

FINAL CONCORD

Thomas Dunckley and John Mawbye, plaintiffs, Richard Garrett and wife Elizabeth, and John Garrett, deforciant, relating to premises in Hillmorton and Creeke (Crick).

This is the final concord made in the court of the Lady Queen at Westminster on the octave of St Michael [6 October] in the 42nd year of the reign of Queen Elizabeth by the Grace of God Queen of England France and Ireland, Defender of the Faith [1600] before Charles Anderson, Thomas Wedmysley and George Kingesmyth Justices and others faithful to the Queen there present between Thomas Dunckley and John Mawbye querents and Richard Garrett and Elizabeth his wife and John Garrett deforciant of two messuages one cottage 250 acres of land, 40 acres of meadow 100 acres pasture 10 acres of furze and heath and other pasture with appurtenances in Creeke in the county of Northampton, of 7 acres of meadow with appurtenances in Hillmorton in the county of Warwickshire. Whereupon a plea of covenant was summoned between them in the same court that is to say the aforesaid Richard and Elizabeth Garrett and John Garrett have acknowledged the aforesaid tenements and acres of pasture with appurtenances to be the right of Thomas Wyllkyns Thomas and John Mawbye which they have of the gift of the aforesaid Richard and Elizabeth and John Garrett and those they have remised and quitclaimed from them the said Richard and Elizabeth and John Garrett and their heirs to the aforesaid Richard, Thomas and John Mawbye and their heirs and the aforesaid Richard, Elizabeth and John Garrett have granted for themselves and their heirs that they will warrant to the said Thomas and John Mawbye and their heirs the aforesaid tenements and acres of pasture with appurtenances against the aforesaid Richard Elizabeth and John Garrett and their heirs and for this recognizance remise quitclaim warranties fine and agreement the said Thomas and John Mawbye have given to the said Richard, Elizabeth and John Garrett £140 sterling.

The final concord was basically a legal fiction designed to strengthen the title to a property, although originally it had been a way of resolving genuine disputes between claimants. The action was brought to court by mutual agreement of both parties, known as querents, or plaintiffs, and deforciant and what was really happening was that the plaintiffs were about to buy the land and the deforciant were the current owners. Because the action was fictitious and not a real conveyance, the details are not accurate and in fact became very formulaic. In the above example, the Garretts would not have owned hundreds of acres of land, and the sum they received was probably not £140. The point of the deed however, is that property was conveyed, and the two parties had probably made a separate deed setting out exactly what was being conveyed. Meanwhile, the fine provided a secure and permanent record of the transaction because three copies of it were made on a single sheet of parchment, one on each side and one at the foot. The copies would then be separated by cutting the parchment along indented (wavy) lines as a precaution against forgery. The right and left hand copies were given to the parties and the third copy at the foot was retained by the court. For this reason the documents are known as feet of fines.

The foot of the fine was (usually) securely preserved among the records of the court, and was therefore safe from accidental loss or forgery. In addition, a conveyance of land by fine could be much harder to challenge than one recorded only by a charter.

Another reason for the popularity of fines was that married women could participate in them without the risk of a later challenge on the grounds that they had been coerced by their husbands. As a result, married couples often used fines to convey property. Either the property could be the wife's, or else it could be the husband's, in which case her participation would ensure she could not claim dower in it after his death.

