Assize held at Cateshell in the year 1286, is of considerable interest, for besides giving the names of a long succession of parsons of the Church of St. Mary the Virgin of Great Whelnetham, the pleadings give the following pedigree.



Among the Suffolk Pedes finium there are two documents which seem to refer to the same family, one in the 35th year of Henry III. between Alan de Isleham and Christiana de Berton and Robert, her son, touching lands in Melford and elsewhere; and one in the 42nd year of the same King between Robert,

the son of Walter de Meleford, and Christiana daughter of Walter de Whelnetham, touching lands in Great Whelnetham.

The family appears to have become extinct in the male line towards the end of the reign of Edward III., for on the Close Roll for the 46th year of that reign (1372) is an enrollment of a deed of partition, dated 45 Edward III., which gives the following pedigree :—



It will be noticed that the name of the parson whose death occurred last before the trial is variously given as Walter de Whelnetham and Walter de Heyford, showing that surnames did not sit very tightly on people in those times.

The writs to the Sheriff to summon a jury, and to the Justiciars to try the case, are both dated on Feb. 15th, 1285, o.s., and the reason for the assize being held was that, Placita in Banco having ceased, evil might easily arise from the fact that the church had now for a long time been vacant.

The cause has been transcribed from membrane 54 of Assize Roll, number 1256, preserved in the Public Record Office, London.

EDGAR POWELL.

Uppercross, Reading.

Assisa capta apud Cateshell die Lune in festo Annunciacionis beate Marie coram I. de Luuecote Rogero Loueday et Willelmo de Pakeham anno regni Regis Edwardi xiiij. [25 March, 1286].

SUFFOLK.—Assisa venit recognoscere quis aduocatus tempore pacis presentauit vltimam personam que mortua est ad ecclesiam de Whelnetham Magna que vacat, etc. Quam aduocacionem Edmundus de Whelnetham dicit ad se pertinere et quam aduocacionem Willelmus de Meleford et Robertus de Brade-feud ei deforciant et vnde dicit quod Iohannes de Whelnetham pater predicti Edmundi cuius heres ipse est tempore pacis et tempore domini Henrici Regis patris domini Regis nunc presentauit quendam Walterum de Whelnetham clericum suum, qui ad presentacionem suam fuit admissus et institutus qui ultimo obiit persona de eadem, etc.

Et Willelmus et Robertus veniunt et Robertus dicit quod nichil iuris clamat in predicta aduocacione. Ideo consideratum est quod predictus Edmundus habeat breue ad Episcopum quod non obstante clameo predicti Roberti ad presentacionem predicti Edmundi ad predictam ecclesiam idoneam personam admittat.

Et Willelmus dicit quod assisa inde non debet procedere quia dicit quod quidam Walterus de Whelnetham proauus predictorum Edmundi et Willelmi tenuit quedam tenementa in Whelnetham Magna cum aduocacione ecclesie predictae qui quidem Walterus habuit duas filias videlicet Marsiliam et Cristianam qui quidem Walterus dedit cuidam Galfrido de Whelnetham cum Marsilia filia eiusdem Walteri in liberum maritagium medietatem aduocacionis ecclesie predictae, et de alia medietate fuit idem Walterus in seisina tota vita sua; et post mortem ipsius Walteri descendit

ius medietatis aduocacionis ecclesie predicte Marsilie et Cristiane vt filiabus et heredibus eiusdem Walteri, Ita quod predicta Marsilia racione predicti feofamenti aduocacionis predicte et eciam racione propartis sue de alia medietate contingente presentauit clericos suos per duas vices. Et postea Iohannes de Whel-netham filius et heres predicte Marsilie pater predicti Edmundi presentauit clericum suum qui vltimo obiit persona de eadem. Et predicta Cristiana auia dicti Willelmi ad omnes vacaciones et presentaciones opposuit predictis Marsilie et Iohanni filio suo calumpniando ius suum presentandi ad predictam ecclesiam cum turnum suum venerit, videlicet ad quartam vacationem; Ita quod predicta Marsilia et Iohannes filius eius per tres vices presentauerunt ita quod nunc ad vacationem istam pertinet eidem Willelmi presentare etc.

Et Edmundus dicit quod predictus Willelmus nichil iuris clamare potest in aliqua parte predicte aduocacionis quia dicit quod predictus Walterus pater predictarum Marsilie et Cristiane dedit predicto Galfrido et Marsilie vxori sue quandam partem terre sue cum tota parte sua de aduocacione predicta et eas inde per cartam suam feofauit et in seisina posuit, Ita quod ad proximam vacationem ecclesie predicte post confectionem predicti doni et feofamenti, mortuo predicto Galfrido viro ipsius Marsilie, predicta Marsilia presentauit ad predictam ecclesiam quendam Robertum de Rede clericum suum qui ad presentacionem suam fuit admissus et institutus in eadem, vacante iterum proximo ecclesia predicta presentauit eadem Marsilia quendam Ricardum de Sarum clericum suum qui ad presentacionem suam fuit admissus et institutus, etc., vacante iterum proximo ecclesia predicta eadem Marsilia presentauit ad eandem quendam Thomam de Sulny clericum suum qui eciam admissus et institutus,

etc., vacante iterum proximo ecclesia predicta eadem Marsilia presentavit ad eandem quendam Galfridum de Stanesfeld clericum suum qui etiam admissus et institutus, etc. Mortua predicta Marsilia ad vacationem proximo sequentem Iohannes de Whelnetham filius et heres predictæ Marsilie pater predicti Edmundi cuius heres ipse est presentavit ad eandem quendam Walterum de Falsham clericum suum qui ad presentationem suam fuit admissus et institutus in eadem, vacante iterum proximo ecclesia predicta idem Iohannes presentavit ad eandem quendam Walterum de Heyford clericum suum qui ad presentationem suam fuit admissus et institutus in eadem qui ultimo obiit persona in eadem de cuius morte vacat ecclesia predicta; et prefert quoddam scriptum sub nomine predicti Walteri de Whelnetham patris predictarum Marsilie et Cristiane confectum quod predictum donum et feofamentum testatur in hec verba.

“Sciunt presentes et futuri quod ego Walterus de Whelnetham concessi dedi et hac presenti carta mea confirmaui Galfrido de Whelnetham et Marsilie vxori sue tres rodas terre arrabilis cum suis pertinenciis quas Gocelinus presbiterus aliquando tenuit iacentes in villa de Whelnetham, etc. et sex denariatas annui redditus in villa de sancto Edmundo quas Ricardus Heneman michi annuatim reddere consuevit et totam partem meam de aduocacione ecclesie de Magna Whelnetham habendum et tenendum de me dictis Galfrido et Marsilia et eorum heredibus siue assignatis eorum libere. etc. Reddendo inde annuatim michi ad terminum vite mee vnum par calcarum precii sex denariorum, videlicet ad Pascha. Et ego predictus Walterus et heredes mei warantizabimus totum predictum tenementum et totam partem meam de aduocacione ecclesie predictæ contra omnes gentes imperpetuum, etc.”

Et predictus Willelmus dicit quod istud scriptum non debet ei nocere quia dicit quod predictus Walterus pater predictarum Marsilie et Cristiane nunquam dedit predictis Galfrido et Marsilie aliqua tenementa nec aliquam partem predicte aduocacionis nisi solumodo in liberum maritagium et non per predictam cartam feofamenti, bene etenim concedit quod medietatem predicte aduocacionis dedit predictus Walterus predicto Galfrido cum Marsilia filia eiusdem Walteri in liberum maritagium nec vmquam prius nec postea magis eis dedit de aliqua parte predicte aduocacionis nisi solumodo predictam medietatem et de alia medietate obiit seisisus, etc.

Et predictus Edmundus dicit quod per predictam cartam feofamenti fuerunt predicti Galfridus et Marsilia seisisi de predictis tenementis et de tota parte quam idem Walterus habuit de aduocacione predicta tota vita eorundem et eciam Iohannes de Whelnetham filius et heres eorundem Galfridi et Marsilie pater predicti Edmundi cuius heres ipse est tota vita sua in pacifica seisisina fuit presentando diuersas personas ad ecclesiam predictam, qui ad presentationes eorundem admissi et instituti erant vt predictum est et dicit eciam quod quamuis predicta Cristiana potuisset aliquam partem in predicta aduocacione clamare aliquo iure vel exigere ipsamet Cristiana concessit et omnino quietum clamauit pro se et heredibus suis predicte Marsilie sorori sue totum ius et clameum quod habuit vel habere potuit in aliqua parte predicte aduocacionis imperpetuum et profert quoddam scriptum quiete clamacionis quod hec idem testatur in hec verba.

Sciant presentes et futuri quod ego Cristiana de Berton in ligea potestate mea concessi et omnino quietum clamaui pro me et heredibus meis imper-

petuum Marsilie sorori mee et heredibus suis vel assignatis totum ius et clameum quod habui vel aliquo modo habere potui in aliqua parte de aduocacione ecclesie sancte Marie Virginis de Magna Whelnetham post mortem Walteri de Whelnetham patris nostri. Ita quod nec ego Cristiana nec heredes mei nec aliquis per nos aliquid iuris seu clamei in aliqua parte predicte aduocacionis de cetero exigere vendicare vel clamare poterimus.

Et predictus Willelmus dicit quod ista quieta clamacio non debet ei nocere quia dicit quod tempore confectionis istius scripti predicta Cristiana auia sua nichil habuit de hereditate patris sui et quod continue post confectionem istius scripti ad omnem vacationem predicte ecclesie calumpniauit ius suum presentandi ad ecclesiam predictam nec vmquam in aliqua calumpnia eiusdem Cristiane istud scriptum monstratum fuit nec alibi vbi patria et vicini possent inde certificari sed omnibus de visneto predicto fuit istud scriptum incognitum. Et bene dicit quod non obstante isto scripto vel alio contigit eidem nunc ad vacationem istam presentare ; et hoc petit quod inquiratur per assisam. Et predictus Edmundus similiter.

Ideo capiatur Assisa.

Iurati dicunt super sacramentum suum quod Iohannes de Whelnetham pater predicti Edmundi cuius heres ipse est presentauit tempore pacis et tempore Henrici Regis patris domini Regis nunc vltimam personam ad ecclesiam predictam qui ad presentationem suam fuit admissus et institutus in eadem et obiit persona de eadem. Dicunt eciam quod predictus Willelmus de Meleford nec aliquis alius habet ius nec aliquam partem predicte aduocacionis

nisi solumodo predictus Edmundus de Whelnetham et quod idem Edmundus est verus patronus de predicta ecclesia. Ideo consideratum est quod predictus Edmundus recuperet aduocacionem suam de ecclesia predicta versus predictum Willelmum. Et eciam dampna sua que taxantur ad decem marcas, et habeat breue ad episcopum quod non obstante reclameo predicti Willelmi ad presentacionem predicti Edmundi ad predictam ecclesiam idoneam personam admittat. Et predictus Willelmus in misericordia.

TRANSLATION.

The Assise taken at Cateshell on Monday on the Feast of the Annunciation of Blessed Mary, before J. de Luncote Roger Loveday and William de Pakenham in the xiiij. year of the reign of King Edward.

SUFFOLK.—The Assize comes to recognise who was the patron that in the time of the peace presented the last parson who is now dead to the Church of Whelnetham Magna, which is vacant, etc, which advowson Edmund de Whelnetham says belongs to him, and of which he is kept out of possession by William de Meleford and Robert de Bradfeud, and further says that John de Whelnetham, the father of the said Edmund, whose heir he is, in the time of the peace, and in the time of the lord King Henry, father of the now lord King, presented one, Walter de Whelnetham, his clerk, who on his presentation was admitted and instituted, who last died parson of the same.

And William and Robert come, and Robert says that he claims nothing of right in the said advowson. Therefore it is considered that the said Edmund may have a writ to the Bishop that notwithstanding the

claim of the said Robert to the presentation of the said Edmund to the said Church, he may admit a fit parson.

And William says that the Assize need not proceed further because he says a certain Walter de Whelnetham, great grandfather of the said Edmund and William, held certain tenements in Whelnetham Magna, with the advowson to the said Church, which Walter had two daughters, to wit, Marsilia and Christiana, and he gave one moiety of the advowson of the said Church together with his daughter Marsilia to one Geoffrey de Whelnetham in Frank Marriage, and was himself seized of the other moiety during his life, and after the death of the said Walter the right to a moiety of the advowson descended to the said Marsilia and Christiana as daughters and heiresses of the said Walter. So that the said Marsilia, by reason of the said feoffment of the said advowson, and by reason of her share of the other contingent moiety presented her clerks on two occasions, and afterwards John de Whelnetham, son and heir of the said Marsilia, father of the said Edmund, presented his clerk, who last died parson of the same church. And the said Christiana, grandmother of the said William, at every vacation and presentation, opposed the said Marsilia and John, her son, by challenging their right of presentation to the said church, when her turn shall have come, to wit, at the fourth vacation. So that the said Marsilia and John, her son, presented three times, and that now at the present vacation it belongs to the same William to present, etc.

And Edmund says that the said William is unable to claim any right in any part of the said advowson, because he says the said Walter, father of the said Marsilia and Christiana, gave to the said Geoffrey and

Marsilia, his wife, a certain portion of his land, together with his whole part of the said advowson, and then by his charter enfeoffed them and put them in seisin. So that at the next vacation of the said church, after the making of the said gift and feoffment, Geoffrey, her husband, being then dead, the said Marsilia presented a certain Robert de Rede, her clerk to the said church, who, on her presentation was admitted and instituted, when the next vacancy occurred, Marsilia presented a certain Richard de Sarum, her clerk, who on her presentation was admitted and instituted, and again at the next vacancy Marsilia presented to the same church one, Thomas de Sulny, her clerk, who also was admitted and instituted, again on the next vacancy Marsilia presented to the same one Geoffrey de Stanesfeld, her clerk, who also was admitted and instituted, etc. After the death of Marsilia, at the ensuing vacancy, John de Whelnetham, son and heir of the said Marsilia, and father of the said Edmund, whose heir he is, presented a certain Walter de Falsham, his clerk, who on his presentation, was admitted and instituted, and on the next vacancy the same John presented a certain Walter de Heyford, his clerk, who on his presentation was admitted and instituted, and who last died parson of the same, on whose death the said church is now vacant ; and he produces a certain writing made under the name of the said Walter de Whelnetham, father of the said Marsilia and Christiana, which testifies to the said gift and feoffment in these words.

“ Know all men present and to come, that I, Walter de Whelnetham, have granted and given, and by this my present charter have confirmed, to Geoffrey de Whelnetham and Marsilia, his wife, 3 rods of arable land, with their appurtenances, which Goceline the priest formerly held, lying in the town of Whelnetham,

and sixpennyworths of annual rent in the town of St. Edmund, which Richard Heneman has been accustomed to pay me yearly, and my whole part of the advowson to the Church of Great Whelnetham. To have and to hold of me to the said Geoffrey and Marsilia, their heirs and assigns, freely, etc., by annual payment to me during the term of my life of a pair of spurs of the value of sixpence, to wit, at Easter, and I the said Walter, and my heirs, will warrant the whole said tenement and my whole part of the advowson of the said church against all men for ever.

And the said William says that this writing ought not to injure his case, because, he says, the said Walter, father of the said Marsilia, and Christiana, never gave to the said Geoffrey and Marsilia any tenements nor any part of the said advowson, unless only in Frank Marriage, and concedes that the said Walter did give a moiety of the said advowson with Marsilia, his daughter, in Frank Marriage, and never before or after gave them more or any part of the said advowson, except only the said moiety, and died himself seized of the other moiety, etc.

And the said Edmund says that by the said charter of feoffment the said Geoffrey and Marsilia were seized of the said tenements and of the whole part which the same Walter had of the said advowson during their whole lives, and also John de Whelnetham, son and heir of the same Geoffrey and Marsilia, father of the said Edmund, whose heir he is, was in peaceful seisin during the whole of his life by presenting diverse parsons to the said church, who at their presentations were admitted and instituted.

He says also that however much the said Christiana might have been able to claim or demand by any right

any part in the said advowson, she herself granted and wholly quit claimed for herself and her heirs every right and claim that she had or could have in any part of the said advowson for ever, and he exhibits a certain writing of the quit claim which bears witness to these things in these words.

“Know all men present and to come, that I, Christiana de Berton, in my lawful power have granted and wholly quit claimed for myself and my heirs for ever, to Marsilia, my sister, and her heirs and assigns, all right and claim which I had or in any way could have in any part of the advowson to the Church of Holy Mary the Virgin of Great Whelnetham, after the death of Walter de Whelnetham, my father. So that neither I nor my heirs, nor any one through us, can in future lay claim to or demand anything of right in the said advowson.

And the said William says that this quit claim ought not to injure his case because he says that at the time it was made the said Christiana, his grandmother, was not in possession of any inheritance from her father, and that continuously after the making of the said writing at every vacation of the said Church, she challenged their right of presentation to the said Church, and that never on any challenge by the said Christiana was this writing produced, nor anywhere where the country or neighbours could be certified of it, but to all who lived in the vicinity the writing was unknown; and says that notwithstanding this or the other writing at the present vacation it is his right to present.

And he requests that this matter be enquired into by the Assise.

And the said Edmund makes a similar request.

Therefore let the Assise be held.

The Jury say on their oath that John de Whel-netham, father of the said Edmund, whose heir he is, presented in the time of the peace, and in the time of King Henry, father of the now lord King, the last parson to the said Church, who on his presentation was admitted and instituted in the same, and died parson of the same. They say also that neither the said William de Meleford nor any one else has right nor any part of the said advowson, except the said Edmund de Whelnetham, and that the said Edmund is the true patron of the said Church.

Therefore it is considered that the said Edmund recover his advowson of the said Church against the said William, and also his costs, which are taxed at 10 marks. And he may have a writ to the Bishop that, notwithstanding the claim of the said William to the presentation of the said Edmund to the said Church, he may admit a fit parson.

And the said William is in mercy.