

THE FYNDERNE INHERITANCE

by

Barbara Foster.

“Hereunder were buried the bodies of Richard Harpur one of the Justices of the Comen Bench at Westminster and Jane his wife sister and heyre of Thomas Fynderne Esquyer. Cogita Mori”



Plate 1: *Effigies of Richard Harpur and Jane Fynderne, Swarkestone Church (Photo S.K Foster)*

This inscription appears not just once, but twice: carved in alabaster and cast in bronze circling both the effigies and the tomb in Swarkestone Church. Over the years many can be forgiven for thinking that Jane was the sole heir of the Fynderne estate and the recipient of a bountiful inheritance. The reality, however, was somewhat different: at the time of his death in 1577 Richard Harpur himself was well aware of the difficulties and Jane herself could have been in little doubt that neither she nor her sons were likely inherit anything by the time she died twenty years later in 1597.¹ Whilst she was certainly a right heir of the Fyndernes, the inheritance was, in the end, to be bought and the inscription a triumph of pride and hope rather than reality. Richard Harpur, a Judge at Her Majesty’s Court of the Common Pleas no less, and his wife Jane were, ironically, to be defeated by the legal system — and one Michael Fynderne, a true male heir of the ancient line.² Happily for the Harpurs, he fell upon hard times.

Jane's failure to inherit was due to a "*trust to uses*" and an "*entail*" which were long established ways of keeping the family inheritance intact and in the family name.³ Essentially this meant that a landed estate was vested in "feoffees" who had the freehold of the estate in trust for the term and the uses declared in a family settlement before passing it to the next male heir. If there were no surviving male heirs the succession could revert to the descendants of uncles and beyond. Daughters, under such arrangements, would usually inherit only after the male line of at least two generations had died out. This device was particularly popular with the landed aristocracy and gentry because, in theory, it kept the lands intact as it was not legally theirs to sell. It also kept the ancient family name alive and until 1536 it was a neat inheritance tax avoidance scheme.⁴ The Fynderne estates comprised a sizeable acreage of land in south Derbyshire as well as the manors of Findern, Potlock and Willington together with a quarter part of the manor of Repton.⁵

At the time of her marriage to Richard Harpur in 1544, Jane was one of two surviving children of George Fynderne and Elizabeth Port, daughter of Sir John Port of Etwall.⁶ An elder son, Leonard, had died in the 1530s.⁷ Both marriages were unions of ancient blood and newish money. The Ports were descended from a family of merchants of Chester as, it now appears, was Richard Harpur,⁸ and whilst John Port had only been a Derbyshire landowner since 1495,⁹ the Fyndernes could point to a landed inheritance that went back to the 12th century if not before.¹⁰ The marriage between George and Elizabeth was contracted in 1506 when Elizabeth could not have been older than eleven but was probably an infant.¹¹ Her children Leonard, Thomas and Jane were born very much later: indeed Thomas could have been born as late as 1528.¹² In 1548/49 he married Margaret Dethick daughter of William Dethick, Newhall bailiff of Repton.¹³ By a second marriage George had another son Francis.¹⁴

The Fyndernes, in common with their peers, had long been accustomed to limit the inheritance to the male heirs by specifying the reversion of the estates back to the male descendants of a grandfather.¹⁵ Daughters were very definitely the heirs of last resort. With a young and recently married heir in possession (and with a cohort of uncles and male cousins waiting in the wings), Richard Harpur could have no real expectation in 1544 that Jane would inherit the Fynderne lands when he married her — but given the "uncertainty of life" at the time he could, perhaps, be forgiven for hoping.

That the marriage took place at all must result from the involvement of Sir John Port the younger, the uncle of Jane and what may be called the "Chester connection". The Ports still owned land in Chester and until 1512 were actively involved in county affairs.¹⁶ The Harpurs continued as merchants and gentlemen in Chester until the mid seventeenth century.¹⁷ Both George Fynderne and Sir John Port the elder died in 1540 and the wardship of both Thomas Fynderne and seemingly that of his sister Jane passed to Sir John Jnr. In fact the custody and marriage of both Leonard and Thomas had been sold to the Ports in 1529 and the lands enfeoffed to trustees in yet another neat tax avoidance scheme.¹⁸ The deed does not mention Jane by name at all. She together with another Port granddaughter were each left a £40 "marriage portion" in Sir John's will¹⁹ but in the absence of George Fynderne's actual will — only the inventory survives — the amount of any marriage portion (or dowry) on his behalf is unknown — if indeed there was one.²⁰

In the meantime Richard Harpur had completed his education at Brasenose College, Oxford, which institution had been recently been founded by Sir Richard Sutton of Chester and to which Sir John Port Snr. was an early collaborator and benefactor.²¹ It may be that Richard Harpur was influenced in his choice of college because of this. Certainly Sir John Port Jnr. and Richard Harpur were both at the Inner Temple at the same time and it could be the case that earlier connections were cemented into patronage if not true friendship. There would appear to be about five to ten years difference in their ages.²² In any event, when the time came to marry off Jane, Richard Harpur came to mind rather than the usual scion of the local gentry. He was, in 1544, an up and coming young law officer from an established family — but if he owned any land at all it was not much: a jointure doesn't appear to have been made for Jane until 1564.²³ Inasmuch as Jane Fynderne gave birth to John Harpur within the space of a year or two, it would appear Jane was rather older than her mother when she was contracted to marry.²⁴

As an additional dowry, Jane was granted a life interest in the Manor of Willington with a substantial chunk of land in fee simple for the duration.²⁵ In addition, and presumably as part of the marriage settlement, Thomas and his heirs, with John Port his guardian, granted to Richard Harpur and his heirs, the manor of Swadlincote and lands in Twyford and Stenson and elsewhere in area. All these lands were promptly leased back to Sir John Port for seven years and were to revert to Thomas and his heirs at the end of their terms. It is difficult to determine the actual intent of the separate grant to Richard, (which has some but not all of the features of a “double fine” to create a marriage settlement)²⁶ but it may have something to do with the 1529 deed which assumed that Sir John or his heirs would have the profit of any marriage of any of George's children.²⁷ It could also have been a matter of convenience as, at this point, Richard had no other land in the area and seems to have been based in Chester and London.²⁸ If none of George's children survived to marriageable age, the Fynderne lands would remain to the use of Sir John until the sum of £93. 6s 8d had been taken of the revenues of the land.²⁹ Jane therefore brought to her marriage £40 in cash plus a healthy income of around £30 per annum.³⁰ By comparison, Roger Rolleston of Swarkestone was only able to afford £20 for his daughter's marriage portion in 1555.³¹

At first sight there does not appear to be much to be learnt from deeds and documents until 1557 when there was a flurry of action. Richard Harpur was granted a final concord for lands in Chester conveyed to him by Sir John Port just weeks before the latter died,³² he bought a foothold in Swarkestone from the Rollestons³³ and, more interestingly, Thomas Fynderne made an entail.³⁴

The latter was an extraordinary document. Whether Thomas had some intimation of his impending doom (he was dead within six months) or whether a lifetime of grievances prompted him, the document is remarkable for the level of outrage felt. The deed implies that whereas in the time of his grandfather Thomas, the Fyndernes “*then being right worshipful men and personages of good service and estymacon in this Realme*” their reputation, if not their fortune had subsequently declined. He goes on;-

“synce the decease of the said Thomas Fynderne the grandfather by and in the time of George Fynderne the father And also in the tyme of the minority & nonage of the said Thomas Fynderne the sonne and synce, dyvers discontinuence actes conveyances, matters and things have been practysed & attempted by synystre sortlers to avoyde or discontynue the said Ancient estate intail”

Furthermore:-

*“divers of the deeds instruments and writings specially concerning the said annycient estates of the said Inheritance intayled to the said heires males of the said bodies be and have bene amonge other Evidence wrongfully with drawen, Imbeseled and conveyed utterly from the said Thomas Fynderne the son”*³⁵

“Cui bono?” Who benefits? Or was Thomas given to conspiracy theories?

Thomas seems to have been absolutely justified in his claims of “*dyscontynuance*” — although this was in the sense of “*land utterly conveyed*,” rather than a barring of the entail.³⁶ It transpires that 1532 George Fynderne colluded with Sir John Mundy and others in a Common Recovery on specified lands in Potlock.³⁷ This in effect, overturned the ancient entail on this land and allowed George to sell a messuage and some 200 acres of land in Potlock to Sir John for the ‘advancement’ of his second son Vincent Mundy.³⁸ The land was promptly leased back to George for 10 years. This was the “*dyscontynuance*” that Thomas had raged against in 1557. George only had the land for his life as “tenant in tail” and in theory could only make deeds limited to his lifetime. In practice George could and did overturn this by a fictitious law suit and land in the parish of Findern — the “raison d’ être” of the family name — was “*conveyed utterly*” from Thomas.

This land and lease, which was subsequently granted to Vincent Mundy,³⁹ was to be the subject of a law suit brought by Vincent against Thomas within six months of George’s death, over non payment of rent and detention of deeds. Thomas claimed he was not liable and disputed his father’s right to sell the land.⁴⁰ (& 12) Inasmuch as Thomas records that Sir John Port the elder had tried to repurchase the land before the lawsuit this perhaps indicates that Sir John realised that the cause was hopeless.⁴¹ Thomas would appear to have lost and in 1543 the land was bought back from Vincent Mundy for the handsome sum of £146 13. 4.⁴² In this lengthy deed, the land was first transferred to the use of John Port the younger and then to Thomas in fee simple forever, provided that Thomas repaid his Uncle within the same specified time as John Port was to pay Vincent. Thomas was also liable for the legal expenses of John Port in making “*good sure and suffycyent estate*” for himself in the disputed lands. Insult was surely being added to injury, as the security of these lands seems to be the main thrust of the 1557 feoffment and the cause of his palpable rage — evidently still felt some 14 years later.

The blame was firmly put at his father’s door and perhaps — as in the way of a still idealistic youth — also at that the door of his maternal grandfather and his uncle for pursuing a pragmatic remedy to the justice he felt he had been denied. It may be worth noting that whilst John Port and Vincent Mundy were bound to each other to perform all the covenants of the deed in the sum of £200, John Port’s bond to Thomas for the same was £300.⁴³

As for Thomas’s claim that documents to do with the *said annycient estates of the said Inheritance intayled to the said heires males* had been “*wrongfully withdrawen and embeseled*,” it is the case that the original conveyance to the Mundys in 1531 has not as yet been found nor has the conveyance from John Port to Thomas⁴⁴ Nevertheless Thomas’s signed portion of the tripartite indenture has survived and was enrolled

in Chancery the following year so he had some proof that his lands had been “redeemed”.⁴⁵ A feoffment and entail was made on the occasion of Thomas’s marriage settlement which appears to have been made in 1548.⁴⁶ This was extant in 1558 and is referred to in Thomas’s Inquisition Post Mortem.⁴⁷ It is therefore difficult to determine what documents affecting the Fynderne estate were missing — certainly most, if not all, the relevant proofs seem to have been returned by 1557. As Thomas declares that “evidences” were withdrawn during the time of his minority “and synce” it is possible that he had a further grievance but what it might be is unclear.

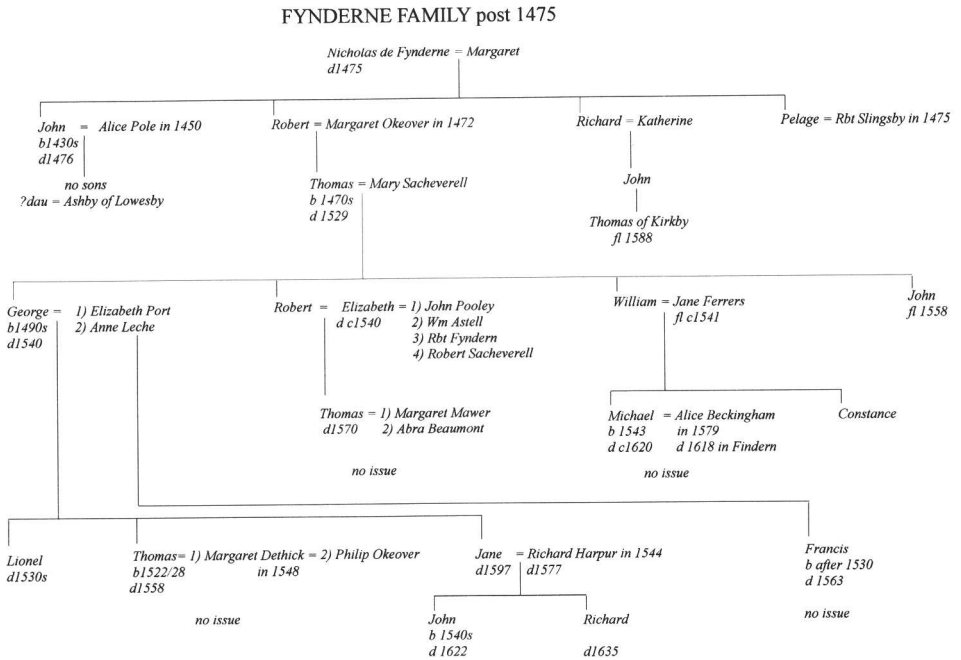
In any event tampering with family documents was certainly a serious charge to levy against his guardian Sir John Port and/or the feoffees, even by implication. All such arrangements depended on trust and a breach could implicate a number of the great and the good of Derbyshire.⁴⁸ There are however, too many uncertainties to allow any firm conclusion.

Whatever the reason, Thomas was “myndeth and intended to recover his said Inheritance to the ancient and rightful course and discent”.⁴⁹ Richard Harpur was to ascribe the cause some 14 years later as “A meere fancy he had to continue all his lands tenements and hereditaments in the name of the Fyndernes, of late years nowe past for that only purpose”⁵⁰ — a phrase which perhaps suggests that despite pressure to favour Jane, Thomas was having none of it. To the extent that the childless Thomas did not have to include his uncles as heirs, Richard Harpur was right. There was ample provision under the Common Law for daughters or sisters to be specified as “heirs general” in an entail.⁵¹ Sir John Port Jnr seems to have had no reservations about doing so.⁵²

Thomas’s entail, written in April 1557, gave precedence to his sons and their sons and so on, then reverted back to his three uncles and their heirs, then to his daughters and then to the right heirs of Thomas the grandfather — which in this case would be Jane. Notwithstanding that Thomas had no children after many years of marriage; it turned out to be a lengthy line.⁵³ He also “for right equity and good conscience” included his half brother Francis as the next heir after his sons.⁵⁴ Francis was the son of George’s second wife, Anne and it is assumed would not have been included in the original marriage settlement which would have limited the inheritance to the eldest son of George and Elizabeth and then to other male heirs.⁵⁵ The feoffees included assorted Dethicks — the immediate family of his wife Margaret, and his uncle John Fynderne: the Ports and the Harpurs are conspicuous by their absence. The lands listed and including Potlock were the same as they were in 1452 with the addition of some lands in Milton.⁵⁶

If any disappointment was felt by the Harpurs it would, no doubt, have been made more acute, by the fact that Sir John Port’s daughters and their spouses were imminently to inherit his estates, notwithstanding a bona fide nephew to carry on the Port name.⁵⁷

Thomas Fynderne died early in 1558 with all his lands seemingly intact, save for Jane’s life interest in Willington and his widow’s life interest in her jointure in Potlock⁵⁸ The estate passed to his half brother Francis Fynderne, a young man in his twenties but unmarried. By August of that year a fine had been levied and enrolled to the effect that Jane maintained her life interest in Willington with the remainder now going to Francis.⁵⁹ This presumably was to protect Jane’s interest against any attempt to bar the entail, which eventuality would allow Francis to sell some or all of the estate.



With acknowledgement to Maureen Jurkowski whose pedigree in *"The Fynderne Manuscript"* in *"Texts and their Contexts"* Early Book Society Dublin 1997 has been very useful.

Fig. 1 Pedigree of the Fynderne family post 1475.

There would appear to be no further action regarding the Fynderne lands until Francis died in 1563.⁶⁰ His mother had been granted a 21 year lease on 'his mansion howse' in Findern the same year but it is uncertain quite how long she remained there or enjoyed the profits.⁶¹ The land passed, according to the terms of Thomas's entail, to his cousin Thomas, the son of Robert Fynderne of Nuneaton, a younger brother of George.⁶² It is clear that there was a provision made out of his newly acquired lands for his wife Abra Beaumont and by way of a common recovery, he sold, in 1567, the manor and lands that the Fyndernes had held in Swadlincote since the fourteenth century.⁶³ As it happens, Richard Harpur was one of the Justices at Westminster who heard the proceedings of the final concord: a frustrating session for him perhaps.⁶⁴ It may be that Robert Fynderne and his son were property speculators or perhaps professional mortgage lenders particularly in Warwickshire — they even appear to have once been the owners of what once was thought to be Shakespeare's mother's house in Wilmcote.⁶⁵ Thomas seems to have continued to live and do business in Nuneaton for the duration and died, childless, in 1570 or 71.⁶⁶

The next heir, Michael Fynderne was the son of George's second brother William who also came from Nuneaton. His mother was a Jane Ferrers, possibly of Baddesley Clinton.⁶⁷ William was a man of enough property and standing to be nominated as a sub sheriff under Walter Smith in the vast area of the counties of Warwick and Leicester in 1537.⁶⁸ Michael himself appears to have been a merchant,⁶⁹ a property owner in Bickenhill near Solihull⁷⁰ and is said to have been 28 when he inherited.⁷¹ He comes over as a bit of a "wheeler and dealer" — albeit well connected. He was

unmarried — and according to the Harpurs was likely to remain so — or rather he was “*more to be lamented ys very unlike to have any yssue male of his body.*”⁷²

“Lamented” is, perhaps, to be taken with a pinch of salt as Michael was the last male heir of the Fynderne blood according to the 1557 entail, his Uncle John presumably having died childless by this time. In December 1571 shortly after Michael claimed his inheritance, Richard Harpur and Jane his wife made a 300 year lease of all the Fynderne lands to their eldest son John who was to have and to hold the lands “*from and after the death of the said Michael Fynderne without yssue male of his body.*”⁷³ In this deed Jane is formally described, for the first time, as “*sister and heir of and unto Thomas Fynderne late of Fynderne deceased.*” This was described 80 years later as “*a fee expectant*” and opinion given that there was doubt if the 300 year lease “*be good against the common recovery after the estate taylor spent.*”⁷⁴ It wasn’t.

Come February 1575 and John Harpur assigned the lease to the Burgesses and Bailiffs of Derby “*for urgent and needful cause.*”⁷⁵ Whether this was for safe keeping or for some legal nicety is unknown but at Easter 1575, Michael Fynderne secured a common recovery on the Fynderne lands to his own use.⁷⁶ He could therefore cut the Harpurs off at will — or indeed by will. The Harpurs were no doubt outraged.

In 1577 Richard Harpur died, his wife’s inheritance far from his grasp.⁷⁷ It is clear that, among other acquisitions, he had already bought, in his own right, some lands in Repton, Milton, Barrow, Chellaston and Twyford and Stenson, together with leases in Littleover⁷⁸ — perhaps with a view to consolidating his future prospects. His epitaph may be left to Jane, who in a personal letter attached to her will, reminded her sons “*that all good creatures will saie of your good father this man did gett his goodes and landes with greate travail and paine and soe it doth continue with his sonnes and their children.*”⁷⁹ Certainly the sons had more than their fair share of “*paine*” when it came to the Fynderne inheritance

The life, times and troubles of Michael Fynderne’s life would fill a book. He is said have married an Alice Beakingham of Essex in March 1579⁸⁰ and a feoffment to uses and entail at that time was tied, some seven months later, to a £2000 Statute Merchant for performance of covenants within five months.⁸¹ This was unusual. The feoffees to uses of all his lands in Derbyshire and Warwickshire were Humphrey and Henry Ferrers, his kinsmen.⁸² In the event, the covenant that the Fynderne lands had “*bene clearlie acquitted exonerated an d discharged of and from all manner of former jointures and dowers*”, was not Michael’s to promise — there were two Fynderne widows; one with a jointure and one with dower rights who were legally entitled to their profits and annuities out of the land.⁸³ Michael was not to be deterred by these niceties. In a deed, just a couple of weeks later, he granted the freehold of his lands in Findern Wood and other lands Repton to his “*well beloved frend*” Thomas Hill and his heirs for Michael’s lifetime.⁸⁴ The rents and all the issues from these lands were, nevertheless, still to be paid to Michael! This land had the rent charge for Abra’s (the widow of Thomas of Nuneaton) dower but presumably as the freehold was not his he could not be responsible!⁸⁵ This dower was later to be the subject of a court case for non payment of the whole.⁸⁶ A jointure on the land, to Margaret Okeover, the widow of Thomas the brother, was not so satisfactorily resolved,⁸⁷ which may account for the grant in 1581 of a £20 annuity in perpetuity out of Fynderne lands to Henry Ferrers and heirs.⁸⁸ The Ferrers sued for non payment of this, 80 years later, in 1653.⁸⁹

Within three weeks of the grant of the annuity, Jane Harpur and Richard the younger son granted an £300 per annum also out of the Fynderne lands to the eldest son John and his heirs.⁹⁰ It was qualified by the term “when seised” but would seem to indicate that the Harpurs were, at the very least, unsettled by events.

Michael Fynderne as merchant as well as a gentleman, would, no doubt, need credit. A few of his larger debts are recorded but it is not known whether these were the sum total or merely a representative sample.⁹¹ It is certainly the case that a statute merchant (for recovery of debt) made in 1582, was to cause a number of problems.⁹² A sum of £80 was owed for the purchase of merchandise with a £400 penal bond for non payment and was rescheduled in 1586, on very favourable terms. It remained unpaid until 1596.⁹³ He would appear to have sold his lands in Bickenhill in this period but still the debt remained unpaid.⁹⁴

By 1595 he was in court for the non payment of Abra Fynderne’s dower and lost.⁹⁵ In the following year he was on a charge of collusion, concerning the Manor of Honiley in Warwickshire — the home of his friends the Hills.⁹⁶ In 1596 he sold Repton, Milton, Willington and his interest in Chilcote to the Harpurs for 1000 marks.⁹⁷ Thereafter all the Fynderne lands were sold piecemeal to John Harpur of Swarkestone or his sons Richard of Littleover and John of Breadsall in deals patently associated with Michael Fynderne’s urgent need of money.⁹⁸

In the meantime, in 1588 there was an unwelcome diversion. A putative heir — yet another Thomas Fynderne, this time from Kirkby Mallorie appeared on the scene. His claim dated back to the marriage settlement of 1452 as he said he was the grandson of Richard, the third son of Nicholas de Fynderne.⁹⁹

He said that he had been searching for years for evidence of his claim — long before he was afforded the proof he needed by Michael Fynderne. He complained bitterly about Michael barring the entail and disputed any claim of the Harpurs to inherit. It is assumed that never had the 1557 entail been considered such a positive boon, inasmuch as it very definitely limited any claimants to the heirs of Thomas Fynderne the grandfather of Jane who died in 1529.

Nevertheless, the word was allegedly passed round the neighbourhood by the Harpurs — and by his erstwhile saviour Michael Fynderne — that Thomas was a bastard. Thomas was confident enough to lodge a Bill of Complaint in Chancery outlining his case and asking for Michael Fynderne and the Harpurs to be subpoenaed.¹⁰⁰ Indeed, some of his arguments seemed persuasive — the connections between the Fyndernes, the Sacheverells and Saddington in Leicestershire, for instance¹⁰¹ — but Thomas was, according to his account, of the same generation as Thomas Fynderne the grandfather and would have been born around 1490 to 1510. His evidence seems to be hearsay from c 1516 and it seems likely that he was, if not a bastard, then a very tenuous claimant. In any event nothing more was heard of the matter, either it was laughed out of court by Richard Harpur, the Justice’s second son and a lawyer himself or else Thomas died in the midst of proceedings — an exceedingly old man. Interestingly though, the Harpurs were addressed as if they had a definitive title or interest to some of the Fynderne lands — a reference perhaps to the 300 year lease in which they continued to place much faith — or that they were the *de facto* stewards of the estate in the absence of Michael.

In a letter that cannot have been written after 1588, Michael Fynderne wrote personally letter to Sir John Harpur.¹⁰² This would appear to be in response to a letter reporting on the parlous state of things in Findern and it is clear that Michael is quite happy for the Harpurs to deal with them as they see fit and indeed, to take over the management of his lands in Findern,

“For that I kno you wyll dell with it and all the Rest to my best comodyty as you wryt wher I beleve as yf I had yor bond to that efect”

He owes money to tenants for services rendered, leases have been informally exchanged by him and

“and (as) for the howsses they are so Rewinnes that I am ashamed to thynyk of them”

It is also made clear that there had been discussions with the Harpurs about them buying his estate in Findern itself. The Harpurs appear to have passed up the opportunity then and to have done so again at this time, even though all Michael’s estates were now threatened by the enforcement of the £400 bond made in 1582.¹⁰³ Perhaps this was on the insistence of their mother who was not about to see anyone pay a brass farthing for what now was her right inheritance. It was to be another eight years — around the time of Jane’s death — before they started to buy the estate — and the £400 debt.¹⁰⁴

All the land in Findern was leased out, as presumably was Fynderne Hall, and it is assumed that this protected the lands against distraint. Michael was not living there at the time of the letter and indeed stated that he was not proposing to come to Derby ever again. This was perhaps a wise move — as the 1582 bond had been assigned to a yeoman in Egginton with authority to seize goods and chattels to the tune of £400 and even to go as far as to secure the imprisonment of Michael¹⁰⁵

Just how Michael evaded repayment of his loan — or seemingly escaped punishment, is a mystery. In 1596 at the time of the purchase of the Fynderne lands in Repton, John Harpur covenanted to acquit the £400 debt and keep harmless the body, lands and goods of Michael Fynderne.¹⁰⁶ The conveyance was in the name of both Michael Fynderne and Thomas Hill.¹⁰⁷ The sale was in the wake of the Chancery suit brought by an over confidant Michael concerning Abra Fynderne’s dower — a complicated but gripping case of lies, leases, and, so it would seem, the use of the Margaret Okeover’s jointure as surety for a bond to perform covenants. Marital *“misdemeanour”* also features.¹⁰⁸ Michael lost and it was settled that Abra would get a one off payment of £60.¹⁰⁹ The following year he signed a covenant with the Harpur’s that he would keep Repton “harmless” from the dower¹¹⁰ but we find that John Harpur is to pay the money to Abra at Coventry in 1598 as she is much troubled by gout and is *“bestead for monaie.”*¹¹¹ As, it would seem, was Michael — again.

And so it went on: Potlock was sold in 1597,¹¹² Twyford and Stenson were mortgaged for ready cash to the Harpurs¹¹³ in 1598 and subsequently sold to them, and various other parcels were sold before 1600.¹¹⁴ Property in Derby was sold, in 1597, to Anthony Crewker.¹¹⁵ It is clear that the possibility of Michael selling the land to someone else was by this time a definite threat. Finally in 1618 Fynderne Hall itself was leased to the Harpurs for a peppercorn rent in return for a loan of £20.¹¹⁶ Michael

Fynderne must have been nearly 90 when he died, although where and when is not known. His wife Alice died in 1612 and was buried at Findern.¹¹⁷ The Harpurs between them paid a minimum of £1769.6s 8d for the Fynderne lands: more if the debts owed by Michael are included.¹¹⁸ What, one may ask, did Michael do with all that money, for clearly within the space of 20 years he had gone through the lot. Certainly loss of income and a period of high inflation in this period would have contributed to his plight — but maybe his “ship” didn’t come in after all.

His inquisition Post Mortem was not made until 1652 and lists some of the properties sold but which Michael had been granted for the term of his life by the Harpurs.¹¹⁹ It concluded he had no goods or chattels at the time of his death, and he was described as “*poor and indigent*” by counsel.¹²⁰ In the same year the Ferrers brought a suit for non payment of the £20 annuity granted by Michael in 1581, which seems to have been successfully defended by Sir John Harpur, the great grandson of the Judge.¹²¹ This was just as well as this Sir John was himself being sued for repayment of debts of the exiled Duke of Newcastle for whom he had stood surety and was being threatened with outlawry.¹²²

In conclusion it seems clear that Richard Harpur and Jane Fynderne can have had no real expectation of succeeding to the Fynderne estate when they married in 1544. At least two hundred years of inheritance by male only fee tail meant that Jane was an heiress of the very last resort. Her brother’s actions in 1557 merely confirmed the fact. Their prospects improved somewhat with the succession of the last male heir Michael, in 1571, but for the next 30 years the Fynderne inheritance proved to be something of a “see saw”. Its security was threatened by his marriage and by his legal manoeuvres and above all by what appears to be his financial speculation and mismanagement. Michael, it is suggested, was something of a gambler — if not with cards, then with high risk investment or speculative activities. In the end the Harpurs, father and sons stepped in to relieve him of his debts by buying the lot.

While the inscription on the Harpur tomb in Swarkestone, probably inscribed in 1577, accurately reflected her status at that particular moment, it does rather suggest that the inheritance was an established fact and that she and Richard Harpur had in fact succeeded to the estate. This was definitely not the case when Jane died in 1597. According to Cox, Richard wears a ring bearing the initial T and surmounted by an ox yoke, the crest of the Fyndernes, which ornament would only reinforce that conclusion.¹²³

But it certainly succeeded in keeping the Fynderne family name alive, just as Thomas would have wished.

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- ¹ The National Archives (TNA) PRO (Public Record Office) PROB 11/59 PROB Richard Harpur 28 Jan 1577 and PROB 11/89 Jane Harpur 10 May 1597.
- ² Derbyshire Record Office (DRO) D2375M 25/12, Indenture 20 Dec 13E, reference “to one Michael Fynderne who ys the last heir male of the Fynderne bludd”.
- ³ Kevin Gray, *Elements of Land Law* (Butterworth, London 1987) 42–43 for (trusts to uses), 62 (for entailed estates).
- ⁴ John Guy, *Tudor England* (OUP 1990) 373 (for 1536 Statute to Uses). F. Heal & C. Holmes, *Gentry in England and Wales* (Macmillan, London 1994) 46. As the feoffees (trustees) to uses had the fee simple of the estate, the lands did not even nominally revert to the Crown on the death of the incumbent and the Crown could not receive feudal dues. Similarly minors did not come into legal possession of their inheritance if it were held by feoffees. The Statute, which overturned such tax evasion, was very unpopular and in 1540 there was a compromise “Statute of Wills” which allowed land to be devised by will. This was counterbalanced by the inception of the Court of Wards and Liveries in the same year. Entails and trusts continued but with the Court of Wards taking and making money out of wardship and heir’s entry into their estates.
- ⁵ DRO. D2375M 53/14 (1452 marriage settlement) PRO C142/22/33, PRO 118/30 (1558 IPMs Thomas Fynderne) and other deeds.
- ⁶ Garrett & Rawcliffe, *Derbyshire Feet of Fines*, (Derbyshire Record Society, Vol XXI, 1985) no.1326.
- ⁷ (Ed.) J.H Baker, *The Notebook of Sir John Port* (Selden Society, London 1986) Intro xxii for Port family tree.
- ⁸ Chester & Cheshire Archives (CCA) CR 469 (www.A2A.org.uk);- excerpt from notes on the administrative history of the Aldersey family collection regarding a manuscript listing mayors and sheriffs of Chester. One entry, annotated in different hand, comments “John Harper — father of Justice Harpur.” John Harper was Sheriff of Chester in 1507. A full list of Mayors and Sheriffs can be found on www.chestercc.gov.uk and shows assorted Ports and Harpers holding high office from 1471.
Derbyshire Local Studies Library (DLSL) — copy of draft 1611 Heralds Visitation also shows this pedigree. The notion that the family came of Staffordshire gentry stock was perhaps due to the efforts of some 18th or 19th century inquiry into the family history wherein an extract of the will of . . . Harpur of Rushall appears. (DRO D2375M 296/16/1).
- ⁹ Baker, *op cit* intro xiii — purchase of Etwall etc from John Fitzherbert.
- ¹⁰ I.H Jeayes “*Descriptive catalogue of Derbyshire Charters*” 2588 (Kerry xix) 67, AD 1202 (cited in) — but the family probably descended from the de Willingtons from early 12th century (Derbyshire Archaeological Journal (DAJ) 1886 “Burton Cartulary” ed. Wrottesley).
- ¹¹ Baker, *op cit* Intro xiii John Port married Jane Fitzherbert in 1495.
- ¹² There is some confusion about Thomas’s age: He seems to have appeared in court in his own right in 1541 (PRO C1/1036) which suggests that he was aged 18 — the age appointed by his father for him to inherit and therefore born in 1522 (DRO 2375M 100/30) However in the same year he is described as a minor in a suit brought by Sir John Port over the failure of tenants to “furnish armed men for the King’s wars in Scotland”. (PRO C1/1053/48–49 years 1538–44) www.nationalarchives.gov.uk/catalogue. This particular muster, it is assumed, took place after James V of Scotland failed to appear in York to meet Henry VIII in mid 1541 with the court case following on a bit later. (Guy, *op cit* and others) This latter date would appear to clarify some very faint writing at the foot of George Fynderne’s IPM (PRO C/142/62) that Thomas (would) enter into his inheritance in December 1546 as opposed to 1536. His year of birth would therefore be 1528. The jointure for his bride (of the

former Mundy lands in Potlock) was made in June 1549 when he was 21. His wife Margaret survived till 1600 at least. That John Port was the prime agent in the marriage settlement of 1544 also suggests that Thomas was a minor — although of equal importance was that Thomas was unmarried and all the lands enfeoffed remained to the use of Sir John Port until he was. Potlock and Findern were not actually named in the feoffment and indeed, another point in Thomas's argument was that he inherited no land from his father (and therefore had to live on a paltry £20 p.a).

- 13 PRO C142/122/33 — IPM Thomas Fynderne 1558, reference to marriage settlement.
- 14 Ibid and DRO D2375M 25/17–1557 — Thomas Fynderne, feoffment to uses (16th/17th century copy).
- 15 DRO D2375M 53/14 1452 — Feoffment to uses, Nicholas Fynderne. NB Eileen Spring, *Law, Land and Family 1300–1800*, Univ of Carolina Press, 1994, 36 “*landowners’ legal history is a long multifaceted struggle against the common law rules of inheritance*”.
- 16 Baker, *op cit* Intro xiv.
- 17 CCA DCH/A/580. (A2A.org.uk) It is known that John Harpur corresponded with his Uncle Henry in Chester.
- 18 DRO D2375M 110/30 — 1529 George Fynderne, feoffment to uses.
- 19 PRO PROB 11/28 — 1540 Will of Sir John Port.
- 20 Lichfield Joint Record Office, (LJRO) — 1540 Inventory of George Fynderne.
- 21 Baker, *op cit* Intro xiv.
- 22 *ibid* Intro xxi John Port entered Inner Temple in 1528 and Intro xxiii Richard Harpur entered the same place in 1537.
- 23 DRO D2375M 296/16/1 — transcription of IPM Richard Harpur 1577 — reference to deed 24 Sept 8E., lands in Barton Bacpuise and Chellaston as jointure. A jointure was land and income provided by the groom's family to sustain the wife after the death of her husband. A dowry was the marriage portion provided by the bride's family and dower was the common law entitlement of the widow (in the absence of a jointure) to one third of her late husband's estate for her lifetime.
- 24 *Ibid* — John (Harpur) the next heir is 30 years or more.
- 25 Garrett & Rawcliffe, *op cit* 1326.
- 26 *Ibid*. Intro vi — description of a double fine.
- 27 DRO D2375M 110/30.
- 28 There are no records of local land ownership until 1557 (DRO2375M 28/9) when Richard Harpur is described as of Chester. From 1554, if not before, he was travelling over wide areas of the country on Commissions of Gaol Delivery and Oyer and Terminer (Published Catalogues of Patent Rolls 1554–69). Richard remained dependent on Simon Starkey, a servant of Sir John Port until at least 1557 for assorted services in the area (DRO D2375M 28/9 and 126/1/2).
- 29 DRO D2375M 110/30 1529 George Fynderne feoffment to uses.
- 30 PRO Probate 11/28. 1540 Will of Sir John Port the elder and DRO2375M 25/12/1 — estimate of Jane's income from this contemporary rental.
- 31 LJRO 1555 Will and inventory of Roger Rolleston.
- 32 CCA DBA/50 — (A2A.org.uk) 1557 sale of Christleton etc to Richard Harpur. Interestingly this had in fact been bequeathed to him by Sir John Port the Younger in his 1557 will with the proviso to the effect “that if this cannot happen” he had to be content. Seemingly it could not happen, so the sale was made just days before Sir John's death.
- 33 DRO D2375M 28/9 — John Rolleston sells his part of Swarkestone to Richard Harpur.
- 34 TNA C142/122/33 and DRO D2375M 25/17 (16th century copy) — 1557 Thomas Fynderne feoffment to uses.
- 35 *Ibid*.

- ³⁶ Wm. Blackstone *Commentaries on the Laws of England*, Clarendon Press 1765–9 Book III Chapter 10 — on “discontynue[n]ce”. Courtesy of www.yale.edu/laweb/avalon/blackstone.
- ³⁷ DRO D2375M 25/17 Exemplification of a Common Recovery. This was a legal device which could be used for a conveyance but more often was for the removal of the conditions of a fee tail and allowed land to be sold free of such encumbrances. It was a fictitious suit featuring a plaintiff (who often seems to have some interest in the matter — perhaps as a possible purchaser) who brings a writ of entry, a tenant who is the person to recover the lands to his use after dispossession by a mythical Humphrey or Henry Hunt. A vouchee who is said to have vouched or warranted the land to the tenant is called as a witness in court but is found to have conveniently disappeared at the “critical” moment.
- ³⁸ DRO D2375M 25/17 — lease 30th Oct 23 HVIII (1532) — the conveyance made the previous day is cited in the lease of the lands to George.
- ³⁹ DRO 2375M 25/17 — Sir John Mundy to his son Vincent, 20th September 28 H VIII (1537).
- ⁴⁰ PRO C1/1036 Vincent Mundy vs Thomas Fynderne “George Fynderne dyed abowt half a yere now past” George died 9th April 1540 (PRO C142/62).
- ⁴¹ *ibid.*
- ⁴² DRO D2375M 25/17 Tripartite indenture 26th May 34 HVIII (1543) between Vincent Mundy, John Port and Thomas Fynderne.
- ⁴³ *Ibid.*
- ⁴⁴ The transfer to John Port does however survive. DRO D2375M 24/55 Vincent Mundy to John Port. 26th May 34HVIII (1543) Conveyance of lands in Potlock.
- ⁴⁵ DRO D2375M 25/17 tripartite indenture.
- ⁴⁶ PRO C/142/122/33 — 25th June 2 Ed VI (1548) is date of Margaret Dethick’s jointure in Potlock. It is also quoted in DRO E5133 in connection with Michael Fynderne’s attempt to reclaim Potlock from the aging Margaret and her 2nd husband Philip Okeover c1596.
- ⁴⁷ PRO C142/ 122/33 1558 IPM Thomas Fynderne.
- ⁴⁸ DRO D2375M 110/30 — the feoffees of 1529 included Sir Richard Sacheverell, Sir Thomas Cockayn, Edmond Pierrepoint, Thomas Brudenell and German Pole — as well as Sir John Port.
- ⁴⁹ DRO D2375M 25/17 — copy of 1557 entail.
- ⁵⁰ DRO D2375M 25/12 — 1571, 300 year lease. The comment also, in effect, ridicules the allegations in Thomas’s feoffment.
- ⁵¹ Spring, *op cit*, 24.
- ⁵² Ed. David G Edwards, *Derbyshire Wills proved in the Prerogative Court of Canterbury, 1393–1578*, DRS 1998 108 — 114 (1557 the will of Sir John Port Jnr).
- ⁵³ DRO D2375M 25/17 — copy of entail.
- ⁵⁴ *ibid.*
- ⁵⁵ This was the normal pattern. No documents survive of any settlement for the 2nd marriage of George to Anne Leche. Thomas certainly assumed that Francis was not automatically eligible to inherit.
- ⁵⁶ DRO D2375M 53/14 — 1452 marriage settlement and entail of Nicholas Fynderne.
- ⁵⁷ Edwards, *op cit* 108–114 (1557 Will of Sir John Port Jnr) John Port of Ilam, descended from Richard Port brother of Henry Port the father of John (Baker *op cit* Intro xxii) It may be that as the inheritance involved a fourth generation he couldn’t do so by a feoffment to uses — but he could have bequeathed the land by will. He did however make very sure that his name survived by virtue of his charity which founded Repton School and a hospital in Etwall.
- ⁵⁸ PRO C/142/118/30 and PRO C/142/122/33 1558 IPMs Thomas Fynderne.
- ⁵⁹ DRO D2375M 63/52 — entitled “descent of the Manor of Willington”.
- ⁶⁰ LJRO 1563 Will of Francis Fynderne.

- 61 *ibid.*
- 62 DRO D2375M 25/17 copy of entail and DRO D2375M 53/11 (a diagram made much later of how the entail worked).
- 63 PRO C3/239/1 1595 Michael Fynderne vs Abra Granger (formerly Fynderne).
- 64 Manchester University, John Rylands Library, Philips Charters 331 and 334.
- 65 Park Honan, *Shakespeare: A Life*, OUP 1998 quote from Chapter 2 on <http://cgi.cnn.com/books/9903/shakespeare>.
- 66 DRO D2375M 25/12/1 c1565, Rent roll – “the manor place of Findern now in the holding of Thomas Burrows”.
- 67 Maureen Jurkowski, “*The Fynderne Manuscript*,” in *Texts and their contexts* Ed. J Scattergood & J. Boffey. The Early Book Society, 1997 — family tree, 222.
- 68 DRO D2375M 53/11, diagram of the entail and www.mtholyoke.edu/courses/hgarrett/researchfiles/cp40 — a random search!
- 69 DRO D2375M 28/24 — Aug 18 29E (1587) purpose of loan.
- 70 *ibid* (and other deeds).
- 71 Jurkowski — *op cit*, family tree, 222.
- 72 DRO D2375M 25/12 Indenture 20th Dec 13E.
- 73 *ibid.*
- 74 DRO D2375M 25/12 c1652 copies of deeds proving title/ancestry.
- 75 DRO D2375M 22/2 — 8th Feb 17E — assignment of lease.
- 76 DRO D2375M 25/12, 11th May 1575, copy of Common Recovery.
- 77 PRO PROB 11/59 Richard Harpur 28 Jan 1577.
- 78 *Calendar of Patent Rolls* 1566 — Richard Harpur granted pardon of alienation re purchase of Manor of Repton and lands in Milton from Thomas and Margaret Stanhope (John Port’s daughter) DRO D2375M 28/22 Milton from Geo Hastings & Dorothy his wife (John Port’s daughter) DRO D2375M 296/16/3 Barrow from Wm Wilne in 1564. The rest listed in copy of IPM Richard Harpur DRO D2375M 296/16/4. As the purchase of Repton involved a piece of Fynderne Wood and was the jointure of Isabella Harpur there was a dispute about Michael’s depredeations in the wood that was also part of his inheritance. (25/12).
- 79 PRO PROB 11/89 Jane Harpur 10 May 1597.
- 80 Jurkowski, *op cit* 222 & DRO D2375M 25th March 21E (1579) feoffment to uses and entail. Alice is not named but provision is made for his legal heirs — and if there are none — then to the uses laid down in his will.
- 81 DRO D2375M 53/4 Indenture, 6th Nov 21E (1579). Bond to perform covenants.
- 82 Jurkowski *op cit* 222 — it is assumed that as Michael’s sister is named Constance it has some significance. Possibly her grandmother or great aunt was Constance Brome (d 1551) wife of Edward Ferrers of Baddesley Clinton.
- 83 PRO C239/1 1595 Michael Fynderne vs Abra Granger. Abra Granger was the widow of Thomas of Nuneaton and DRO E5133, The Answer of Philip Okeover to Michael Fynderne c1596.
- 84 DRO D2375M 53/4 Indenture 22 November 22E 1579 Michael Fynderne to Thomas Hyll
- 85 DRO D2375M 25/12 Indenture 11th May 38E — covenant between Michael Fynderne and Richard Harpur of Littlover to keep lands just bought in Repton safe from claims by Abra
- 86 PRO C3/239/1 1595 —. Michael Fynderne vs Abra Granger.
- 87 DRO E5133 — c1596. This jointure for the natural life of Margaret widow of Jane’s brother Thomas was still current. Margaret died c 1600.
- 88 DRO D2375M 25/12 — cited in a list of deeds concerning Michael Fynderne.
- 89 PRO C5/381/85 — www.nationalarchives.gov.uk/catalogue Ferrers vs Harpur. Michael’s Inquisition post mortem was not taken until 1652 presumably in connection with this.
- 90 DRO D2375M 25/12, 19 Dec 23E Jane Harpur and Richard her son grant £300 annuity out of Fynderne lands.

- ⁹¹ SBTRO DR3/593 and 596 on www.A2A.org.uk — 1596 and 97 defeasance of penal bonds of 1000 marks and of £200.
- ⁹² DRO D2375M 28/24 18th Sept 24E (1582) Penal bond of £400 Michael Fynderne to Erasmus Catesby for £80 debt for merchandise bought.
- ⁹³ *ibid.* 8th June 28E — rescheduling of £50 outstanding debt at £10 p.a.
- ⁹⁴ *ibid.* 18th Aug 29E 1587 Michael Fynderne of Bicknell, — and DRO, Transcript of Findern Parish Registers — Richard Harpur (son of John of Swarkestone) was living in Findern with his wife Mary in 1587/88 (presumably in the Hall — he is unlikely to have lived in a lesser house) — then PRO C3/239/1 — 1595 Michael Fynderne of Findern Hall. No evidence of the sale of Bicknell has been found — an assumption based on his assorted “troubles”.
- ⁹⁵ PRO C3/239/1-1595 Fynderne vs Granger.
- ⁹⁶ SBTRO DR18/3/25/25 — Thomas Hill, with Michael Fynderne et al involved in some chicanery about leases — of which the Master of the Rolls found the “*sayd practise to be fowll crafty and indirect and fitt to be condemned*” and referred it to the Keeper of the Great Seal. Thomas was fined £100 and ordered to bring Michael and another defendant to court in the next term when he could be the plaintiff against them. What happened next is a mystery but the relationship between Thomas Hill and Michael seemingly remained firm.
- ⁹⁷ DRO D2375M 22/1 and 22/2 — multiple deeds made on May 11th 38E (1596) including penal bond for £1000 to perform various covenants.
- ⁹⁸ e.g. DRO D2375M 22/1 8th April 38E — Articles of Agreement re Repton included in schedule of payments was £66. 13s 4d “at Martinmas next for Mr Fynderne’s debt to Mr Enport”: DRO D2375M25/17, 27th May 40E, Mortgage on Stenson & Twyford, this was subsequently conveyed to Richard Harpur of Littleover, the mortgagee: 82/54, 20th Jan 13 J (1616) lease of Findern Hall as surety for loan of £20. In fact the latter had already been sold to the Harpurs in 1600 but Michael had the right to stay. Technically this deed rendered him homeless as now the Harpurs could occupy the house.
- ⁹⁹ DRO D2375M 22/1, letter 22nd June 1588 to John Harpur of Swarkestone including line “you have reported me to not be a right Fynderne but rather a Bastard”.
- ¹⁰⁰ DRO D2375M 138/37 — the complaint of Thomas Fynderne of Kirkby.
- ¹⁰¹ DRO D2375M 25/12 — more letters — including one with opening line “your most uncharitable dealings” and DRO D2375M 22/1 — letter 22nd June 1588 Sir Richard Sacheverell was the brother in law of Thomas the grandfather and lived in Saddington, Leics. He left William and John Fynderne the younger sons of George money in his will. 1534 (PRO PROB 11/25).
- ¹⁰² DRO D2375M 82/24 — One of the persons named in this letter died in 1588/9 (LJRO Inventory of German Roo of Swarkestone — servant of John Harpur (and local petty money lender). Michael Fynderne borrowed £5 off him at the time the letter was written.
- ¹⁰³ DRO D2375M 28/24 Indenture 28Aug 29E (1587) between Erasmus Catesby and John Shepherd of Eggington authorising him to collect the penal bond of £400 from Michael Fynderne. The original debt was £80.
- ¹⁰⁴ DRO D2375M 22/2 May 11th 38E (1596) Sale of Repton.
- ¹⁰⁵ DRO D2375M 28/24 Indenture 28Aug 29E (1587) — see ¹⁰³.
- ¹⁰⁶ DRO D2375M 25/17 — May 11th 28E (1596).
- ¹⁰⁷ DRO D2375M 53/4 Indenture 22 November 22E 1579 Michael Fynderne to Thomas Hyll — sale of lands in Repton.
- ¹⁰⁸ PRO PRO C3/239/1 1595 — apparently there had been a court case in 1573 when Abra had claimed dower contrary to her late husband’s wishes as he had allegedly granted her a jointure worth £200. It was settled that Michael Fynderne should pay £7.8.0 per year which he did for 5 years until Abra fell out with her new husband and asked that Michael withhold the money until she asked for it. Eventually by 1595 after a new lease in 1578 that included

- payment of arrears and the old lease that had not been destroyed Michael, as the result of a bond, claimed he was being unjustly dunned for hundreds of pounds by the sureties — and took Abra to court.
- ¹⁰⁹ DRO D2375M 28/24 letter from Michael Fynderne to John Harpur — Abra Fynderne to get £60 in full satisfaction of her claim.
- ¹¹⁰ D2375M 25/12, 11th May 38E (1596) Michael Fynderne covenants to keep Repton harmless from Abra's claim.
- ¹¹¹ D2375M 28/24 40E Letter from Abra to John Harpur and receipt for the money.
- ¹¹² 22/1 25th Sept 39E — sale of Potlock.
- ¹¹³ DRO D2375M 25/17 — Mortgage of Stenson and Twyford.
- ¹¹⁴ DRO D2375M 22/1 (Findern Hall) 82/54 (the Okeover jointure lands in Potlock) and 28/24 and 25/12 (miscellaneous closes).
- ¹¹⁵ DRO D2375M 28/24 sale of Derby lands to Anthony Crewker.
- ¹¹⁶ DRO D2375M 82/54.
- ¹¹⁷ DRO — transcript of Findern Parish register.
- ¹¹⁸ Totals gleaned from the assorted conveyances.
- ¹¹⁹ DRO D2375M 142/41/12 1652 IPM Michael Fynderne.
- ¹²⁰ DRO D2375M 25/12 c1652 copies of deeds proving title/ancestry + legal comment.
- ¹²¹ PRO C5/381/85 — [www.nationalarchives.gov.uk /catalogue](http://www.nationalarchives.gov.uk/catalogue) 1653 Ferrers vs Harpur. The arrears totalled £1300 (DRO D2375M 25/12).
- ¹²² Nottinghamshire Archives DD4P 35/17 (1652) Indenture and 54/47(1656) list of debts on Newcastle's behalf.
- ¹²³ J.C. Cox *The Churches of Derbyshire* (Derby 1875) iv 493 (Swarkeston).