

THE STATUTES OF THE MARSHES OF PEVENSEY
AND ROMNEY; AND THE CUSTUMAL OF THE
TOWN, PORT, AND LEEGE OF PEVENSEY.

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THE documents, of which the following are a copy, are to be found in a thin quarto MS. book, on parchment, in the Ashmolean Museum, Oxford, having been bequeathed to this University, with other Manuscripts, by Sir William Dugdale. It commences with the Statutes of the Marsh of Pevensey, the date of which is 1402; next follow those of Romney Marsh in Kent, which are dated 1350; and then the Usages and Customs of the Town, Port, and Leege of Pevensey, of the date of 1337. As the Statutes of Pevensey are stated to be founded on the more ancient ones of Romney, and are in a great measure identical with them, I have given of the Romney Marsh Statutes but little more than their titles. With regard to the Custumal of Pevensey, it has, I am aware, been already given to the Society by the Rev. L. B. Larking, of Ryarsh, co. Kent, in Vol. IV., pages 209—218, of our "Collections," from the muniments of Sir Edward Dering, Bart., at Surrenden; which Custumal Mr. Larking considers to be the original drawn up for, and delivered over to, the Lord Warden of Dover Castle, in the year 1357. But as this Surrenden Manuscript is partly in Latin, and partly in Norman-French, and in some parts imperfect from decay, the Oxford translation will still be interesting, not only on account of its being in the vernacular language of the day, but as giving us a clue by which to supply some of these deficiencies. That the book from which my transcripts are made was once the property of the Bailiff and Jurats of Pevensey seems not to admit of much doubt; and it probably came into Sir William Dugdale's hands *by way of loan* (they would scarcely have *given* to him documents of so much importance to them), at the time he was preparing for

publication his work on the Imbanking and Drainage of this Country, and was, after the completion of his work, *forgotten* to be returned by him. In my transcript I have retained the ancient mode of spelling and arrangement of the original, which is in some parts rather complicated and difficult to make out. This is more manifestly the case with the Pevensy Custumal, owing probably to the translator adhering more strictly than was needful to the construction of the original. I have therefore occasionally introduced a word or two to make the sense more clear. The originals of the Pevensy and Romney Statutes I have never seen; but I infer from the circumstance of some extracts, which Jacob gives in his Law Dictionary from the Romney Statutes, being in Latin, that they were first compiled in that language. The reference to the Ashmolean copy is "MSS. Dugdale, 43," and not 78, as Tanner gives it in his Notitia Monast., when alluding to it in speaking of the Hospital of Saint John the Baptist at Pevensy. (See Custumal, Clause 4.)

The first of these Documents is headed "The Estatutes of the Mersh of Penvensy," and is as follows:—

"Henry" (IV.) "by the grace of Gode Kyng of Englonde and of ffrance, and Lorde of Erlonde, To all Men unto whome this presente wrytinge shall come, we sende gretinge."

"forasmoche as we have scene serteine Ordynaunces made by the Pryour of Michelham, John Pelham, and William Makenade, in the Mershe of Pevensy, thurgh the verteus of our Letters Pattentis sent into our Chancery, after the tenour that followeth in this wordes."

"Thees been the Ordynaunces of the Pryour of Michelham, John Pelham, and William Makenade, made at Westham in the Mershe of Pevensy, the frydaye nexte before the feaste of St. Gregory, the third yere of the Reign of Kinge Henry iiiijth, after the conqueste of Englonde, thurgh the vertew of serteine letters patent of the saide Kyng, wherof the tenour and effecte is conteyned in the processe ffollowinge."

"Our Sovereign the Kyng hath sente unto his trew and well belovyd Thomas Erpyngham,¹ Constable of the Castell of Dovore, and Warden of his V portes, other² to his Lewetenants ther the Priour of Michelham, John Pelham, William ffynes William Makenade, Robert Oxenbrige, John Preston, William Chayne, and Vincent ffynche, his letters patent with this words ffollowinge."

"Henry by the grace of Gode Kyng of Englonde and of ffrance, and Lorde of Erlonde, To his well belovyd Thomas Erpyngham, Constable of the Castell of Dovore, and Warden of his V portes, other to his Lewetenantes, the Pryour of Michelham, John Pelham, William ffynes, William Makenade, Roberte Oxenbrige, John Preston, William Chayne, and Vincent ffynche, sendyth gretynges."

"Know ye, that the Walles, diches, guttes, sewers, briges, causeis, and swallounes, in the Mershe of Pevensy, betwene Bexhill and Beachiff,³ in the Countye of

¹ Constable of Dover Castle 1st Henry IV. A.D. 1399. The Lords Wardens of the Cinque Ports were anciently called "Tractus Maritimi Comites."

² Other for *Otherwise*, or *or*.

³ Beachy-Head.

Sussex, by the stroke of the see, and ebbynge and flowynge of the same; and also by divers streemes and courses of fresse waters, dessendynge by divers places of the see, so that divers Ordynances which was made by the Abbote of Begeham, and his ffellowes, late Justices of Richard, late Kynge of Inglonde, the seconde after the conqueste, exemplified and sealed with his seale, to supervyde and oversee that the saide walles, diches, guttes, sewers, briges, causeis, and swallonnes; be repayred and made; the which Ordynances be not observed and kept, insomoch that divers harmes and inestimable hurtis hath fallen thereby of olde times, and it is to drede, that manie greater hurtis and harmes shall fall within a short tyme, unless that behoful remedy be rather applied."

"Therefore we, inasmoche as perteynythe to our Royaltie, to supervyde and oversee in everie place for the salvacion and savegarde of our Realme, being willynge in that partie that congrue and hastie remedie be hadde, have a-signed you vij, vij, v, iij, iij, or too; of whom we will that the forsaide William Makenade, Robert Oxenbrige, and John Preston be one, to oversee and diligently to beholde attende the aforesaide Ordinaunces for the salvacion and defencion of the saide Mershe agens the streemes and waters before rehersed:—And yf case be that they be defectyf, and not sufficient, ye are to amend and correct the aforesaide Ordynances:—And also, yif meete be, to ordeyn a newer, howe and in what wyse the aforesaide Mershe may be beste sayde and defendyd from all maner of perell, and infortunate cases that may happen hereafter."

"Also we wille, that ye ordeyne sufficient punysshinge for them, the whiche rebelle ageynst the forme and Ordynances made by you vij, vij, v, iij, iij, or too, of whom we wille that ye William Makenade, Robert Oxenbrige, and John Preston, be one, so to doo and ordeyne, that the forsaide Ordynances be kepte and observyd for evermore and also proclaymed and published in that parties, and all other singler thinges that be necessary and behoveful to the savegarde of the forsaide Mershe to be doon and fulfilled after the custom, as well of the same Mershe, as of the Mershe of Romeny, and also by the law and consuetude of our Realme of Inglonde; and what so ye doo in the forsaide Ordynances to see that they be fulfilled and executed after the forme beforesaide."

"Farthermore we give commandements to our leage Men of the same Countie that they be attendinge, counsellinge, and helpinge, as it seemethe beste to you vij, vij, v, iij, iij, or too, of whom we wille that William Makenade, Robert Oxenbrige, and John Preston be one, in fulfillinge and doynge dew execution of the forsaide Ordynances."

"In witnesse of the whiche thinges we have ordeyned this our Letters Pattentis; witnessinge myself at Westminster, the xvth day of November, the thyrde yere of our reigne," (1402).

"Through the pretexte of this forsaide Letters, the said Prior, John Pelham, and William Makenade, wente to the place before rehersed, upon the forsaide frydaye, by the condicent of the Lordes of the Townes, the Bayly, and the xij Juratis, otherwise named Shawers, ⁴ and of the Comenes of the saide Mershe, that is to saie, the Abbote of Begham, and the Priour of Lewes, by John ffrenshe, ther Attorney, Thomas Sackviles, Chevalier, by Nicholas Selwyne, his Attorney, Phillippe Mestede, by John Colebronde, his Attorney, and other moo Lordes; and also with divers other of the saide Comens, that is to saie, John Bacon, William Sleghande, John Willarde, Simon Launceforde, Andrewe Burgeis, Robert Redinge, John Colebronde, Bayly, Thomas Pepleham, Thomas atte Bricke, Thomas Kechynham, Thomas Gilridge, Thomas atte Wode, Thomas Keder, Thomas Pulle, John Wodelonde, and William Tutte, Shawers, of the saide Mershe, chosen by the comunes, hath ordeigned these Statutes followinge, for the dew conservance of the forsaide Mershe, and for the salvacion of the same in tyme to come."

"In the first place, because ther was no certeyne Lawe of the saide Mershe ordeyned, ne used, before ther tyme, but at the voluntary of the Lordes, the whiche hadde Londe within the saide Mershe, by the whiche divers perells and hurtis intollerable daylly grew and was renewed; wherfore to eschewe this forsaide perilles

⁴ Shawers, from a Saxon word, signifying an Overlooker, or Overseer. The original duties of the office of Jurate are

hence clearly deduced. Dugdale calls them Szawers. See Lower's Chronicles of Pevensy.

and hurtis, for the increseinge of the common profite. It is ordeyned and fully concorded, that yerey a principall Courte shalbe holden in the saide Mershe, within xv dayes of the feaste of Saynte Michael, tharcanell, wherat one Bayley, and xij Shawers, collectours and spendours of the scottis, shalbe chosen by the Lordes of the Townes, for the salvacion and savegarde of the forsaide Mershe, other the which Bayly shall supervide and oversee the defances of the Mershe, and the xij Shawers shall make concideracions and awarde, accordinge to the Lawe and custom of the Mershe of Romeney, and also that everie Man, by lawful quantite and porcion of his holdinge within the boundes of the saide Mershe, shall give, be even porcions, to the reparacion and sustentacion of the Walles, guttes, sewers, briges, and all other necessary things within the saide Mershe. by the consideracion of the xij Shawers; and that all the reparacions of Walles, Watergauges, guttes, and sewers, to be made as of tyme, as nedithe, wherof the costis shalbe raised and made levy under this forme—that everie man that hathe any londe under that parrell, be yt ney or farre, from the said parrell, so that the saide londe may be saved, other the Owners may have profite by the Walles, Watergauges, guttes, and sewers beforesaide shalbe contributory for the londes and tenementes after the porcion of ther tenure; so that no man holdinge londes and tenementis under the forme beforesaide shalbe spard in that forme, be he rich or poure, of what estate, dignitie, or condicion that ever he bee, within the libertie or without. And yf so bee that any man be negligent in payinge of his porcions at ther serteyne daye ordered by the Shawers for ther porcion of Walles, guttes, and Watergauges, the whiche have ben ordeyned to be repayed, Then yt is lawfull for thos men so beyng behynde of ther payment to be strayed by ther goodes and Cattells, whersoever they may be fownde, within the libertie or withoute, within the precynote of the said Mershe. unto the tyme that they have payed dewly ther porcions with ther wanes; the whiche wanes shalbe receyved to the profite of the Baylyffe. Thees distresses aforesaide shalbe taken by the Baylyffe and the xij Shawers, the whiche shalbe kepte iij dayes; and yf so be that the Owner be rebellious and negligent of his paymente induryng the terme of iij dayes beforesaide, then it is lawfull for the saide distresse to be solde, and the money preservyd for to eschewe the parrell of the Mershe and the unserteyne temper of the see.”

“And also the Comune Baylly of the Mershe of Pevensey, the whiche hath londes within the saide Mershe, shalbe chosen, yf it be profitable and yf it be not profitable, yt is lawfull for another to be chosen, by the assente of the Lordes of the Townes of the saide Mershe, or by ther Attornays, sittinge and holdinge of the Courtes and Lastes⁵ at Westham, or some other lawfull place within the boundes of the saide Mershe, and within xv dayes of Saynte Michael-tyde before rehersyd, by the somonyng, rehersyng, and warnyng of the Bayley. But yf it behoveth the saide Bayly, for some necessarie other reasonable cause, to be chaunged within the saide yere, and another to be chosen in his stede;—furthermore yf so be that the saide Bayly be presente to his election, and not admytte his office, then he shalbe amerced by the Electours in xl^{s.}, the whiche the Baylyffe next ffollowing shall make levy of upon his goodes and cattalls, to the common profite of the saide Mershe, and so in continente a new Election of another Bayly shalbe made, the whiche shall admytte that Office, and make his othe; wherefor he shall have for his labour the wanes that falleth in his tyme of the scottis assessed and levyed. And ffarthermore yf the forsaide Bayly that ys chosen be lette be any man, so that he dare not admytte that Office for dred, that the saide man the whiche createth or causeth, be any manner of suggestion, that the forsaide Bayly dare not execute ne admytte his Office, shalbe punysshed by the chosers, lyke as the Bayly shulde. yf that he wold not admytte that Office. And yf so be that the saide Bayly be absente in the tyme of his chosinge, then shall he be strayed by the Bayly of the Mershe, his predecessor, by all his gooddes and cattalls, the whiche shalbe pounded in serteyne places ordered by the chosers; and there they shalbe kepte unto the tyme the forsaide Bayly goo to the

⁵ Dugdale, in his History of Imbanking and Draining, states a Laste to be a Court held in the Marshes of Kent by the twenty-four Jurates, upon the Summons of the Bailiffs; in which orders were

made to lay and levy taxes;—impose penalties, &c., for the preservation of the said Marshes. A *last* was, in fact, what is now called a water-court.

Constable of the Castell of Pevensey, the Abbotte of Begeham, othe to the Priour of Michelham, or to one of them, and make his othe, and also admytte his Office; and upon that he shall receive letters of hym whiche hath received his othe, sealed with his seale, to the Bayly, his predecessor; and thus shall he doo within vj dayes of his election; and yf he doo not so, he shalbe punysshed as yt is befor-saide, and in continence shalbe made a new election."

"At whiche principall Laste or Courtethe the common collectours and spenders of all the general scottis befor-saide shall make ther accompte before the Lordes of the Mershe, or ther Attornays, yf they be Shawers, and the Comens of the saide Mershe, and the whiche comptis shalbe written and endented betwene them and the saide Bayly, the xij Shawers, and all the Comynes of the saide Mershe; and so in lyke wyse the Bayly shall make his accomptis of thos thinges that perteyneth unto hym to accompte for; and yf that any of the xij Shawers faile for the forsaide Laste, or principall Courte, but yf they have a reasonable excuse, they shalbe amerced in xij^d to the commune worke, the whiche shalbe made levy by the Bayly. And also yf any of the Shawers dye, or be delyvered from his Office within the yere be any cause reasonable, then shall another be chosen, and put in the principall Laste or Courte by the Lordes of the fee, the Bayly, and the remayninge xj Shawers, and the Comynes of the wisest, eldeste, and moste discrete men of the saide Mershe, unto the tyme the number of xij be fulfilled. In like wyse shall the election be made of the Collectours and of the Spenders, so that they be not chosen of the aforesaid xij, yf any other may be founde able within the saide Mershe. And yf any of the forsaide xij Shawers, Collectours, and Spenders, be chosen, and will not make his othe accordinge unto the Ordynauces befor-saide, then shall he be amerced in xv^s, the whiche shalbe made levy to the commune worke, as yt is aforesaide, and after that in continence another shalbe chosen, and charged with his othe and offyce."

"And furthermore yf the xij Shawers be sumoned and warned to come to the comone or principall Laste or Courte, wheras they appere not aboute the number of iiij, whereby the domes⁶ and awardest for the salvacion of the saide Mershe, may not procede for lack of more number, every man that ys absente of the viij shalbe amerced in vj^d by the Bayly and Shawers that bene presente; the whiche money, and other lyke, he shall yelde accompte of at the principal Courte."

"ffurthermore, every man singularly of the xij Shawers shall swere, that he shall with his fellowes, make trewe judgmentis and awardest, not sparinge riche men nor poore, as well of ther stresses as of ther walles, londynges, watergauges, sewers, diches, guttes, briggess, nettes, and other impedymenis within the boundes of the saide Mershe, to be meved,⁷ and the trespases to be punysshed; and also that they, in proper person, be attendant to the Baylie of the saide Mershe, to take distresses and pounce them thre dayes, and after that to prayse them, and selle them, accordinge to the consuetude of Romeney Mershe; and also all the judgments and awardest made by them shalbe enrolled and endented betwene them and the Bayly of the forsaide Mershe. Also the Collectours and Spenders shall swere, that they shall trewly make levie and gather togeder, spende, and counte, of all maner of scottis by the Lordes of the Fee, by the Bailie, and the xij Shawers, other of the more partie off them; and so in this maner be yt made and kepte in all Instreemes within the boundes of the saide Mershe before the Lordes of the Townes, of what Instreemes soever it be, yf they be presente."

"Also the saide Bayly shall swere, that he shall do trewe execution of all maner of judgmentes, awardest, and consideracions, made and judged by the Shawers of the saide Mershe. Also the Baylie, in proper person, all Collectours and Spenders, as well of general scottis, as of Instreemes, shall swere and charge them trewly to gader and to spende the said scottis, and therof a trewe comptis yelde; and the saide Baylie, in proper person, shall oversew all walles, londynges, watergauges, sewers, guttes, and briggess, as ofte as it nedethe."

"ffurthermore, the saide Bayly shall deliver to the Baylie that followethe, his successour, all maner of Evidences, bothe Recordes, paymentes, and exemplificacions, the whiche conteyneth the Customes of the Mershe, with all the Courte Rolls,

⁶ Dome, from the Saxon Dom, a judgment, Sentence, or Decree. The compound words Kingdom, Earldom, &c.,

signify the Dom, or jurisdiction, of a King, an Earl, &c.

⁷ Sic.

judgmentis, consideracions, and awardes, by his tyme by the Shawers made and judged, with all maner of Comptis, of gaderynges and spendynges, ffurthermore, the Bayly's Clerke shall have for his labor of the Comones of the saide Mershe vj^s viij^d."

"Also yt shalbe not be lawful hereafter for any man to make dammes, fordes, other sette nettes, other any other impediments make, inlondynges, water-gauges, diches, other in common streames in the saide Mershe, by the whiche the right course of the water may be letted; and yf so be that the right course of the water be lette by any maner of man under the forme beforesaide, and so testyficated by the Bayly, and vj Shawers, other comones of the Instreemes, wher as the hurte was made, then the trespassour shalbe amerced in continent, after the quantitie of his trespas, by the forsaide Bayly, and the xij Shawers; and also the saide Bayly, and the xij Shawers shall levie the saide merciamentis to the common profite, as yt is rehersyd before."

"ffurthermore, yf any other man than one of the Comones be hurte under the same forme by the witesse of the Bayly and vj Shawers it shalbe satisfied, and the harme amended to hym that ys hurte, by the consideracion of the Bayly and the Shawers."

"Also every scotte assessed shalbe proclaymed in serteyn places, and dayes of painente assigned, wher, and in what place, the scottis shalbe paide, so that the paiers may have none excuse, but that the painente be paide dewely at the daye prefixed."

"Also every acre of londe lyinge be the forsaide walles, and watergauges, where guttes, other flodegates, behovethe to be made, shalbe bought for xl^s."

"ffurthermore, no man shall lede away from the common worke, laborers nor workmen, to his singler occupation, unto the tyme the forsaide common warke be finyshed and ended; and yf so be any man doo the contrary to this Ordinaunce, then the trespassour shall be amerced in the common Laste or Courte by the Bayly and the Shawers in x^s, the whiche shalbe made levie by the Baylie in continente to the comone profite, as yt is beforesaide."

"Also that all maner of Instreemens, be whoos londe and tenementes they goo be kepte so that the water breke not his right course, to the hurte of any man, under the payne of the quantitie of his trespas, the whiche shalbe made levie by the Bayliffe of the Mershe and vj Shawers; and yf any man make a saute or rescue ageinst the Bayliffe, and the xij Shawers, other ageinste any of them, or the Sergeautes, for the takynge of stresses, other for any other maner of article apperteyninge to ther execucion for the comone profite, accordinge to the Ordynaunce beforesaide, than the saide trespassour shalbe amerced by the Baylie and vj or vij of the xij Shawers, in xv^s; the whiche shalbe made levie by the Baylie to the comone warke."

"ffurthermore, yt shalbe lawfull to the Baylie of the Mershe, and the xij Shawers, deuringe the terme, to distrayne the trespassours by ther amercyamentis, for all maner of Articles before rehersyd; and also to kepe the distresses iij dayes, and yf the Owner paie his dewtie within the tyme of the forsaide iij dayes he shall replevy the distress; but yf he paie not hys dewties within the saide terme, then shall yt be lawfull unto the Baylie of the Mershe to selle the forsaide stresses, and to preserve the money to the comone profite of the saide Mershe."

"Wherefore we exemplanie and confirme the aforesaide Ordynaunces under tenure of the presente wrytyng. In witesse of whiche thyng we have made our letters patente; witnessynge myselfe at Westminster the ffyrst daye of Maye, the therde yere of our Reigne," (1492).

Following these Statutes of the Marsh of Pevensey are those by which the Marsh of Romney was governed, and to which frequent allusion is made in the foregoing Statutes of Pevensey, leading us to infer that the Pevensey are in a great measure based on the Romney Statutes. They commence—

"This is the Ordinaunce of Thomas Codlowe, Justice, and of his fellowes, made at Crowthorne the monday nexte after the ffeste of the translation of Seynte Thomas, the xxijnd yere of the reign of King Edward the therde after the Conqueste," (1350.)

The copy of this King's Writ directed to the above, empowering them to make Rules and Regulations for the future conservation of this Marsh, and upon which they acted is then given.

"Our Sovereign Lorde the King, to his welbeloved Thomas Codlowe, Robert Belknap, and Thomas Culpeper, sendeth greetinge."

The Writ then proceeds to state, that much damage had arisen to the Marsh of Romney through "the improper interference of Matthew atte More," who had been appointed to the conservancy of this Marshe wrongfully, "through pheliship" that is, and who made use of the power thus obtained "to oppress the Comones of the said Mershe," and otherwise to misconduct himself both in the discharge of his duty in "superviding the said Mershe," and in his demeanour towards others, with whom he was officially brought into contact; so that John atte Lees, who had been duly appointed to the Bayliwicke, could not take upon him the Office through fear; "thereby placinge the saide Mershe in greate perell of beynge damaged by greate flodes and waters," to the injury of the Realm generally, and of the Marsh of Romney in particular. The parties then named in the Writ for that purpose were called upon to lay down such Rules and Regulations for the future management of this Marsh, as they in their discretion might deem expedient. Accordingly Articles were drawn up by them, which received "the sanction of the Lordes of the Towne, of the Bayly, of the xxiiij Jurattis, and of the Comones of the saide Mershe, that ys to saye, to witte, of John ffraunces, the Attorney of Symonde Archbishop of Canterbury, the Abbote of Seynte Austynne of Canterbury, the Priour of Chrystis Church of Canterbury, Simonde, Master of the House of God in Dovorre, Edmunde Staplegate, Lorde of the nether Billsington, and by manie other of the Commonaltie." These Orders were issued under the following heads:—

- " 1. Of chosynge of the Baylie.
2. The payne of a Baylie. that will not consente unto the Eleccion.
3. What the Baylie shall have for his labour.
4. The payne of hym that letteth the Baylie to doo his Office.
5. How he that is absent, and chosen to be Baylie, shalbe compelled to receive his Office.
6. The Collectours and Shawers shall yelde accomptis of Receyptes.
7. How a Juratte absente from the principall Laste shall be amerced.
8. Of the Eleccion of the Jurattes, Collectours, and Shawers.

9. The payne of the Jurattes, Collectours, and Shawers, who rebell ageynste ther Eleccion.

10. Of the xxiiij Juratte's othe.

11. And that they be attendant unto the Baylie.

12. Of the Collectour's and Shower's othe.

13. Of the Baylie's othe in doynge excusion.

14. The wages of the Baylie's Clerke.

15. That dammes and fordes be not made.

16. The Scottis assessed shalbe proclaymed.

17. The buyinge of an acre of Londe.

18. That all the severall Aquageries⁸ shalbe kepte.

19. The payne of hym that is rebell to the Baylie, or his minister, in makyng of reskew for his stresses taken."

Jacob, in his Law Dictionary, under the head of Rumney Marsh in the County of Kent, says that King Henry III. granted a Charter to this Marsh, in which he empowered twenty-four men, thereunto chosen, to make distresses equally upon all those which have lands and tenements in the said Marsh, to repair the walls and watergates of the same against the dangers of the sea; and that there are several Laws and Customs observed in the same Marsh, established by Ordinances of Justices thereto appointed in the 42nd Year of Henry III. (1258), the 16th of Edward I. (1288), the 23rd of Edward III. (1350), &c.

The Custumal of Pevensey, with which the Ashmolean MS. concludes, begins—

"Thees⁹ been the Usages and Customes of the Towne, Porte, and of the Leege of Pevensey, of the tymes whereof no mynd is."

"1. Everye yere, the mondaye next after the feaste of Saynte Michael, tharchangell all the Comones of the Towne and Leege of Pevensay be wonte to be sumoned, as well Abbottes, Priours, Knyghtes, and other worthie men, havynge londes and tenements within the fraunches, as all they within the fraunches dwellinge, and in the Church of Saynte Nicholas, with the assente¹⁰ of all the Comens, been wonte to chuse a Bailiffe, which is called Receyvour; the whiche Bailiffe shall make his othe upon a bouke, that he shall bere ffaithe to the Comminaltie aforesaide, and them shall maynteigne after his power, and trewly the pence he shall receive expend, and a trew accompte therof shall yelde;¹¹ so god hym helpe, and all Sayntes. And the same Receyvour shall receive the mandements of the Lorde Kyng, and of the Conestable of the Castell of Dovore, and the letters of the Barons of the V Portes; and all other thynges shall do, whiche to the Navy and Service of the V Portes perteyn, and none other."

⁸ Aquage (Aquagium, quasi aquæ-agium, i.e. aquæ ductus, et aquæ gaugium) a Watercourse. "Non liceat alicui de cætero facere dammas, vel fordas, aut alia impedimenta in aliquibus landeis, watergaugiis, fossatis, sive aquagiis, communibus, in Marisco predicto." Ordin: Marisc: de Romney, fact: temp. Hen. III. et Edw. I, page 72.

⁹ The first defect then in the Surren-

den MS. should be filled up by the word hæc "Hæc sunt," &c. Archæol. Collect. Vol. IV., p. 210.

¹⁰ Instead of de [vi]su as Mr. Larking fills up the blank (Custumal of Pevensey, page 211, line 1) it should be "de assensu," and [vill]e, line 3, should be "predicte."

¹¹ Sic, not sicut, as Mr. Larking conjectures.

"2. Also, the same day, the sayd Receyvour shall chuse to him xij Jurattes of the iij quarters of that Leege, that is to saie, of the Burgage of the Towne iij men and so of the other quarters iij men each; the whiche shalbe all sworne, that well and trewly the foresaide Comens shall maynteigne, and reasonable and rightfully shall taxe, and assess the taxe, collectrye, and scottis¹² from each, accordinge to his possessions and quantities, none sparinge, the rich nor the power, so god helpe, and all Sayntes."

"3. Also, the same daye, the saide Receyvour shall chuse unto hym a Comen's Clerke, the whiche also shalbe sworne, that he well and trewly towards the Comonaltie shall bere hymselfe, and the counsell of them shall kepe, and a trewe accompte shall make."

"4. Also, the Men of the Burgage of the Towne of Pevensy have an Hospital of Saynte John Baptiste, in the whiche been Brothers and Sisters, havynge londes and possessions within the Leege aforesaide, and the same Receyvour, and the Men of the saide Burgage, have the disposicion of the saide Hospital, to graunte Corodye, as well to men as to women, as they may consente. And they have to visit and chaste after¹³ the quantitie. And one of the Men of the saide Burgage alway shalbe Overseer and Superiour of that Hospital, to oversee the expense, and the accompte of the Master of the saide Hospital."

"Also the saide Receyvour and the Men may, yf there be to be hadde a Man or Woman of the saide Burgage, the whiche is come into povertie, and have not wherof to lyve, and have borne him or her well by all his or her lyffe, that same Man or Woman in the forsaide Hospital ther sustenances in the same shall take, nothing¹⁴ paynynge for the same."

"5. Also, the Lady Quene of Inglonde in the saide Towne and Leege hathe regalitie and Lordshyppe, and her Stewarde holdes Courtes from iij wykes unto iij wykes, and afore hym owght all plees to be holden, as well plees of Corone, of lyffe, and of number, as of all other and fyns, and recognisances of londes and tenementis, as in the King's Benche; and the Sewtors of the Courte shall sitte besyde the Stewarde, and shall give judgmente of ether plee and hytt shalbe saide by the mouthe¹⁵ of the Stewarde; and the Sewtors shall tax the amercymentes, that is to saye everiche, after the quantitie of the trespass, and assensing alsoe of brede and ale, and the measures and weightes, whiche to the saide Stewarde perteign, and to his Office."

"6. Also, the Lady Quene, in the same Towne and Leege, hath her Baylly, which is called Portereve; the whiche yerely is chosen in the nexte Courte holden after the ffeaste of Seynte Michael, and that by the tenauntes of the same Quene of the saide Leege, the whiche holde londes taileable; and that is tallage, the whiche each is bounde to paye be a yere certeyne, viij marcs. And the same Portereve, by hym or hys Sergiaunte, whiche is called Bedell, owthe to levie yt, and to gather rentes, ffarmes, tallages, amerciamentes, and all issues of all the Lordshippe of the saide Quene, and therof an accompte to yelde afore the auditours where beste to that they may be called; ¹⁶ and if he be found in arrearages, and of his owne have not to ylde, all the tenauntes, the whiche hym to hys Office have chosen, for hym shall satisfy. And the same Portereve, by hym or hys Sergiaunte, shall receive within the fraunches, as well of free men, as of foreigners whiche happen to be within the Liberty, all the playntis whiche have to be made; and after the nature of the playnt owght to attache, or somone, and put to plegis, and of them at the next Courte answer."

¹² The original is "enriched according to his possessions." The Surrenden MS. has "a quolibet, juxta possessiones, et quantitatem suam," &c.

¹³ The Latin word here translated "chaste after," or search out, Mr. Larking gives as castigare, to chastise, or punish.

¹⁴ Mr. Larking gives the reading of the Surrenden MS. here as "in p'diam hospit' sustent sua i eadem cap'd ul so-

luendo p' ead." The contracted word ul, he considers to be "vel;" whereas it is "nullum," "nullum solvendo," &c., paying nothing for their board and lodging, or as is here called "sustenance."

¹⁵ Page 212, l. 9, fill up the Surrenden blank after "per os," with Senescalli.

¹⁶ Page 212, l. 24, for "vacare" read vocare.

"7. Also, in case of corone, yif a Man be founde dede by adventure, or slayne by dide of any person within the ffranchises, on londe or on water, the saide Portereeve shall have the sight as Coroner, and he the same by his Bedell shall do corone, accordyng to the custom of the Countrey,¹⁷ and shall take the inquestis; and yf any be indicted by the same inquestis, the Portereeve shall demaunde of the frynde of the dede, yf they knowe ageynste whom they will pursue; and yf any of the dede be ther, or within the ffranchises fownde, the Portereeve hymselfe shalbe attached, and brought to the preson of the ffranchises, whiche is called the Berdes; and ther he shalbe kepte in stokkis by the people of the saide ffranchises till the nexte Courte, to the whiche he shalbe putte to suche law as he will, or to the usages of the V Portes, that is, to witte, to xxxvj men, whiche the same shall chose, and shall make his pannell at hys perrell, and he shall deliver hit to the handes of the Stewarde; and when they of the pannell be demaunded, everiche by hys name, yf any faille and answerde not, the prisoner shalbe adjudged to the dethe. And yf they be all redy, the Stewarde is wonte of the xxxvj to pardon vij, and the Receyvour and the Jurattes of the comones other vij, and of the remainder the Stewarde shall chose xij for the queste: and yf any witholde his hande from the bouke, or make any condicion by whiche the prisoner shalbe adjudged to dethe, harmless, the prisoner shall swere that he is not gyltie of the same felonie, or slaughter if it be; and after everye man of the queste shall swere by hymselfe; and yf they make ther othes as they owght dewly, Go the prisoner quiete."

"8. And yf a man be atteinte in cas of felonie, and of corone, and shall forfeite his lyef, the Portereeve, as Coroner, shall give the judgmente; and he shalbe sette nexte the Stewarde, and shall say these wordes—"N,¹⁸ withdrawe, and axe a prest." And yf the same that is damned be of the ffranchises, he the same shalbe hadde to the brygge of the Towne, to the playne see, and over the brygge shalbe caste into the haven; and yf he be guil able, he shalbe hanged without the Leege at a place called Wahztrewe."¹⁹

"9. Also, in plee of londes, and of all manner of Writtes owtaken of Novel dissesen and dowary, the playntiff shall go to the Portereeve, or to his Bedell, and shall saie in this forme,—"I, N, finde suretie ageinste such a one in plee of londe"; and after suretie founde, the defessors shall have iij Essoines,²⁰ iij Somones, and iij distresses; and yf he come not after the iij distresses, to answer to the demandant, the londes shalbe taken into the handes of the Kinge by defaulte; and yf that be not replevenyd within xv dayes he shall lose the sesour of the londe; and yf he make no defaulte, he may demaunde a sighte of the londe yf he will; and after the sighte graunted, it belongeth to the defessor to be iij times Essoined in saying—"unde visus," and afterwarde may not the defessor by non accion abate the plee, but it shall go by the very verdict of xij Jurers."

"10. Also, the saide Receyvour and Jurattis may make ffremen of non ffremen in suche manner, that yf any Man come into the Leege, and dwell within the ffranchise, usyng a laweful crafte, and he be of good conversacion, a yere and a daye, and desier the ffranchises, he shall come afore the Receyvour and the Jurattis in ther assemble in praying the ffranchises, when hyt shalbe wiste what he will paye for his ffranchises to be hadde; and afterwarde he shalbe accepte, and sworne to the ffranchises in suche manner—"I bere trewe ffaithe to N, Kinge of Inglonde, and to the Commonaltie of Pevensey, from this daye, from hensforthe, and the state of the

¹⁷ The original is "do Corone a Countrey." I have therefore given what I conceive to be the meaning of these words. The Surrenden M.S. does not throw much light on the matter, having a word or two gone just where we look for explanation:—"et il memes par son Bedell fera pays"—is as Mr. Larking gives it.

¹⁸ Mr. Larking here gives "S," which he conjectures to be the abbreviation of scilicet, or Sir. The letter, however, in the Ashmolean copy is decidedly "N."

The word "axe," for ask, in this sentence is truly Sussexian.

¹⁹ What in the Surrenden copy of this Custumal is divided into two clauses (7 and 8) is only one in the Ashmolean. For the sake of uniformity, I have followed the arrangement of the Surrenden.

²⁰ Essoin is an excuse for the non-compliance of a person summoned to appear and answer to an action brought, or to perform suite to a Court Baron, &c., by reason of sickness and infirmity of body, or other just cause of absence.

ffracunes I shall mainteigne; and shall be lottinge and scottinge of my goodes and cattalls to the Comens, and to ther graunting, as shalbe assessed, after my power.' And he shall paye to the Leighte of Saynte Nicholas j^d."

"11. Also the Men of the saide ffracunes of Pevensay may, and be wonte within ther saide ffracunes to chase the hare and conyes in all ther felde, and to hunte, and fychshe, and to fowle, by londe or by water, oute take any close, like as no man hathe to doo without a licence of hym, to whom the close appertaineth."

"12. Also, yif any Man may, of the ffracunes of Pevensay, come to the Citie of London, or suche a Towne, to a fayre or markett of our Sovereign Lorde the Kinge, and have power to inqueer for marchandyse to sell or to bye, yf he be distrayned for custom, thol, piccage, panage, stallage, morage, or any manner of poynte againste the ffracunes, the saide Receyvour and Jurattis owghte and be wonte, to sende ther letters to *them*, that such extorcion to hym hathe doon, praying that he make deliveraunce to our Courte Baron of suche distresse so taken; and yf they will not by a Withernam²¹ let him take of the Lorde, in lieu of what he distrayned, and of his tenants, from one day to another, till he make delyveraunce of that distresse so taken, or amendis therefor."

"13. Also the saide Receyvour and Jurattis, and the people of the Comonaltie of Pevensay, clayme, as beyng member of the Porte of Hastings, to have, enjoye, and use, over and above those that have been written, and be returned into the Castel of Dovorre under the common seale, the morrow after Saynte Michael tharchangell, the yere of Kinge Edward III. after the Conqueste of Inglonde the xxxth," (1357).

"14. Also, they clayme, that no Bayliffe may a Man of the ffracunes put to surement in plee for londe till the Courte of Assis; nor for any thing, yf it be not fore the plee of the Kinge, or for the profite of the Commonaltie of Pevensay, without commaundement of the Kinge especial."

Since the preceding account was prepared for the printer, I have had, through the kindness of Mr. M. A. Lower, the opportunity of perusing an Edition of Dugdale's History of Imbanking and Draining, published in 1772, by Charles Nalson Cole, Esq., of the Inner Temple, Barrister at Law, and Register of the Honorable Corporation of the Bedford Level. From that part of the work which treats of the drainage and improvement of the Sussex Marshes, it appears that between the 17th of Edward I. (1289) and the 21st of Richard II. (1398), "A multitude of Commissions were granted to sundry persons for the view and care of the banks and ditches of the different Marshes in Sussex, for the defence of the Lands there situated, and preservation of the adjacent parts, which were so broken by the sea, that they were in danger of being drowned and lost." Of the dates of each of the Commissions, with the names of the Commissioners appointed, who were selected for the most part

²¹ Withernam from Wither, the Saxon for altera. and Nam, the Saxon for captio. In case of a distress being driven out of the County, and the Sheriff, upon Replevin, cannot make deliverance to the party distrained, a writ of Withernam is directed to the Sheriff, for the taking as many of his Beasts, or his

goods that are thus unlawfully distrained, into his keeping, until the party make deliverance of the first distress. It is a taking or reprisal of other Cattle, or goods, in lieu of those that were formerly unjustly taken and esloined, or otherwise withholden.

from the leading Landowners of that part of the County in which the Marsh was situated, Dugdale gives an account taken from the Patent Rolls. He then alludes to the particular Statutes with which my Paper commences. Of these he says that, "in the 3rd of Henry IV. (1402), Thomas Erpyngham, Constable of Dovor Castle; The Pryor of Michelham; John Pelham; William Fenys; William Makenade; and others; were constituted Commissioners for the view and repair of the banks of the Pevensey Marsh, betwixt Bixle (Bexhill) and Bechief (Beachey Head); and to perform all things therein according to the Custom of the Marsh of Romeney; and the Law and Custom of this Realm.

"Whereupon the said Pryor, John Pelham, and William Makenade, went unto Westham in the Parish of Pevensey, upon friday next before the feast of St. Gregory (March 12th), by the consent of the said Lords of the Town, the Bailiff, and the xij Jurats (otherwise called Skawers) and of the Commons of the said Marsh; and ordained the following Statutes, for the due governance of the same Marsh, and salvation thereof for the time to come."

Then follows an abstract of the Statutes in twenty-two clauses, which occupy three folio pages, each page having two columns. In a marginal note Dugdale states that his information was obtained "Ex Vet. Cod. MS. penes Will: le Neve, Clar. Regem Armorum, An. 1659." The first Clause of these Pevensey Statutes states that, previous to their ordination, "there was no certain Law of the said Marsh ordained nor used; but at the Will of those Lords, who had lands within the same; so that divers perils and hurts intollerable daily grew; for the eschewing of which, and for the increase of the common profit, the Statutes were fully agreed upon and ordained."

Several Commissions were afterwards issued by the Crown to inquire into and amend certain damages and defects, arising from neglects and violations of these Statutes; the last of which, noticed by Dugdale, was in the 24th year of the Reign of Henry VIII. (1533), for the regulation of the fishing by nets or otherwise in Pevensey Marsh. To this time no alteration appears to have been made in the preceding statutes.