

Translation of the Record—*continued*.

oppression of the said Abbot, as We have heard by his complaint, We still command you that you permit the same Abbot to use and enjoy his aforesaid view and these matters which belong to the view according to the tenor of the same charter, and that you cause the same charter to be allowed in all things, in no way disturbing or oppressing the said Abbot on the occasion of the aforesaid pleas according to the tenor of Our other command sent you thereof, or that you show Us cause why you have not obeyed the same command sent you thereof by Us at other time. Witness Myself at York on the third day of December in the twelfth year¹ of Our reign.

Afterwards the aforesaid John Stevene and all the other complainants except the aforesaid James Godson and Robert Bolyhort were solemnly called but did not sue. And the aforesaid Abbot is to go without day, and the aforesaid John Stevene and all the others each for himself and his pledges is to be in mercy. And the same Abbot is to have return of all the aforesaid beasts etc.

3. LA WARRE *v.* BISHOP OF COVENTRY.

Assize of darrein presentment against a Bishop, where the last presentation was acknowledged [by the Bishop], who said that at that time he was in prison; and then he offered to aver a resignation.

. . . where it was said that resignation can be made by letter, and induction likewise; for which reason [the Bishop] will not get to this averment. And then the plaintiff had a writ to the Bishop.

. . . and because the last presentation could not be made void by reason of the imprisonment, it was adjudged that the plaintiff should have a writ to the Bishop.

Assize of darrein presentment where the deforciant asserted the right to present to be in his person by a stranger's deed and by the plaintiff's release. And he was driven to answer touching the last presentation, and was unable to make it void in virtue of [his] imprisonment.

John la Warre brought an assize of darrein presentment against Walter, Bishop of Coventry; and he said that he presented as last parson to the church of [Albrighton] one Ingelard of Warley, who, on his presentation, was received etc. in the time of the King that now is; and by [Ingelard's] resignation the church is now vacant. And he prayed the assize.

Herle. It belongs to us to present, for we tell you that one [Ralph

¹ 1318.

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knight's fees and advowsons of churches, and all his title-deeds lay in the hand of the said lord King. And hereupon the lord King sent his writ to his Justices here in these words: Edward by the grace of God King of England, Lord of Ireland and Duke of Aquitaine, to his Justices of the Bench, greeting. On behalf of venerable Father Walter, Bishop of Coventry and Lichfield, it is shown Us that whereas lately, for certain reasons, We caused the Bishop's lands, tenements, knight's fees and advowsons of churches to be taken into Our hand, and the body of the aforesaid Bishop to be arrested, John la Warre presented to the vacant church of Albrighton, while the said Bishop was thus under Our arrest and the same Bishop's lands, tenements, knight's fees and advowsons of churches lay in Our hand, thus wrongfully usurping the advowson of the said church upon Us and the aforesaid Bishop, We and the said Bishop being wholly ignorant of the said vacancy and presentation, and the same John arraigned before you by Our writ the Assize of darrein presentment against the aforesaid Bishop concerning the advowson of the aforesaid vacant church, whereupon the said Bishop, by his petition which was laid before Us and Our Council, prayed that a remedy be applied to him; We, therefore, wishing to provide, as We are bound, a legal remedy as indemnity to the said Bishop, so that he incur no peril of disherison by an occupation of this kind made while the said Bishop's lands and tenements, knight's fees and advowsons of churches were, as is mentioned before, in Our hand, and the said Bishop himself under Our arrest, do command you that, having heard the arguments of the aforesaid parties and inspected the aforesaid Bishop's petition which We send you enclosed in these presents, and having carefully considered the articles contained in the same petition, you make thereof fulfilment of justice to the aforesaid Bishop; and if it should happen that doubt arise, whereby it should seem to you impossible to proceed to render judgement thereof without consulting Us, then you are to inform Us of this, according to your discretion, so that We may then further cause to be done that which We from Our deliberation shall see to be necessary. Witness Myself, at Westminster on the twenty-fifth day of May in the eleventh year of Our reign. And he says that it belongs to the said Bishop, and not to the aforesaid John, to present to the aforesaid church; for he says that one Ralph of Pitchford was aforesaid seised of two acres of land with the appurtenances in Albrighton and of the advowson of the aforesaid church; and to the same church he presented in time of peace in the time of the lord King Edward, father of the lord King that now is, one William of Pitchford, his clerk, who, on his presentation, was received and instituted; and this same Ralph by his charter enfeoffed the said Bishop of the same two acres of land and of the aforesaid advowson. And afterwards by a fine levied between them in the Court of the same King Edward, father etc., at York, on the quindene¹ of Saint Hilary in the twenty-ninth year of his reign, upon a writ of warranty of charter, the same Ralph acknowledged the same two acres of land and the aforesaid advowson to be the right of the said Bishop, as things which the same Bishop had by the gift of the said Ralph, to hold to the same Bishop

¹ Friday, 27 January 1301.

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aforesaid John la Warre, being asked by the Justices whether the aforesaid Bishop at the time of the aforesaid last presentation was in the prison of the lord King, says that he has no need to answer to this; for he says that the same Bishop has above acknowledged the last presentation to have been made at that time by the said John, the which recognition, according to the common law of England customary heretofore, was only available to a complainant in this kind of writ of possession seeking to have a writ to the Bishop etc. before the drawing up of the Royal Statute¹ provided with regard to advowsons of churches, wherein is contained that when any not having the right to present had presented anyone to any church whose clerk was admitted, he that was the true patron could recover his presentation by no other writ than by a writ of right, which should be tried etc., whereby heirs within age by fraud or by negligence of their guardians [or] of tenants by the law of England or of women tenants in dower, or otherwise for a term of life or of years, or in fee-tail, and, similarly wives under the power of their husbands, often suffered the disherison of their advowsons, such heirs when they are come to full age shall have such action and exception, by a possessory writ of advowson, as the last ancestor of such an heir being of full age would have had etc. Whereupon, seeing that it is not denied by the aforesaid Bishop that the same John last presented to the aforesaid church the said Ingelard, his clerk, who, on his presentation, was admitted by the same Bishop etc., and this in time of peace, and that by this Statute nor by any other law hitherto used in the Realm nothing accrues to the same Bishop by such an exception of imprisonment (the which imprisonment the lord King by his writ only alleges because of the said Bishop's contumacy in Chancery etc.), to retard his possession in these circumstances, especially as the lord King at other time, to wit, on the octave of St. Hilary last past, sent to his Justices here in the Bench another writ, of which the tenor is as follows: Edward by the grace of God King of England, Lord of Ireland and Duke of Aquitaine, to his Justices in the Bench, greeting. Because We wish that full justice be done to each and every man wishing to pursue his right in Our Court, according to the law and custom of Our Realm, we do firmly [. . .] command that because of any messages hitherto sent to you under Our great or little seals, or henceforth to be sent, you in no way omit to do justice for Us and others pursuing their right before you in the aforesaid Bench, according to the law and custom of Our Realm, by denying or delaying right or justice to anyone. Witness Myself, at Windsor the twenty-second day of November in the eleventh year of Our reign. Whereupon he asks that, despite any exception of imprisonment alleged above by the said Bishop, judgement proceed upon the aforesaid Bishop's writ according to common law etc. A day was given them here on the octave of Saint Hilary to hear their judgement etc., seeing that judgement is not yet etc. On this day there came both the aforesaid John by the aforesaid Simon, his attorney, and the aforesaid Bishop by William of Cransley, his attorney, and they asked judgement herein touching the arguments alleged above. And these having been examined, because it

¹ Stat. Westm. II, 13 Edw. I, c. 5.