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John Talbot 1790

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S. W. 87. 31. 12. 1820.
THE LAWS of SEWERS; OR THE OFFICE and AUTHORITY OF John Talbot, Commissioners of Sewers.

CONTAINING,

I. Their Power of Enquiry into Annoyances and Defects of Repairs of Sea-Banks and Walls, publick Streams and Rivers, Ditches and Marsh-Grounds.

II. The Authority of the Commissioners in making Laws and Ordinances, and imposing Rates or Taxes for repairing the Walls, Banks, and other Defences.

III. Of their Power by Law as to Distresses, and decreeing Lands to be sold to levy Charges for Repairs, and inflicting Punishments, by Fine and otherwise.

ALSO THE Particular Offices of Bailiffs, Surveyors, Collectors, and other Officers under the Commissioners, and Proceedings of a Court of Sewers, Orders, Warrants, &c.

To which are added, The Laws relating to RUMNEY-MARSH, and other Marshes and Fens.

The Second Edition with Additions: AND A New Compleat TABLE to the Whole.

In the SAVOY:
PREFACE.

As there have been in all Reigns, from the earliest Time, many Commissions of Sewers issued into the several Counties of England, to Gentlemen of Estates and Worth therein, and the Number of the Commissioners and their Clerks, Officers and Ministers under them, being great and considerable; it is very much to be admired, and a Thing very uncommon, that no Person hath hitherto attempted a particular...
The Preface.

icular Treatise on these Laws, with the necessary Business and Practice of the Commissioners of Sewers in putting them in Execution.

To Silence all Complaints on this Head, which of late have been encreasing, this Work is design'd; and that the Commissioners may be no longer without some Guide and Direction in their Extensive Offices: For tho' the Laws and Statutes themselves, are generally sufficient to Instruct them what they ought to do; they are for the most Part Strangers to the Methods of performing their Duty. and
The Preface.

And notwithstanding the Reading of the Learned Serjeant Callis on the great Law of Sewers, the Statute 23 Hen. 8. is an excellent Composition, and I am obliged to that Performance for many of my Informations; yet it must be confessed, That the afore-mention'd Reading is more especially adapted to the Use of Lawyers in general, than the Commissioners of Sewers, and it has not the least Precedent throughout, of their various Transactions.

I have therefore here collected together, the Laws and Statutes of Sewers,
The Preface.

Sewers, in an easy concise Method, for the Use of the Commissioners, beginning with their Commission, which I have branched out into divers Heads, and particularly treated of; which are followed with a Set of Laws and Ordinances of Commissioners, the Form of a Court of Sewers, and Proceedings therein, Precedents of Precepts and Warrants, Orders and Decrees, Rates and Assessments, Assignments and Appointments of Officers, &c. all of them entirely new, and nowhere else to be found, drawn and framed from the Laws now in
The Preface.

In being, and the Nature of all such Business to be transacted.

And that a Work of this Kind might be compleatly useful and acceptable; to these I have subjoined, the Laws and Customs of Romney Marsh in Kent, of Bedford Level, Deeping Fens in Lincolnshire, and other Marshes and Fens; the former of which, were establish'd by particular Commission from our Kings to certain Justices, before the general Commission of Sewers was ordain'd by Statute; and the Laws of the Marshes and Fens, have every where some Affinity and
The Preface.

and Relation to Commissioners of Sewers. The Ordinances of the Marsh of Rumney, are not only a Precedent and Example for all others; but illustrate the particular Process on Plaints, and bringing of Actions, &c. And as they are inserted at large in the following Work, I have omitted to draw my Laws and Ordinances of the Commissioners, and the Presentments and Proceedings, into any considerable Length; which in common Determinations would be altogether needless, and would swell this Treatise beyond its due Bounds.
The Office and Authority of Commissioners of Sewers.

This Kingdom being surrounded with the Sea, the Laws of Sewers for Defence thereof, are for their Importance equal to any; and the Commission of Sewers, is an antient and honourable Commission, to provide against Inundations, and all Annoyances of Streams and Rivers.

The Kings of England granted Commissions of Sewers, for the Surveying and Repairing Sea-Banks, Walls, &c. long before any Statute was enacted in Parliament for it; and during the Reigns of Henry the 6th, Edward the 4th, and Henry the 7th, several Statutes were made, for appointing Commissions of Sewers in all Parts of
the Realm, where needful, some to endure ten Years, some fifteen Years, and others five Years, &c. with certain Powers to the Commissioners; which Commissions, by 23 H. 8. are to be settled by the Lord Chancellor, Lord Treasurer, and the two Chief Justices, or any three of them, whereof the Lord Chancellor to be one; and run in the following Form:

A Commission of Sewers.

GEORGE, &c. To A.B. C.D. E.F. G.H. &c. Know ye, That forasmuch as the Walls, Ditches, Banks, Gutters, Sewers, Gates, Causeways, Bridges, Streams, and other Defences by the Coasts of the Sea, and Marsh Ground, lying and being within the Limits of, &c. in the County of, &c. aforesaid, or in the Borders or confines of the same, by the Rage of the Sea flowing and reflowing, and by Means of the Trenches of fresh Water descending, and having Course by divers Ways to the Sea, are so deficient and broken, and the common Passages of Ships, Passengers and Boats, in the Rivers, Streams, and other Floods
Floods within the Limits of the said County, &c. by reason of setting up, erecting and making Streams, Mills, Bridges, Ponds, Mill-Dams, Locks, Wears, Flood-gates, or other Impediments, or Annoyances, are hindered and interrupted; so that great Damage for want of Reparation of the said Walls, Ditches, Banks, Fences, Sewers, Gates, Gutters, Bridges and Streams, and also by Means of setting up and erecting, making and enlarging of the said Mill-Dams, Locks, Wears, Flood-gates, and other Annoyances, in Times past hath happened, and 'tis to be feared greater Damage and Loss is like to ensue, unless a speedy Remedy be provided: We therefore, and for that by Reason of our Dignity and Prerogative Royal, we are bound to provide for the Safety and Preservation of the Realm, willing that speedy Remedy may be had in the Premises, Have assigned you or six of you of which A.B. C.D. and E.F. shall be three, to be our Justices, to survey the said Walls, Streams, Ditches, Banks, Gutters, Sewers, Gates, Bridges, Mills, Mill-Dams, Flood-Gates, Ponds, Locks, Wears, and other Impediments and Annoyances aforesaid, and the
same to cause to be made, corrected, repaired, amended, put down, or re-formed, as Cause shall require, after your Wisdoms and Discretions; and therein as well to ordain and do after the Tenor, Form and Effect of all and singular the Statutes and Ordinances touching the Premisses or any of them, as also to enquire by the Oaths of honest and lawful Men, of the said County or Place where such Defaults or Annoyances are, as well within Liberties as without, by whom the Truth may be known, through whose Default the said Damages have happened, and who hath or holdeth any Lands or Tenements, or Common of Pasture, or Profit of Fishing, or hath or may have any Loss or Disadvantage by any manner of Means in the said Places, as well near to the said Dangers, Lets and Impediments, as Inhabitants or dwelling thereabouts, by the said Walls, Ditches, Banks, Gutters, Sewers, Trenches, and other the said Impediments and Annoyances; and all those Persons and every of them to tax, assess, charge, distress, and punish, as well within the Metes, Limits and Bounds of old Time accustomed, or otherwise, as elsewhere, after
after the Quantity of their Lands, Tenements and Rents, by Number of Acres and Perches, after the Rate of every Person's Portion, Tenure or Profit, or after the Quantity of their Common of Pasture, or Profit of Fishing, or other Commodities there, by such Ways and Means, and in such Manner, as to you, or six of you, whereof the said A.B. C.D. and E.F. to be three, shall seem most convenient to be ordained and done, for Redress and Reformation in the Premisses; and to reform, repair and amend the said Walls, Ditches, Banks, Gutters, Sewers, Gates, Bridges, Streams, and other the Premisses in all Places needful, and the same as often as there shall be Occasion, to make new, and to cleanse and purge the Trenches, Sewers, and Ditches, in all Places necessary, and further to reform, amend, prostrate and overthrow all such Mills, Streams, Ponds, Locks, Wears, and other Impediments and Annoyances aforesaid, as shall be found by Inquisition, or by your Surveying and View, to be dangerous and hurtful; and also to depute and assign diligent, faithful and true Keepers, Bailiffs, Surveyers, Collectors,
Expenditors, and other Officers and Ministers, for the Safety, Conservation, Reparation, Reformation, and making of the Premisses, and every of them, and to take the Account of the Collectors and other Officers, of and for the Receipt and laying out of the Money that shall be levied and paid in and about the making, repairing, reforming and amending of the said Walls, Ditches, Banks, Gutters, Gates, Sewers, Bridges, Streams, Trenches, Mills, Ponds, Locks, Flood-gates, and other Impediments and Annoyances aforesaid, and to distrain for the Arrearages of every Tax and Assessment, as often as shall be expedient, or otherwise to punish the Debtors for and Detainers of the same, by Fine, Amerciament, or any other like Means, after your Discretions; and also to arrest and take as many Carts, Horses, Oxen, Beasts, and other Instruments, and as many Workmen and Labourers, as for the said Works and Reparations shall be necessary, paying for the same competent Wages, Salary and Stipend in that Behalf; and to take such and as many Trees, of Wood, Underwood, Timber, and other Necessaries, as for the same Works
Works and Reparations shall be sufficient, at a reasonable Price, by you or six of you, of which the said A. B. C. D. and E. F. shall be three, to be assented or limited, as well within the Limits and Bounds aforesaid, as in any other Place within the said County, near unto the said Places; and to make and ordain Statutes, Ordinances and Provisions, from Time to Time as Occasion shall require, for the Safeguard, Conservation, Redress, Correction and Reformation of the Premisses, and of every of them, and the Parts lying to the same, necessary and convenient, after the Laws and Customs of Rumney-Marsb in the County of Kent, or otherwise, by any Ways and Means, after your own Wisdoms and Discretions; and to hear and determine all and singular the Premisses, as well at our Suit, as at the Suit of any other whatsoever complaining before you, or six of you, whereof A. B. C. D. and E. F. shall be three, after the Laws and Customs aforesaid, or otherwise, by any other Ways after your Discretions; and also to make and direct Writs, Precepts, Warrants, and other Commandments, by virtue of these Presents, to all Sheriffs, Bailiffs,
liffs, and other Ministers, Officers and Persons, as well within Liberties as without, before you, or six of you, &c. at certain Days, Times and Places to be returned and received; and further to continue the Process of the same, and finally to do all and every Thing and Things, as shall be requisite for the due Execution of the Premisses, by all Ways and Means whatsoever; and therefore we command you, that at certain Days and Places, when and where you or six of you, &c. shall think expedient, ye do survey the said Walls, Fences, Ditches, Banks, Gutters, Gates, Sewers, Ponds, Bridges, Rivers, Streams, Water-Courses, Mills, Locks, Trenches, Flood-gates, and other Impediments and Annoyances, as aforesaid, and accomplish, hear and determine all and singular the Premisses in due Form, and to the Effect aforesaid, after your Discretions; and all such as ye shall find negligent or rebelling in the said Works, Reparations or Reformations of the Premisses, or in the Execution of this Commission, that ye do compel them by Distresses, Fines, and Americaiments, or by other Punishment, Ways or Means, which to you,
you, or six of you, whereof the said A.B. C. D. and E.F. shall be three, shall seem most expedient for the speedy Remedy, Redress, and Reformation of the Premisses, and due Execution of the same; and all such Things as by you shall be made and ordained in this Behalf, as well within Liberties as without, that ye do cause the same firmly to be observed, doing therein as to Justice appertains, after the Laws and Statutes of this Realm, and according to your Wisdoms and Discretions; Saving always to us such Fines and Amerciaments, as to us shall belong; and we also command our Sheriff or Sheriffs of our said County of, &c. that they shall cause to come before you, or six of you, &c. at such Days, Times and Places as ye shall appoint, such and as many honest Men of his or their Bailiwick, as well within Liberties as without, by whom Truth may be best known, to enquire of the Premisses; commanding also all other Ministers and Officers, that they and every of them shall be attendant upon you, in and about she due Execution of this Commission. In Witness whereof, we have caused these our Letters to be made Patents.
Patents. Witness our Self, at Westminster, the... Day of, &c. and in, &c. Year of our Reign.

When the Commission is issued, the Commissioners having Notice thereof, are to put the same in Execution; but they shall first, before the Lord Chancellor, or whom he shall, by Dedicamus, Assign, or before the Justices of Peace in their Sessions, take the following Oath.

The Oath of Commissioners of Sewers.

Ye shall Swear, That to your Cunning, Wit and Power, you will truly and indifferently execute the Authority to you given by this Commission of Sewers, without any Favour, Affection, Corruption, Dread or Malice, to any Person or Persons whatsoever; And as the Case shall require, you shall Consent and Endeavour yourself, for your Part, to the best of your Knowledge and Power, to the making of such wholesome, just, equal and indifferent Laws and Ordinances, as shall be made and devised by the most discreet and indiffer-
rent Number of your Fellows, being in Comission with you, for the Redrefs, Reformation, and Amendment of all and every such Things as are contained and specified in the said Commission; and the same Laws and Ordinances to your Cunning, Wit and Power, cause to be put in Execution, without Favour, Dread, Malice or Affection.

So help you God.

The Commissioners have Power to make and ordain Laws, Ordinances and Decrees, and also the same to reform, repeal, amend and make new, as need shall require: And the King's Lands, Tenements and Hereditaments, shall be as liable to the Laws, Ordinances and Decrees of the Commissioners, or any six of them, as those of any other Person. If any Person affeis'd to any Lot or Charge for any Lands, Tenements or Hereditaments, within the Limits of any Commission, do not Pay the same, according to the Ordinance of the Commissioners, by reason whereof the said Commissioners decree the same Lands, Tenements and Hereditaments from the Owner or Owners thereof, and their Heirs, to any other for
for Years, Life, or in Fee, for the Payment of the said Lot, or Charge, every such Decree and Ordinance by them made, ingross'd in Parchment, and certify'd into the Chancery, under their Seals, (with the King's Assent thereunto also had) shall bind all such Persons, having any Estate in the Premisses, in Possession, Reversion, or Remainder, and their Heirs and Fecoffees, and shall not be otherwise reform'd than in Parliament. And the King's Assent shall be certified into the Chancery under his Privy Seal, without Fee, only the Clerk shall have 2 s. for Writing the Certificate, and not above. And if where a Distress is taken, Avowry and Justification shall be made, or of any other Act done by reason of the said Commission, it shall be without any express Rehearsal of any other Matter contained in the Statute, or any Commission, Laws or Ordinances thereupon made; whereupon the Plaintiff is to be admitted to Reply, that the Defendant did take the Distress, or any other Trespass of his own Wrong, and the Issue shall be tried by the Verdict of twelve Men, and not otherwise, and upon the Trial, the whole Matter,
Matter, on both Parts, shall be given in Evidence; and here, if the Verdict pass for the Defendant, or the Plain-
tiff be Nonsuit, the Defendant shall Recover his treble Damages and Costs, to be assest by the Jury; or a Writ of Inquiry of Damages shall Issue, as the Cause may require.

But if a Commissioner, not Sworn as aforesaid, or being Sworn, and not qualified as to his Estate, as not having Lands, Tenements or Hereditaments to his own Use, in Fee, or for Life, worth forty Marks per Annum, besides Reprizes (except Resident in, and Free of a Corporation, and having Move-
ables worth 100l. or else an utter Barrister) do attempt to execute the Commission aforesaid, he shall forfeit 40l. to be divided between the King and the Prosecutor. Commissioners, that may lawfully Act, have an Allowance for their Pains of 4s. per Diem, and their Clerks 2s. a Day, out of the Taxes to be laid and levied; and the Commissioners, or any six of them, have Power (at their Discretions) to allow out of the said Taxes, further to the Clerk of the Commission for Writing-Books and Process, and to the Collectors and others...
others, that take Pains in the due Execution of the same Commission.

When any Commission of Sewers is directed within the Dutchy of Lancaster, the Commissioners shall be named by the Lord Chancellor, Lord Treasurer, the two Chief Justices, and the Chancellor of the Dutchy, or any three of them, whereof the Lord Chancellor, and the Chancellor of the Dutchy are to be two; and two Commissions are to issue forth, one under the Great Seal, and the other under the Seal of the Dutchy. And when any such Commission is directed into Wales, or any other County Palatine, two Commissions shall issue out, in like manner as within the Dutchy of Lancaster; and the Chancellors of the Principality of Wales, or any other County Palatine, having the Custody of the Seal there, upon Request, and on Sight of the Commission under the Great Seal, may make out another under the Seal of such County Palatine, according to the Tenor of the King's Commission, to the Commissioners therein named. The Fees for every Commission shall be 2 s. 6d. to the King for the Seal, and
and 5 s. to the Clerk for Writing and Inrolling it, and no more.

All this is ordained by the Statute 23 H. 8. c. 5. And the 25 H. 8. c. 10. directs, That none shall be compelled to be sworn, fit or travel in the Execution of any Commission of Sewers, unless he be Resident within the County, whereof he is assigned a Commissioner. But if any other Commissioner, being required by any Person having Authority by the King's Writ, or otherwise, to give him the Oath provided by the forementioned Statute, shall refuse to take it, upon such Refusal, or Contempt, returned into Chancery with the Writ, he shall lose five Marks for every such Contempt, except he alledge sufficient Cause in the same Term wherein the Return is made, for his Excuse and Discharge.

And by 3 and 4 Ed. 6. The Statute 23 H. 8. is made perpetual. Also the 13 Eliz. c. 9. Enacts, That all Commissions of Sewers shall continue in Force for ten Years after the Date thereof, unless repealed by a new Commission, or by Supersedeas out of Chancery; which the King may issue at his Pleasure, to discharge any Commission. And all Laws, Ordinances and Constitutions,


fitions, duly made according to the Statute 23 H. 8. and written in Parchment, indented, under the Seals of the Commissioners, or six of them (whereof one Part shall remain with the Clerk of the Commission, and the other in such Place as the Commissioners, or six of them, shall appoint) shall, without any Certificate to be made into the Chancery, and without the King's Assent, continue in Force, notwithstanding any Determination of such Commission by Supersedeas, until the same Laws, Ordinances and Constitutions shall be alter'd, repealed, or made void by Commissioners afterwards assigned. And after the End of 10 Years, next after the Teste of a Commission, which is the Time of its Continuance, all Laws, Ordinances and Constitutions made by Virtue thereof, and written in Parchment, indented and sealed as aforesaid, shall, although the Commission is determined, continue in Force one whole Year after the said 10 Years, during which Time, the Justices of the Peace of the County whither it is directed, or six of them (two whereof of the Quorum) have Power to execute such Commission, and Laws and Ordinances, as fully as the
the Commissioners themselves, so as in the mean Time a new Commission be not sent forth. The Clerk of the Commission is yearly to estreat all Fines, Penalties, Forfeitures and Anerciaments, due and answerable to the King, his Heirs and Successors; and to deliver them into the Exchequer, (as Justices of Peace ought to do by virtue of their Commission) on Pain of 3l. Penalty. And no Farmer for Years, of any Lands, &c. lying within the Limits of any Commission, not having an Estate of Freehold of 40l. per Annum, shall have any Power to sit or intermeddle in any such Commission, during the Time he shall be a Farmer, and not have Freehold as aforesaid: But he may Act in the Commission, as concerning all other Lands, except those whereof he is so a Farmer.

The Statute 7 Ann. c. 10. Ordains, That Commissioners of Sewers, or any six of them, for Non-payment of any Lot or Charge, assessed on Copyhold Lands, may Decree the same from the Owners, and their Heirs, to any Person, and for such Estate as they had at the Time of the Decree so made; such Decrees being executed...
as Decrees are concerning Freehold: Provided that the Person to whom such Copyhold Lands shall be sold, before he enters on or takes any Profits of the same, do agree with the Lord of the Manor for the Fine usually paid; and at the next Court, the Lord shall grant the Copyhold to the Vendee, and admit him Tenant. And also the Commissioners of Sewers, or six of them, may, by Warrant under their Hands and Seals, impower any Person to levy the Money by them assessed on the Lands, Meadows, Marshes, or Grounds, chargeable with any Cesses, by virtue of their Commission, by Distress and Sale of the Goods of the Owners thereof.

Having given an Account of the Statutes relating to the Publick Sewers of the Kingdom, it may not here be improper to take some Notice of the Acts concerning Sewers in particular Counties and Places; before I proceed to enlarge upon the several Branches of the Commission of Sewers; and enumerate the Cases and Authorities in our Books, which determine the Extent of the Power and Jurisdiction of the Commissioners.
By 27 El. c. 24. The Justices of Peace in the County of Norfolk, are to make Orders for Repairs of Sea Banks, &c. and charge Persons as towards repairing the Highways. The 1 M. c. 11. ordains, That the Statute 23 H. 8. and all Commissions of Sewers, shall extend and give Authority to the Commissioners for the County of Glamorgan, or six of them, (whereof three to be of the Quorum) to make Laws, Ordinances and Decrees within the said County, for the saving of Grounds there from Hurt and Destruction, by reason of Sand arising out of the Sea, and driven to Land by Storms and Winds; as Commissioners may do by the said Act, for avoiding the outrageous Course and Rage of the Sea and other Waters. By the 15 Car. 2. The Governor, Bailiffs and Conservators of Bedford Level, for draining the great Level of the Fens, or five of them, whereof the Governor or Bailiffs, or any of them, to be two, are appointed Commissioners of Sewers for the said great Level; and have Power to act and proceed by one or more Jury or Juries of Men, inhabiting within any Part of the Boundaries of the said Level, as
if the Level lay in one County only; first taking the Oath which Commissioners of Sewers are by Law to take, which Oath the Governor or Bailiffs may Administer: And no other Commissioners are to intermeddle within the said great Level, otherwise than in the Act is provided. But of this Statute I shall say more in another Place. The Statute 3 Jac. 1. c. 14. enacts, That all Ditches, Banks, Sewers, Bridges, &c. within two Miles of London, and falling into the Thames, shall be subject to the Commission of Sewers. But by 7 Ann. c. 9. being an Act for explaining a Statute made 19 Car. 2. for rebuilding London, &c. (by virtue of which, Common Sewers, Drains, &c. were to be made and set out by such Persons as the Lord Mayor, Aldermen and Commonsalty should appoint, who, or seven of them, might order new Drains and Sewers, or cut into or alter any already made; and impose Taxes on all Houses receiving Benefit, and levy the same by Distress and Sale of Goods, &c.) it is ordained, That the Persons who shall be authorized by the Lord Mayor, Aldermen, and Commons of London in Common Council, shall have and exercise...
exercise in London, and the Liberties thereof, all the Powers given to Commissioners of Sewers in any other County or Place: And if where Assessments are made according to the Directions of the 23 Car. 2. any Person appointed Collector of the Rates assessed, neglect or refuse to appear before the Commissioners, on Notice, to give a true Account on Oath of all Money by him received for Repairs and Maintenance of Sewers; or shall neglect or refuse to collect the Money in the Assessments, or to pay it, when collected, into the Chamber of the City, he shall Forfeit, not exceeding 10 l. over and above the Money he is charged with, to be imposed by seven of the Commissioners, and levied by Warrant under their Hands and Seals, by Distress and Sale of the Goods of the Offender, and paid into the Chamber of London, to be applied towards maintaining the Sewers. But nothing in this Act is to extend to the Conservatorship of the River of Thames, or abridge the Power of the Lord Mayor of London touching the same.

This Act is declared to be a Publick Act; and if any Action shall be brought for what is done in Pursuance of
of it, the Defendant may plead the general issue, and give the Act and special Matter in Evidence, and shall recover treble Costs.

Now I am proceeding to a Commentary on the Commission of Sewers, and the several Parts thereof; which I shall treat of under the seven following Heads:

1. The Commission extends to Repairs and Reformations of Walls, Ditches, Banks, Sewers, Streams, Mill-Dams, Wears, &c. by the Coasts of the Sea, &c.

2. The Commissioners to whom directed, or six of them (whereof three of the Quorum) are Justices to survey the said Walls, Banks, &c. and cause them to be repaired, compelling the negligent to do it; and they are to act according to the Statutes, and enquire by the Oaths of lawful Men, of Defaults, and Lands that may be injured by Annoyances.

3. The Commissioners have Power to tax and distress all Persons, after the Quantity of their Lands, to repair and amend Walls, Banks, Ditches,
Ditches, &c. And to prostrate and put down Mills, Locks and Wears.

4. They are to assign Bailiffs, Surveyors, Collectors, and other Officers and Ministers, and take Accounts; and may punish detainers of Money collected by Fine and Amercement.

5. The Commissioners may arrest Carts, Horses, Oxen, &c. and Workmen and Labourers, for Works and Reparations; and take Trees and Underwood necessary for the same, paying a reasonable Price.

6. They have Authority to make Statutes and Ordinances, for Conservation and Redress of the Premisses; and to hear and determine Suits, direct Writs, Precepts and Warrants to Sheriffs, Bailiffs, &c.

7. To see duly observed what is by them ordain'd; and Sheriffs are to return Juries at Times appointed, to enquire, and all Officers to be attendant on the Commissioners.

And the Power of the Commissioners to act, is generally according to their Discretions; subject nevertheless to the Rule of Reason, and the Laws of
of the Land. For, as my Lord Coke tells us, in his second Institute, p. 298.

Discretio est Discernere per Legem Quid sit Jus tum.

It lieth in the Discretion of the Commissioners, when and where to erect new Walls, Banks, and other Defences; and what Sums of Money to raise and levy therefore: The Election of Officers is in their Discretion; and the Quantity of Fines, whom to be fined, and who imprisoned, with the Time how long, is much at their Discretion.

Of Walls, Ditches, Banks, Sewers, Streams, Mill-Dams, Wears, &c.

A Wall is an artificial Edifice, made of Materials brought to the Place where erected, at the Charge of the Party; and the Ownership and Property of it appertains to him who built the same, and is bound to repair it, though his Ground lie not next thereto; but of a Bank it is otherwise. A Bank
A Bank of the Sea is the utmost Border of dry Land, and is made of the same Materials with the Ground whereon it standeth, Ex solo & fundo que ex suis propriis Naturis sunt eadem cum Terra super qua edificatur; the Property of these Banks is in them whose Ground is next adjoining, but the Use thereof common to all Men, on which Account they are compared to Highways. And if a Bank be cut down, the Owner of the Soil may bring Action of Trespass; also if any Person receive Injury thereby, he may have a special Action of the Case, or indict the Offender.

A River is a Running Stream, confined with Walls, or Banks, on either Side; and so far as the Sea flows and ebbs, it is a Royal Stream, and the Fishing belongs to the Crown, but by Custom, or Prescription, the Subject may have it: Where the Sea doth not ebb and flow, the Owner of the Soil of each Side the Water, hath the Right of Fishing. A Stream, commonly so called, is a Current of Water running over a Level, and not kept in with Banks or Walls.

A Sewer is a fresh Water Trench, or little River, encompass’d with Banks on
on both Sides. Ditches are small Trenches, having no apparent Current, nor any constant Standing. And Gutters are less than Sewers or Ditches, being of a narrower Passage, and the Use of them Private. A Wear is a Dam in a River, accommodated for the taking of Fish; or to convey the Stream to a Mill.

These are the Terms explained relating to Sewers; and Bridges are likewise within the Statutes of Sewers. The Statute 22 H. 8. ordains the Repairing and Amending of Bridges; and if it be necessary to take an Arch away, or add a new Arch to any Bridge, or to erect and build a new Bridge, where none was before, this is properly to be done by the Commissioners of Sewers, whose Power may be extended there-to. All Bridges set upon Rivers by Persons without Authority, may be pulled down by the Commissioners of Sewers, and the Parties punished: But Bridges in Highways, where there is no River under, only some small Land Stream at rainy Seasons, these being dry Bridges, are not within the Statutes of Sewers. Calkways, or Causeways, which are Ways or Passages made of Earth and Stones in Highways,
ways, leading through Grounds surrounded with Water, are likewise subject to the Statutes concerning Sewers.

Goats are Engines built with Doors of Timber, for draining of the Waters, arising by Land Floods, into the Sea; and there is a two-fold Use of them, the one when fresh Water flows and descends upon the low Grounds, where these Engines are placed, and whereto all the Channels where they stand have their Currents and Drains directed, the same is let out by these into some Creek of the Sea; and if on some great and sudden Floods, the Sea breaks into the Land, the salt Water hath its Return thro' these Engines back into the Sea: Many of these Goats which are placed on Highways, serve also for Bridges. These Engines are not mention'd in any of the antient Commissions of Sewers, but are express'd by some Statutes.

The King having the Sovereignty of the Sea, and the Ground cover'd with the Waters of Right belonging to him; when this Ground is left dry, it is said to be a Royal Escheat to the Crown. But Lands which alternis vicibus are wet and dry, are not relinquish'd; and therefore may be-
long to the Subject; who may have personal Profits arising on the Sea, as a free Fishery, &c. by Prescription or Custom, because these are Things which lie in Use: Though Ground covered with the Sea, cannot be bounded by Custom or Prescription. Lords of Manors may be intitled to Land between high and low Water Mark; such Lands lying dry every Day.

The learned Serjeant Callis, in his Reading upon the Statute of Sewers, hath the following Observations on Ground left by the Sea. If, says this Author, the Grounds be the King’s when cover’d with Water, it must needs be held that they are likewise the King’s when the Water has left them dry; and when the Water had their Being on the same, the whole Profit there arising, did appertain to the King; yet I have known in some Countries, where the Frontagers have claimed those Grounds so left, by a pretended Custom, and some probable Reason might be shewn wherefore they should have it; for as their Grounds are nearest the Sea, and so next to the Charge to repair the Defence, and to the Loss where any Inundation
Inundation happens, it might therefore seem reasonable, that as they are put to the greatest Charge, and in Peril of losing their Lands, that so if Lands are left by the Sea afront them, these Lands may accrue unto them, as a reciprocal Consideration for their Charge and Injury: But the Law hath in these Cases been oftentimes ruled for the King against the Subject; and it would be inconvenient that the Subject should have Frontage, and no Bounds prescribed thereto; so that Ten Thousand Acres might be left afront a Man's Manor, which would not be a fit Inheritance for a Subject to have, by Pretence of such Custom; and if a Subject should have the Grounds left by the Sea, so much Land might possibly happen to be left, as the King's own Lands in the Realm come to.

If by little and little, the Sea sometimes decrease, and leaves some Parcel to the Land, and at other Times runs over the same again, this Ground belongs not to the King, for the Subject may have a Property in it, as in the Ground of the Shore; but where a great Quantity of Land had always been drown'd before left, that belongs
belongs to the King. In *lib. Assis.* pl. 93. A Case was, That a River of
Water did run between two Lordships, and the Soil of one Side, with
the River, wholly belonged to one of the Lordships, and the River by little
and little did gather upon the Soil of the other Lord, but so slowly as not
to be perceived by a whole Day's View; by this small unperceivable
Increase, the Increase was got to the Owner of the River: But if the
River, by a sudden and unusual Flood, had gained hastily a great Parcel of
the other Lord's Ground, he should not thereby have lost the same: And
so of petty unperceivable Increases from the Sea, the King gains
no Property; but if the Sea overflow a Field, where divers Mens Grounds
lie promiscuously, and there continue so long, that the same is accounted
Part of the Sea; and then after many Years, the Sea goes back and
leaves the same, but the Grounds are so defaced as the Bounds thereof are
extinct, and grown out of Knowledge, the King may have these Grounds.

In the *Abbot of Ramsey's Case, Anno 43 E. 3.* the Law was taken to be,
That Grounds left by the Sea to the Land,
Land, were in the County where they did adjoin; and by the best Opinions, within that Parish where they lay. That the Subject may have the Ground of the Sea to the Low Water Mark; and that no Custom can extend the Ownership of a Subject farther. That a Subject cannot have the Grounds to the Low Water Mark, but by Custom and Presciption. That the Words Incrementum & Decrementum Maris, are fully comprehensive. That if the Decrease of the Sea be by little and unperceivable Means, and grown only in a long Tract of Time, whereby some Addition is made to the Neighbouring Grounds, these may appertain to the Subject, and herein the said Words have no other Operation; but Lands left to the Shore by great Quantities, and by a violent sudden Occasion, and perceivable Means, accrue wholly to the King.

The Sea, Creeks, and Bays, on the Coasts, are all within the Statute of Sewers, in Point of Extent; but they and the Shores, and the relinquish'd Grounds, are out of the Commission of Sewers, to be determined thereby: Ports and Havens, as well as
as the Walls and Banks of Waters, are within the Commission of Sewers. And the Shore and Grounds left by the Sea, when they are put in Gainage and made profitable, are then, though not before, within the Power of the Commission of Sewers. And although the Grounds left by the Sea, are not, as to Defence, within the Commission of Sewers, yet a Wall or Bank may be thereon raised, for the Succour of the Country; though not for any private Commodity, the Commission of Sewers aiming at the general Good.

Of the Power of Commissioners to survey Walls, Banks, Rivers, &c. and cause them to be repaired; and their Enquiry by the Oaths of lawful Men of Defaults.

THE Commissioners of Sewers have not only Power to survey Walls, Banks, &c. But also to make Orders for Repairs thereof; and they may issue out Process to compel the Performance of them. But they cannot
not intermeddle, unless it be in Cases of Publick Prejudice, as well as in Publick Streams. If they decree a Stream to be straitned, so that the Meadows of a particular Person be overflow'd, this is a private Damage, for which Action on the Case lies. And where a Sewer is suffer'd to lie unrepair'd, by reason whereof another Person's Lands adjoining are surrounded with Water, Action of Waste may be brought: As Action of the Case may be had for stopping of a Sewer.

The Commissioners are to repair Sea Banks, and Walls, survey Rivers, publick Streams, Ditches, Bridges, and other Defences, by the Coasts of the Sea, and Marsh Grounds: But they cannot make a new River, or try Inventions, at the Charge of the Country. Vide Coke's 10 Rep. 141, &c. Tho' it has been held, that the Commissioners, upon great Occasions, may make Orders for making new Cuts; so as they compound with the Owners of the Soil. And Mr. Callis tells us, that the Laws of Sewers are of great and urgent Necessity and Use, for the Good of the whole Realm; and therefore, the Intent thereof may be ex-
tended, in Equity, beyond the Letter of the Words; for tho' the Words be, and the same to make new, which according to the literal Construction cannot extend to new ones, where none were before, but to the re-edifying of the decay'd old ones; yet the learned Expositors of these Laws, whose Constructions are not so much grounded upon the Letter, as the Sense and Meaning of the Makers, may with equal Justice extend the Sense to new making as well as repairing of Defences.

In the 43d and 44th Year of Queen Elizabeth, a great Controversy arose in the County of Lincoln, about the erecting of two new Goats, for draining the Waters out of South Holland Fens into Boston Haven, which Work was set on foot by Sir Edward Dymock, but opposed by the Country; and the Exception taken thereto was, That the Commissioners of Sewers could not, by the Power of their Commission, make a Law for erecting these new Goats where never any stood before; and that Case proceeded so far, as the same came at length before the two Chief Justices, Popham and Anderson, who both delivered their Opinions,
That the said new Goats, if they were found to be profitable to, and for the Safety of the Country, might be erected by the Power of the Statutes of Sewers; but they then advised the Commissioners to be wary and circumspect, and act so, that by the Opinion of experienced Persons in those Affairs, the new Works should, in all Appearance, be profitable to the Publick, if they were effected; and that the Commissioners should not in any Manner make such Devices at the Suit and Request of private Persons, for their private Benefit, who many Times sought their own Ends, under Pretence of publick Good. And Anno 12 Jac. 1. a like Controversy did arise in the Counties of Cambridge, Huntingdon, and Northampton, relating to the making of new Cuts and Drains in the Isle of Ely, by the Power of the Commissioners of Sewers; which meeting with great Opposition, in the End came before the King and Council, wherein was made the Order following.
An ORDER of the King's Council.

His Majesty's Attorney General, having according to an Order of this Board, of the 13th of October last, called unto him the King's Learned Council, and taken Information of such Complaints as were exhibited unto this Board, touching sundry Suits and Vexations moved of late by certain obstinate and ill-disposed Persons, against his Majesty's Commissioners of Sewers, for the Counties of Lincoln, Huntingdon, Northampton and Cambridge, and their Officers and Ministers, for executing the Orders and Decrees of the Commissioners, to the manifest Destruction and Inundations of many large Levels and Parts of the said Counties; and having by their Lordships Directions, upon advised Consideration, weighed and compared the said late and undue Proceedings with the ancient Laws of this Realm, appearing in divers notable Records in the Point now questioned, with the continual and concurrent Practice of ancient and later Times; and also the Opinion of the Lord Popham, late
late Chief Justice, delivered in Writing very exactly and fully upon the said Questions, touching the Power and Authority of the said Commission; and thereupon making Report at large unto their Lordships this Day in full Council, of the whole State of the Cause: Forasmuch as thereby it appeared, That these Inventions and Disturbances consisted of four Heads, wherein the Extent of the Commission was questioned, upon Pretext and Conceit of Law; First, That the Commissioners of Sewers had not Authority to cause new Banks, Drains, or Sluices to be made, where there had not been any before: Secondly, That they might not lay the Tax or Rate upon Hundreds, Towns, or Inhabitants thereof in general, but upon the first Presentment or Judgment to charge every Man in particular, according to the Quantity of his Land or Common: Thirdly, That they had not Power sufficient to commit to Prison Persons refractory and disobedient to their Orders, Warrants, and Decrees: Fourthly, That Actions of Trespass, false Imprisonment, and other Process at Common Law, have been brought against some of their Officers and Ministers, for executing
cuting their Decrees and Warrants: Their Lordships finding in their Wis-
doms, that it can neither stand with Law, nor with common Sense or Rea-
tion, That in a Cause of so great Con-
sequence, the Law can be so void of
Providence, as to restrain the Com-
mmissioners of Sewers from making
new Works to withstand the Fury of
the Waters, as well as to repair the
Old where Necessity requires it, for the
Safety of the Country; or to cause a
Charge upon the Towns or Hundreds
in general that are interested in the Be-
nefit or Loss, without attending a par-
ticular Survey or Admeasurement of
Acres, when the Service is to have
speedy and sudden Execution; or that
a Commission of so high a Nature, and
of so great Use to the Commonwealth,
and evident Necessity, and of so an-
cient Jurisdiction, both before the Sta-
tute and since, should want Means
of Coercion for Obedience to their Or-
ders, Warrants, and Decrees, when on
the Performance of them, the Preser-
vation of many Thousands of his Ma-
jefty's Subjects Lives, Goods, and
Lands doth depend; it plainly appear-
ing, That it will be a direct frustra-
ting and Overthrow of the Authority
of the said Commission of Sewers, if the Commissioners, their Officers and Ministers, should be subject to every Suit at the Pleasure of the Delinquent in his Majesty's Courts of Common Law, and so to weary and discourage all Men from doing their Duties in that Behalf: For the Reasons aforesaid, and for the Supreme Reason, above all Reasons, which is the Salvation of the King's Land and People, their Lordships did Order, That the Persons formerly committed by this Board for their Contempt concerning this Cause, shall stand committed 'till they Release or sufficiently Discharge such Actions, Suits and Demands as they have brought at the Common Law against the Commissioners of Sewers, or any of the Officers or Ministers of the said Commission; Saving unto them, nevertheless, any Complaint or Suit for any Oppression of Grievance before the Court of Sewers, or this Table, if they receive not Justice at the Commissioners Hands: And their Lordships further Order, That Letters from the Table shall be written to the Commissioners of Decrees of like Nature, when it shall be found needful, requiring, encouraging and war-
warranting them to proceed in the Execution of their several Commissions, according to former Practice and Usage, any late Disturbance, Opposition, or Conceit of Law, whereupon the said Disturbance hath been grounded, notwithstanding; with Admonition, nevertheless, That Care be taken there be no just Cause of Complaint given by any Abuse of the said Commission.

Examinat. per Edmunds,

Cleric. Consil.

There were present at the making of this Order,

1. The King's Majesty.
3. Lord Chancellor Elstree.
4. Lord Treasurer, Earl of Suffolk.
7. Lord Chamberlain, E. Pembroke.
8. E. of Arundel, Howard.
10. Viscount Fenton.
12. Lord Wotton.

14. Secretary
This Order, it hath been observed, is in some Points legal, and may stand for a Direction in Matters of Law; and the other Parts thereof may stand for a President of State; and it thereby plainly appears, that the King's Privy-Council were of Opinion, That the new Works might be ordered and decreed to be done by the Commissioners of Sewers, and that the same had Warrant from former Precedents. But the Arguments against it, are, That by making and erecting these new Defences, the Inheritances of private Persons whereon they are built, will be prejudiced thereby: Which are answered, That these new Works are not to be undertaken but upon great Necessity, in Defence of the Country, and then the Interest of private Persons must submit to the publick Good. By the Common Law, a Writ of Ad quod Dam. was issued to the Escheator of the County, to enquire what Damage it might
might be, on making a new Cut or River.

The new Stream which was some Time since made from Ware to London, called the New River, running through Islington, &c. could not have been done by the Power of the Laws of Sewers; and therefore special Statutes were enacted to begin, continue and perfect that Work, in 3 & 4 Jac. Regis, and after the Stream was effected, those two Statutes brought it within the Power of these Laws. The Reason that this River could not be made by the Laws relating to Sewers, was, because the same was not done for draining of Lands, or failing of Boats or Vessels, but for particular Household Affairs; and the Power of the Commission of Sewers, is only to be exercised for the publick Good. If a certain Town wants Water, by the Dri-ness of the Season, for the Use of their Cattle, or other Household Occa- sions, as for Brewing, Washing, and such like; and in a Town adjoining to it, there is Plenty of Water, more than is necessary for Use therein, the Commissioners of Sewers have no Power by Law, for any of the said Purposes, to make any Order or De-
cree to relieve the first Town with Waters from the second; for the Stat. 23 H. 8. makes but two Uses of Rivers, Sewers, and Streams; the one for Draining, the other for Sailing; and being for neither of these Uses, the Commissioners have no Power to deal therein. But if two Towns do adjoin, and in either of them is a River Navigable, and by Accident one of them is dried up, and the other abounds with Water, in this Case it is said the Commissioners of Sewers have Power by their Commission to make a Law or Ordinance to relieve the River which wants Water, out of the Abundance of the Water of the other River, in Help and Supply of Navigation. Put the Case that A. B. keeps Boats for his own necessary Use, and for no other Purpose, the Commissioners have no Warrant by their Commission, to relieve him with Waters, for that their Power is for the Publick: But if A. B. hath used with his Boats to carry and recarry for the common Use of the People in general, then he is within the Relief of the Laws of Sewers.

ORDER
ORDER of Commissioners to new
make a Stream.

WHEREAS it appears unto us
A. B. C. D. E. F. &c. Esquires,
his Majesty's Commissioners of Sewers
for the County of, &c. by View and
Survey by us made, That the Stream
or River called, &c. running through
the Parish of, &c. and County afore-
said, is very defective and incapable
to carry off the Water and drain the
Grounds and Lands adjoining, in the
Winter Season, when the Land Floods
from the Hills there are very violent,
by Reason of its being choke'd up with
Sand, Weeds, Trees, Bushes, and other
Impediments to the Current thereof,
and the many Shoals therein, which
stop and hinder the free Passage of the
Water, to the great Damage and Inju-
ry of the Meadow Grounds and Pa-
ture Lands, not only in the said Parish
of, &c. but in the County of, &c.
aforesaid in general, by frequent Over-
flowings of the same; which we taking
into our Consideration, do adjudge
absolutely necessary for the publick
Good, That the aforesaid Defects and
Annoyances
Annoyances should be amended and removed: And we therefore, by Virtue of the Laws and Statutes in that Case made, and the Power and Authority to us thereby given, Do hereby Order, direct and appoint, That the said Stream or River, called, &c. running from, &c. to &c. be on or before the Day, &c. next, in every Part thereof, new dug, cut, made, and cleansed, in the best and most effectual Manner, from all Sand, Weeds, Trees, Bushes, and other Impediments and Incumbrances, so as to be ten Foot wide, and five Feet deep, in all Parts of the same, between the Places aforesaid; And we do also ordain and appoint, That G. H. J. K. &c. Gent. with whom they shall take to their Assistance, do effect and perform, or cause to be effected and performed, the Work and Repairs above directed, in every Part thereof, according this our Order above-mentioned for doing of the same; And hereby empower the said G. H. J. K. &c. to agree and compound with the Owners of the Soil of the Land adjoining to the said River, for all or any Ground which shall be found necessary to be taken into the said River, for effecting the Purposes aforesaid, and the Good
Good of the Publick. Given under our Hands and Seals, this Day and Year, &c.

A. B.
C. D.
E. F. &c.

**An ORDER to Repair a Wall or Bank.**

WHEREAS the Wall, or Sea Bank, called, &c. leading from and to, &c. is by Means of the great Violence of the Sea, of late become very ruinous, defective, and out of Repair, and not fit to resist the Rage of the Waters, but oftentimes letting in the same on the Marsh and low Grounds and Lands thereto adjoining, in the Parish of, &c. aforesaid, to the very great Detriment and Loss of all and every the Owners thereof, in the Grass there grown, and Cattle therein depastured, which are frequently destroyed: We his Majesty's Commissioners of Sewers within the County of, &c. aforesaid, whose Names and Seals are hereto put and affixed, being willing and desirous to redress so great a Grievance, by Virtue of the Authority to us given, Do Order, direct and appoint,
point, That G. H. of, &c. and J. K. of, &c. or some or one of them, to whom the same appertains, do on or before, &c. next coming, cause the Wall or Bank above-mentioned, to be well and sufficiently repaired, amended, and re-edified, with good and substantial Materials, in all Parts thereof, where it shall appear that the same is any ways defective, that the Lands and low Grounds in the said Parish of, &c. may be thereby secured from all Inundations for the future; and this the said G. H. J. K. &c. are to do at their Perils. Given under our Hands and Seals, &c.

As to View and Survey of Defects of Reparations, by Commissioners of Sewers, &c. there is a Diversity between a View and Survey: By a View one is only to take Notice by the Eye; but to Survey, is not only to take Notice of a Thing by the Eye, but also includes other Ceremonies and Circumstances, as Measuring, Pacing the Distances, &c. Commissioners may view the Defences, and thereby inform themselves which stand in need of repairing and amending, and which not; and wherein the Defaults and Defects appear
appear to be, and what they are. They may by Survey, take Notice and Knowledge, and by Conference with Carpenters, Masons, and other Workmen and Officers, of what Things are necessary to be provided for effecting the Works, and what Sums of Money will be wanting for finishing the same. They may by View and Survey, take Knowledge of the Impediments and Annoyances in the Banks, Walls, Rivers, Streams, Gutters, Sewers, and of the Height and Lowness of the said Banks and Walls; and thereby discover and find out the Wants, Imperfections, Weakness and Strength of them, and so cause the Lets and Impediments to be removed, the Wants to be supplied, and the weak Places strengthened, as Cause shall require: And by Survey, they may sufficiently inform themselves of the Straitness, Depth, Wideness and Shallowness of the Rivers, Streams, Gutters and Sewers, and view the Defects in their several Kinds.

By Jury, the Commissioners are to enquire of Persons that erect and set up any Impediments on Rivers, as Flood-Gates, Mill-Dams, or such like; which must be found by a Jury, for the
the Words of the Statute to be observ-
ed, are these: 'And shall Enquire by
the Oaths of good and lawful Men
of the Shire or Shires, Place or Places,
where such Defaults or Annoyances
be, by whom the Truth may be
known, through whose Default the
said Damages have happened, or who
hath or holdeth any Lands or Ten-
ments, or Common of Pasture, or
Profit of Fishing, or hath or may
have any Hurt, Injury, Loss or Dis-
advantage, by any Manner of Means
in the said Places, as well near to the
said Dangers, Lets or Impediments,
as those who inhabit or dwell there-
abouts, by the said Walls, Ditches,
&c.' So that the erecting and setting up any Impediments, is full with-
in the Words of this Statute; and
therefore it must be found by Jury, and
no other Accusation is of sufficient
Strength in Law to put a Man to his
Answer. If any Wall, Bank, River,
Sewer, or other Defence, be defective,
by Neglect of such as should repair the
same, the Commissioners of Sewers are
to enquire by Jury, on whose Default
the same happened. The Commissio-
ners are to enquire what Person or
Persons ought to be bound by Custom,
E Prescription,
Prescription, or Tenure, Covenant or otherwise; or for or by Reason of what Lands or Grounds he or they are tied or bound to make good the Repairs, and where those Grounds lie, and who are the Owners thereof: They must also enquire by Jury, what Grounds lie within the Injury or Danger of Waters, either surrounded by the Sea, or by Inundation of the fresh Waters, and to whom they belong. If a new Sluice, Goat, or other Defence, is to be erected, built or made, or a new Sewer, Gutter or Trench to be cast, this may be determined by the View and Survey of the Commissioners; and so may the fitness of the Places where they are to be set and cast, and their several dimensions of Length, Breadth, Depth, &c. these Things being proper for a View and Survey: but what Persons hold Lands and Tenements within the Level, which are fit to be chargeable thereunto, and the Quantity of their Lands, are to be enquir'd of by Jury. And in every Case where an American is to be imposed, it must be by Presentment of good and lawful Men, upon their Oaths, &c. according to the Statute of Magna Charta.
If a Jury find, That such a Person ought to repair a Wall, &c. though he remove it into B. R. (as the Proceedings of Commissioners are subject to the Jurisdiction of that Court) yet they will not quash it, or grant a new Trial, until 'tis repaired; but if upon a new Trial he is acquitted, he shall be reimbursed.

Inquisition of Jurors, of Annoyances and Defects.

Lincoln, 7th. T

HE Inquisition, taken at, &c. in the County aforesaid, the Day and Year, &c. by the Oaths of G. H. J. K. L. M. N. P. &c. (the Jury) good and lawful Men of the said County, before A. B. C. D. E. F. &c. Esqrs. his Majesty's Commissioners of Sewers for the County aforesaid; which said Jurors, upon their Oaths say, That A. L. of, &c. hath lately, within two Months last past, erected a Flood-gate in and upon the River called, &c. to the great Impediment and Hinderance of the Current of the said River, which sometimes overflows its Banks thereby; And that the Lands and Grounds of and belong-
belonging to, &c. are damned if and injured by the same. And they also say upon their Oaths, That the Wall or Bank called, &c. in the said County, is very ruinous and defective; so as to let in the Waters upon the Lands of, &c. And that the said Defects have proceeded from the Negligence and Default of, &c. And, That he the said, &c. of right ought to make good the Repairs thereof. Or that, &c. who hold Lands and Grounds within the Parish and County aforesaid, are fit Persons to be chargeable to and with the Reparations aforesaid.

Capt. die & Anno
Supradict.

Coram,

A. B.
C. D.
E. F. &c.

G. H.
I. K.
L. M.
N. P. &c.

Of
Of the Commissioners Power to Tax and distress Persons for the RepARATION of Walls, Banks, Ditches, &c. and to prostrate and put down Mill-Dams, Locks, &c.

THERE are several Causes and Considerations, for which Persons are obliged to repair and maintain Sewers. 1. By reason of Frontage. 2. By Ownership. 3. By Prescription. 4. By Custom. 5. By Tenure. 6. By Covenant. 7. By use of the Things. 8. A Township. 9. By the particular Laws of Sewers.

Frontage, is where the Ground of any Person adjoins with the Brow or Front thereof to the Sea, or to great or Royal Streams; and the Property of the Banks and Grounds which butt and bound thereon belong to the Subject, though the Soil of the Sea, and such Rivers appertains to the King. But the Soil of small petty Streams and Rivers, as well as the Banks thereof, are appertaining to them whose Grounds adjoin thereto: So that Frontage and Ownership, in base inferior Rivers, do not differ; but in great Streams they vary.
vary as aforesaid. And by 37 Lib. Assis. pl. 10. the Frontagers are bound to the Repairs of the Walls and Banks, &c. But Mr. Callis is of Opinion, that there is no Difference touching the Reparations of High Streams, and Highways.

As to Ownership, The being Owner of a Bank, Wall, or other Defence, is a sufficient Warrant and Inducement to impose the Charge of the Repairs thereof upon such Owner, without being tied to the same by Prescription, as appears in 8 H. 7. And it stands with Reason that every Man should be obliged to repair his own; the Consideration is also further moving, for that his Grounds which lie nearest to the Waters are soonest subject to drowning, and if any advantageous Increase arise upon the small Rivers, it falls to his Share.

Prescription and Custom, are much of the same Nature; and the Law takes Notice of them in many of our Books. Prescription doth not bind or tie a Man to the Repairs of any Thing, unless it be ratio 

a Terra, and in this it differs from Custom; for if it be presented, that a certain Person and his Ancestors have, Time out of Memory, used to repair
repair such a Bank, Wall or Defence, this Presentment is void, and doth not
bind the Party. But Bodies Politick, or Corporate, may, by Custom, be
bound to repairs, without mentioning in the Presentment or Indictment, that
they are to do the same ratione talis
Messuagii aut Terra, &c. And to that
Effect are the Books 21 E. 4. 38. and
44 Ed. 3. 19 H. 7. &c. And it is said,
that one may be bound to repair a
Bank, or Wall, ratione Resiantiae, by
reason of Residence; and this is taken
that he is charged to do the same for
the House he dwells in. If a Man and
his Ancestors have voluntarily made a
Defence for a long Season, this will
not bind his Heir thereto, though he
have Assets descended to him in Fee,
unless he have an equal Consideration
to bind him to the same; nor will de-
scending Assets of Land be a Charge
upon and bind the Heir in this Case,
except the Land itself be really tied
and charged.

By Tenure of Land, a Person may
be bound to repair a Wall, Bank, or
other Defence mentioned in the Sta-
tutes of Sewers. In the Year Book,
11 H. 7. p. 12. we learn, That if be-
fore the Statute of Westminster the
E 4
third, a Man made a Feoffment of Land, or if since that Statute had made a Gift in Tail, to hold the same by repairing a Bridge, &c. the Feoffee and Donee, and their Heirs, should have been bound by the said Tenure, to repair the same Bridge, &c. And in Coke's 1 Rep. in Porter's Case, it is mentioned, That if Lands were given to repair Ways, Bridges, Culleys, or such like, this binds the Owners of those Lands to those Repairs in Perpetuity. And 12 H. 4. The Prior of St. Mark in Bristol, was obliged and bound, by the Tenure of his Land, to repair a common Sewer.

A Man may be bound by his Covenant, to repair a Wall, Bank, Sewer, &c. and bind himself and his Heirs to do the same; but this shall not bind his Heirs after his Death, where Assets are not left from the Ancestor which entered into the Covenant. There is a Difference between a Covenant to bind an Heir, and a Prescription; for by Covenant, the Heir shall be bound to the Repairs, if he have Assets from that Ancestor; but by Prescription, the Heir shall not be bound, though he have Assets from the Ancestor who repaired the said Defences:
fences: Though if it be a Charge imposed upon Lands by Prescription, then the said Lands are therewithal chargeable. An Heir shall not be bound by the Covenant of his Ancestor, but where he is bound expressly by the Word Heirs in the Covenant. Goods and Chattels, as well as Lands, Houses, &c. may be made chargeable with Repairs of Bridges, Calfeys, Sea-Banks, &c. by Stat. 43 Eliz.

By the use of Defences, a Person may be tied to the Reparation thereof; as where one, and his Ancestors, have had the Use of a River by sailing up and down the same, or have used a Ferry on or over it, or an Engine to draw up Water, &c. for the Use of their Houses; these Uses which Men have of these Things, may be Causes and Considerations sufficient to oblige them to the Repairs of the Walls, Banks and Rivers: And there are Cases in our Books, where some Persons have been bound to repair a River, because they had Passage on it with their Boats; and others charged by reason they had free Fishing in the River, which is a peculiar and several Profit and Use thereof. But this is understood, as it is in Case of Frontage and Ownership, when
when and where no other Persons are bound to do the same by Prescription, Custom, Tenure, &c. being an implicit tie only in Construction of Law, to serve a Turn, when others are not expressly obliged thereunto. And by 38 Assis. pl. 15. the Law is declared to be, That he which is bound by Prescription to repair, is peremptorily to do the Work, and not any other; and if no such Person can be found, then the Parties whose Grounds do adjoin, and those which have free Fishing in the River, and free Passage thereon, are all of them to do and perform the same; and the Act of no one of them is a Discharge to the other, because they are in consimili cauš.

It has been a Question in our Books, Whether a Township or Hundred in general, might be taxed for the Repairs of Sewers, without imposing the same on particular Persons? And Sir Edward Coke, in the Case of the Isle of Ely, held, That a Tax or Rate might not be set or imposed upon a Town; for he observes, The Taxation, or Charge, ought to be according to the Quantity of the Persons Lands chargeable, by Number of Acres or Perches, or by the Tenure or Profit of Fishing and
and Common of Pasture, which if it should be laid on a Town, it would have none of those Proportions. And by the ancient Charter of Rumney Marsh, it is said, Quod unusquisq' pro-
portione, ac periculo incumbentium aquae contributat. Also by the Stat. 23 H. 8. it is expressed, That the Commissioners of Sewers shall tax and assess all Person,
s and every of them, as well within the Limits and Bounds of old Times ac-
customed, or elsewhere, after the Quantities of their Lands, Tenements and
Rents, and by the Number of Acres and Perches, and after the Rate of every Person's Portion, Tenure, or Profit, or after the Quantity of their Common of Pasture, or Fishing, by such Ways and Means as to they the said Commissioners shall seem most convenient. These Words of the Statute afford the literal Construction to be according to the Opinion of my Lord Coke: But by many ancient Books and Authorities of Law, Taxations and Charges have been generally laid upon Towns and Hundreds, in Matters of this Kind; as in 37 Lib. Ass. pl. 10. Four several Townships were charged with the Repairs of a River, because they had Passage thereon with Boats; and 38 Lib. Ass. pl. 15. a Town was there
there charged with the Reparation of a Bridge; and by the Construction of Magna Charta, a Town may be tied to repairs of a Bridge, by ancient Custom. The Statute 22 H. 8. c. 5. gives Authority to Justices of Peace to charge a County, Hundred or Town, with the Repairs of Bridges, if no certain Person be specially tied to do the same; and many Times in ancient Statutes, we find Towns and Hundreds to be charged generally. And if in the Case of Sewers, a Township be taxed, this Tax shall not be taken or levied but on such only as have Grounds within the Charge, and have Benefit by the Repairs, or might have Injury by the Neglect thereof: And if the Goods of one which was not liable to the Tax or Assessment impos'd, be taken, he may bring Action of Trespass, and recover Damages thereby. Likewise if the Goods of one Person be taken, and he is constrained to pay the whole Assessment of the Town, he may exhibit his Complaint to the Commissioners of Sewers, and give in to them a Particular of the Names of every Townsman, and the Quantity of each Man's Estate charged thereto, or the true Value of their Lands,
Lands, and request the Commissioners
to make a Law or Ordinance for them
all to contribute, every one according
to his Portion of Land; and accord-
ing to the best Opinions, the Commis-
ioners of Sewers have Power to im-
pose a proportionable Rate on every of
them, by way of Contribution (as
where Money recovered of a Hundred,
on a Robbery committed, is levied up-
on one Man's Goods, he shall have
Contribution order'd by Justices of
Peace) and may award Process to
oblige and compel them to pay the
same to the said Party. So that here
are Remedies to be had in all Cases of
Inconveniencies, by such Taxes or Af-
sements: And at the Assizes held at
Lincoln, Anno 12 Jacobi, in the Case
of Sir Philip Conisby, the Town of
Mauton was assessed five Pounds, and
Twigmore the same; and a Distress be-
ing taken for Non-payment thereof,
was justified in Replevin, and a Ver-
dict had for the Distraint. But it is
best for the Commissioners of Sewers,
if they can come to the Knowledge
and Certainty of every Man's Estate,
to rate, as in the primary and original
Cesse, every Person according to his
several Quantity of Estate, which may
be
be done in this Manner; when the Commissioners are agreed how much to lay upon such a Town, then they may send for three or four of the Inhabitants, and cause them to give in every Man's Estate, and then to make and appoint them Assessors, to rate every Person; or the Commissioners themselves, having, true Intelligence of every Person's Land, may set the Rate and Charge upon every particular Person, in an even and proportionable Sum; and thus every Man shall know his own Rate, and none be burdened with his Neighbour's Charge; And these are good Courses to be used within the Letter and Sense of the Statutes; And this Course was observed by the four and twenty Jurators in Kent for Rumney-Marsh, who always, upon their Oaths, set down every particular Man's Ground in certain, and the just Quantities, and accordingly were the Parties severally taxed.

Lands both Freehold and Copyhold may be taxed by Commissioners of Sewers; and Grounds lying on high Mountainous Places, by Custom, Prescription or Tenure, may be liable and chargeable to repairs of Walls, Banks, Sewers, and other Defences; but
but no Charge is to be imposed on them by Statute, by Force thereof only, without special Custom or Prescription. Tithes are not liable to be taxed, except it be by particular Custom; but a Parson may be taxed for his Glebe Land, because he had it from a Lay Donor; and if the Tithes are in the Hands of a Lay-man, then they are subject to the Tax of the Commissioners. If there be Lord and Tenant, and the Tenant holdeth of the Lord by yearly Rent, the Lord may be taxed as well for his Rent, as the Tenant for the Land; but if the Rents are small, it is in the Discretion of the Commissioners to spare the Lord. Between Lessor and Lesse, there is to be a Distinction and Difference made, as to annual Repairs in ordinary Things, and extraordinary Repairs; for small and annual Reparations the Tax shall be laid upon the Lesse for Life, or Years; but if a new Wall, Bank or Sewer be to be built or made, or if the ancient Defences are decay'd in the main Timber, or principal Parts thereof, here the Lessor shall be charged: The petty Reparations are by Intendment to continue but a short Time, and are likely to be spent during the Term.
Term and Leafe; but the new Defences are apparently made to save the Inheritance. Where there is Tenant in Tail, and Remainders, and Reversions; the Tenant in Tail in Possession shall be solely charged: And it is sufficient for the Commissioners of Sewers to impose or lay the Rate or Tax on the Grounds, and the visible Possessors thereof; but if the Money so rated be demanded on Tenant for Life, or Years, and his Goods be distrained therefore, or he is compelled to pay the same, then he may come before the Commissioners, and shew forth his Leafe or Title, and make it appear that some other Person hath the Reversion, and as the Case is, to be charged as well as himself; and on due Proof thereof made, upon hearing the Parties on both Sides, the Commissioners may apportion the Tax on either of them, as in Justice and Discretion is requisite. And if a Tax be set upon Land, where another hath a Common, and Rent thereout; the Owner may come in before the Commissioners, and make it out before them by due Proof, whereupon the Commissioners are to lay the Charge accordingly. So that it shall not always tie
tie the Commissioners at the first, to lay the Charge upon every particular Person; but they may relieve the Parties on Complaint, which stands with the Justice of these Laws.

If an Annuity issuing out of Lands, which are chargeable to this Tax, such Annuity is not liable to be charged. Those Persons who have Common of Piscary, Turbery, or of Pasture, in great Fens or Marshes, are subject to be taxed; but those that have Common in Agris Seminatis after the Corn fever'd, are not to be charged for such Commons, but for their Lands. He who hath the Vesture or Herbage of Grounds, as primam vesturam terra, may be charged to repairs. A Fair or Market, liable to be surrounded with Water, having only casual Profits, and not being Part of the Soil, nor Profits thereof, are not taxable for their Profits. He who hath the Profit of a Ferry over a River, may be charged to repair the River: And those who have free and customary Passage on a River, as a Liberty and Inheritance, are to be rated towards the Repairs. A Park, or Warren, lying within the Level, shall be charged. If there be apparent Danger by Inundations of Water, &c.
the whole Level may be charged. And to repair a Sea Port, the County may be taxed.

Where one is bound by Prescription, or otherwise, to repair, he ought to do it, if the Danger is not inevitable; and if it be so, by his Fault or Neglect, and he is not able to repair, every one who hath any Damage may have an Action against him: But if the Danger is inevitable, by reason of the extraordinary Rage and Violence of the Waters, there, to prevent a publick Inconvenience, the Commissioners of Sewers may Tax all that are likely to have any Loss; though one Person is tied to repair: And they ought not, in such Case, to tax him or those only, who have Lands next adjoining. If any Grounds which by Custom, Prescription, &c. were bound to repair any Wall, Bank, sewer, &c. are overflown and lost by the Sea, the Commissioners are to lay the Tax upon the Level which is in danger of Injury by the not making and keeping up the Repairs, or which is to receive good by the doing thereof. If the Sea at Spring Tides, or extraordinary casual swelling Tides, or Floods, have broke down the Fences, overthrown the Banks,
Banks, and drown'd the Country, without any Default in the Party who was tied to have repaired the same; the Level shall, in this Case, make up the Breach. Where a Person chargeable to make Repairs, is not able to do the same, the Level are to be charged to assist him therein: And if a Man, by reason of his Lands, &c. is bound to repair a Sea Bank, but the Hazard is so apparently great and dangerous to the Country, that in all likelihood he can't Repair the same; and by that Means the whole Country may be drown'd before he alone can do it, here the Country or Level shall be rated towards the same. And if one holds Land by the yearly Payment of a certain Sum, towards the Reparation of a Bank or Wall, if this Money will not defray the Charge of it, the rest shall be laid on the Level. When any one is obliged by the Tenure of his Lands, to repair a Bridge, Bank, &c. and he dieth without Heirs, whereby the Lands fall to the Lord of the Fee; the Tenure being ended, the Lord is not bound to the Repairs, but now the Charge must lie on the Level; And so it is where the Tenure is any ways extinguished. If no Persons or Grounds can
can be known, which ought to make Repairs by Tenure, Prescription, Custom, or otherwise, then the Commissioners are to tax the Level. And if a new Wall, or Bank be to be erected, or a new Sewer, Sluice, &c. made, in these Cases, the Commissioners of Sewers are to lay the Charge on the whole Level, which are to take Benefit thereby, as well for new building and making, as for maintaining of them; for in the Case of new Defences, there can be no Prescription, Custom, or Tenure to do the same.

In these and other Cases of Necessity, the Commissioners may Tax the Level. And where Persons are taxed by the Laws of Sewers, the Tax is to be made according to the Quantity and Quality of Acres; and not according to the Number of Persons. And the Goods of the Person on whom the Tax is impos'd, may be taken in Distress for it any where; unless it be on a Presentment ad Reparand vel a mo- vend, when the Distress must be taken within the Bounds of the Commission. If an Assessment is made upon particular Lands, a Stranger's Goods may be taken thereon; but not otherwise: Where Lands are not charged, but
the Person only, as by Fine, &c. then the Goods of the proper Person must be taken, and of none other. The Goods taken in Distress, may be sold by Warrant from the Commissioners; and so long as they remain in the Custody of the Officer, who acts under the Commissioners, they cannot be replevied by the Sheriff; but being sold, may be then Replevied in the King's Courts, as they are out of the Privilege and Protection of the Court of Sewers: For a Replevin doth not lie from the Sheriff, or his Deputies, Ex Officio to deliver a Distress of Sewers; but out of the Courts at Westminster a Replevin doth lie in those Cases.

Land may be sold for Cesses and Charges imposed by the Commissioners, which lie in Payment: But if one hold his Lands to repair a Wall, Bank or Sewer, and he neglects to repair the same, the Commissioners of Sewers can't, for this Cause, decree the Lands away from the Owner, because this Charge lies not in Payment. And where a Man holds Land by the Payment of a certain Sum towards the Repairs of a Sewer, though this consists in Payment, yet the Commissioners may not sell the Lands on his Neglect to
to do the same, until they first make an Order for the Payment, &c. by reason the Payment ariseth by the Tenure of the Land, and not by the Statute: And the Charge by virtue of the Order, hath the Force and Power of the Statute. But if Lands are held generally to repair, &c. and the Sum certain is not known, though this is a Payment arising by Tenure, if the Commissioners impose a Sum, and the Person on whom impos'd neglects to pay it, the Lands may be sold by their Decree. For where Lands of one are generally charged to repair such a Wall, or Sewer, by Prescription, or otherwise, and the Commissioners impose a Rate upon him to repair the same, and he do not; there notwithstanding the Charge is by the Rules of the Common Law, yet because the Rate is set by the Power of the Statutes, for Neglect of Payment the Lands may be sold by the Decree of the Commissioners of Sewers. But no Decree can be for Sale of Lands, which are not within the Limits of the Commission; Nor for Payment of Fines, &c. which are no Cess or Charge towards the Repairs of Sewers, but Mulets, or Punishments, set upon particular
particular Persons, and due to the King. And these Decrees must be certified into Chancery, to have the King's Assent, or they will not be binding; but that being done, a Decree on Tenant in Tail will bind his Heirs, and it will be binding to Feme Coverts, Infants, &c. though not to a Prebendary, or Parson, &c. seised of Church Lands, in their Political Capacities, because they are restrained by particular Statutes to make Alienations. The Commissioners may not sell Lands in Fee, &c. to satisfy a Rate or Cess, when it may be raised and satisfied with the making of a less Estate. And if a Charge be generally laid upon a Town, or Hundred, &c. and is not paid, according to the Order of the Commissioners; no Lands can be decreed to be sold, because no Persons or Lands are particularly charged, and the Decree of the Sale must be directed by, and depend upon the Assessment: But if after the general Tax be laid, the same is assessed upon particular Persons, by particular Sums, by the Commissioners, then on Default of Payment, the Lands of the Defaulters may be decreed from them, by virtue of the Statutes of Sewers. Where
Persons are bound by Tenure, of Land, &c. to repair, other Lands are exempted from it, and not liable to be charged or taxed by the Commissioners. And by special Custom, Lands may be exempt from the Repairs of Sewers.

Commissioners for Non-payment of any Charge ass'd'd, may decree Copyhold Lands from the Owners, as well as Freehold; the Persons to whom the Copyhold is fold, agreeing with the Lord for his Fine, and being admitted: This could not be done by the ancient Statutes; but is ordain'd by the 7 Ann. And here follow Forms, or Precedents of Rates and Assessments, Orders for Payment, Warrants to levy Taxes and Distraint, Decrees for Sale of Lands, &c.
A Precept for Persons to appear, and bring in Particulars of their Estates, in order to a Tax.

To G. H. J. K. and L. M. of, &c. and every of them.

Whereas we whose Names and Seals are hereto put and affixed, his Majesty's Commissioners of Sewers, for the County of, &c. finding it necessary to make a Rate and Assessment on all and every Person and Persons in the Parish and Limits of, &c. aforesaid, in respect of their Estates therein, for the Maintenance of the Sea Banks, Walls and Sewers, within the said Parish and Limits, which are very ruinous and defective in their Repairs: We do therefore hereby require you, and every of you, to be and appear before us, or some of us, in and upon, &c. next coming, at the House of, &c. situate, &c. then and there to give in upon Oath, a true and impartial Particular of every Person's Name and Lands in the said Parish and Limits, liable and chargeable by Statute to the Repairs and Maintenance of Sewers,
Sewers, and usually and customarily charged therewith, with the true Quantities and Qualities of their and every of their said Lands, by the Number of Acres, or otherwise, in order to our, or some of our laying a Tax and Assessment thereon, as the Laws and Statutes in these Cases direct; And hereof you are not to fail.

Given under our Hands, &c.

A Rate and Assessment for Repairs of Sewers.

Lincoln II. A Rate and Assessment, made on all the Owners of Lands in the Parish and Limits of, &c. in the said County, according to the Quantities and Qualities of their Estates, for the Repairing, Amending and Maintaining of the Banks, Walls and Sewers in the said Parish and Limits, for the Year, &c.

T. A. for his Tenement and Lands, containing 150 Acres

A. B. for his Freehold Mesuage, called, &c.

C. D.
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<thead>
<tr>
<th>Item</th>
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<tr>
<td>C.D. for a Leasehold Tencament, and, &amp;c. Lands</td>
<td>1 5 0</td>
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<tr>
<td>E.F. for 100 Acres of Meadow Ground</td>
<td>1 10 0</td>
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<tr>
<td>G.H. for 70 Acres of Pasture, &amp;c.</td>
<td>0 17 0</td>
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<tr>
<td>I.K. for 30 Acres of Meadow</td>
<td>0 10 0</td>
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<td>L.M. for 10 Acres of, &amp;c.</td>
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<tr>
<td>N.P. &amp;c.</td>
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The above Rate and Assessment was this Day, &c. assessed by us, six of his Majesty’s Commissioners of Sewers, for the County of, &c. aforesaid; And we do hereby authorize and empower T.D. our Collector for the said Parish and Limits of, &c. to ask, demand and levy the same, of the several Persons therein named, to be applied towards repairing, amending and maintaining of the Banks, Walls and Sewers aforesaid, according to the Statutes in that Case made and provided. Given under our Hands and Seals, &c.

B. M.
J. B.
E. N.
N. W.
R. E.
J. H. Commissioners.

An
An ORDER to pay a Tax, on a particular Person.

WHEREAS on making a Rate and Assessment upon the Owners of Lands, in the Parish and Limits of, &c. for the Repairing, Amending and Maintaining the Sea Banks, Walls and Sewers therein, for the Year, &c. It appeared to us, by the Information of, &c. on Oath, That one A. B. heldeth a certain Messuage, and twenty Acres of Land in the said Parish and Limits; &c. by the Tenure of Payment of, &c. towards the Repairs and Maintenance of the said Banks and Sewers; and the said A. B. having neglected to pay the said Sum to our Collector appointed to receive the same: We do therefore hereby Order the said A. B. within, &c. Days next after the Date hereof, to pay unto, &c. our Collector aforesaid, the aforesaid Sum of, &c. to be applied in Repairing, Amending and Maintaining the Walls, Banks and Sewers abovementioned; or on the said A. B.'s. Default therein, We shall Decree the said Messuage and Lands to be sold to satisfy the same;
A WARRANT to take a Distress for a Tax, and sell Goods.

To T. D. Sewer-Bailiff, or Collector of the Level of, &c.

WHEREAS Complaint hath been made unto us, That C. D. and E. F. of, &c. aforesaid, who are severally rated and assessed in the several Sums of, &c. for and towards the necessary Reparations and Amendments of the Banks, Walls and Sewers within the said Level, have refused to pay the same when demanded, contrary to the Laws in that Case made: These are therefore to authorize and Command you, to levy the said respective Sums of, &c. on the Goods and Chattels of the said C. D. and E. F. respectively, by Distress and Sale thereof; And that you do employ the said Money, when levied, towards the Repairs abovementioned; for which this shall be your Warrant. Given, &c.
A Decree and Sale of Lands by Commissioners, for Payment of Lots and Charges.

This Indenture made, &c. Between A. B. C. D. E. F. &c. Esqs. (Six) Commissioners of Sewers for the County of, &c. of the one Part, and G. H. &c. of the other Part. Whereas the said Commissioners Parties to these Presents, having the Execution of the Laws of Sewers, on &c. last past, made and ordered an equal Rate, Charge, and Assessment, upon all and every the Owners and Occupiers of Lands in the Parish and Limits of &c. in the County aforesaid, according to the Quantities and Qualities of the said Lands, for and towards the Reparation and Amendment of the Banks, Walls, and Sewers, within the said Limits, pursuant to the Laws and Statutes in that Case made and provided. And whereas in and by the said Rate and Assessment, L. M. of, &c. aforesaid, was legally charged and assessed in the Sum of, &c. as his proportionate Lot and Charge, towards the said Reparations and Amendments, for his Messuage,
Messuage, Tenement, and Lands, called, &c. held by Lease and Grant from, &c. for the Term of, &c. who on Demand thereof, by, &c. the Commissioner's Collector lawfully authorized, hath absolutely and contemp-tuously deny'd and refused to pay the same. And whereas the said Commissioners, or some of them, are credibly inform'd that the said L. M. hath no Goods or Chattels whereout the said Sum of, &c. may be any Ways levied for the Purposes aforesaid. Now, to the End the said Sum of, &c. may be paid, and applied to the Uses aforesaid, in repairing the said Sewers, This Indenture witnesseth, that the said Commissioners Parties to these Presents, by Force and Virtue of the Statutes of Sewers, and the Power to them thereby given, and for and in Consideration of the Covenants and Conditions herein after on the Part and Behalf of the said G. H. his Executors and Administrators, to be perform'd and done, and also of 5s. of lawful British Money, to them the said Commissioners in Hand paid by the said G. H. the Receipt whereof is here- by acknowledged, Have order'd, bargained, sold, and assigned, and by these
these Presents do, as much as in them the said Commissioners Parties to these Presents lieth, order, decree, bargain, fell, and assign, from the said L. M. his Executors, Administrators and Assigns, unto the said G. H. his Executors and Administrators, All and singular the said Messuage or Tenement, Lands and Premises above mentioned, and all Ways, Waters, Easements, Profits, Privileges, Advantages, and Appurtenances, to the said Messuage or Tenement, and Lands belonging or appertaining, To Have and to Hold the said Messuage or Tenement, Lands and Premises, to the said G. H. his Executors and Administrators, for and during all the rest and residue of the said Term of, &c. which he the said L. M. had or ought to have of or in the same. Upon Condition nevertheless, that he the said G. H. his Executors and Administrators, do and shall yearly and every Year, during the said Term of, &c. pay or cause to be paid, unto the Collector or Collectors appointed, all such Rates, Lots, Charges, and Assessments, as shall be rated, assessed, or imposed by the Commissioners of Sewers for the County of, &c. aforesaid, for the Time being, on
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on the Messuage or Tenement and Lands above mentioned, upon demanding the same, and on no other Condition or Trust whatsoever. And the said G.H. for himself, his Executiors and Administrators, doth covenant and grant, to and with the said Commissioners Parties to these Presents, and to and with every of them, their Executors, &c. That he the said G.H. his Executors and Administrators, shall and will from Time to Time and at all Times during the said Term of, &c. aforesaid, well and truly pay or cause to be paid unto the Collector or Collectors appointed to receive the same, all and all manner of Rates, Cesses, Lots, Charges, Assessments, and Payments, which shall be rated, assessed, charged, or imposed by the Commissioners of Sewers for the said County of, &c. for the Time being, on the Messuage, Tenement, Lands and Premisses above mentioned, or any Part thereof, towards the Reparation of the said Sewers, on Demand thereof, including the Assessment of, &c. aforesaid, without any Default, Denial, or Neglect, by him the said G.H. his Executors, &c. according to the true Intent and Meaning.
ing of this present Decree and Assignment. In Witness whereof, the said Commissioners and Parties have hereunto put their Hands and Seals, the Day and Year, &c.

The Certificate into Chancery.

M E M O R A N D U M this Day, &c. The within written Decree and Assignment of the Lands and Premises therein mentioned, was certify'd into the High Court of Chancery, by the Commissioners within named, under their Seals, according to the Form and Directions of the Acts of Parliament.

T. D. Cler. Com.

If a Wear, or Mill, &c. is built on a Navigable River, or an ancient Wear enhanced, the Commissioners may order the Owners to pull down the one, and abate the other; and if they continue them, or build them up again, they forfeit 100 Marks, by Statute 1 H. 4. & 12 H. 4. And if a Stranger set up Piles or Stakes, he is to be fined or amerced, and may be order'd to remove the Nufance. Also, if it can't
can't be found who committed the same, the Commissioners may order those to abate it, who are likely to receive most Damage.

By Stat. 27 H. 8. If any Person shall do, or cause any Thing to be done to the annoying of the River Thames, by making of Shelves, digging and caffing of Rubbish, or other Thing therein, or otherwise; or convey away any Boards, Stakes, Timber Works, Pillars, or other Things, from Banks or Walls thereof, except it be to repair them; or undermine any Banks or Walls there, to the Damage of the said River, he shall forfeit 5l. for every Offence, to the King, and Mayor and Commonalty of London.

And the Lord Mayor and Commonalty of London, &c. may take away and remove all Kiddles, &c. in the Water of the Rivers of Thames and Medway.
An Order to remove and abate Wears, erected on a River.

Whereas L. B. of, &c. hath lately erected, or caused to be erected, upon the River, &c. in the said County, certain Wears, or Dams, as found by Jury at a Court of Sewers holden on, &c. last, to the great Impediment and Hinderance of the free Passage of the Water in the said River; whereby the Lands and Grounds adjoining thereto, from, &c. to, &c. are oftentimes subject to great Inundations, to the manifest Damage and Injury of the Owners thereof: We his Majesty's Commissioners of Sewers for the said County of, &c. whose Business it is to redress such Grievances, Do therefore hereby order and direct the said L. B. on or before, &c. next coming, to remove, and pull down the said Wears or Dams, by him the said L. B. so erected on the said River of, &c. as aforesaid, upon Pain of incurring the Penalty of one hundred Marks by Statute; And being further punished by Law for the same. Given, &c. Order.
ORDER to remove Stakes and Piles, set up in a River.

IT being Presented by the Jury, returned to enquire of Defaults in Reparations of Sewers, &c. in the County of, &c. at a Court of Sewers held, &c. That T.M. had in the Month of, &c. then past, set up and erected several Stakes and Piles, in the River of, &c. in the said County, to the great Nuisance and Annoyance thereof, which said T.M. is not to be found; We do therefore hereby order and empower L.B. who is likely to receive the most Damage and Injury by reason thereof, to remove and abate the said Nuisance, on or before, &c. next, as to him the said L.B. shall be thought fit. Given, &c.
Of the Authority of Commissioners to appoint Bailiffs, Surveyors, Collectors, and other Officers; And to take Accounts, &c.

By their Commission, the Commissioners have Power to depute and assign Bailiffs, Surveyors, Collectors, Expenditors, and other Officers and Ministers, for the Conservation and Reparation of Walls, Banks, Sewers, &c. And to take the Accompt of the Collectors, and other Officers, of and for the Receipt and laying out of the Money that shall be levied and paid for that Purpose; and to punish the Debtors for and Detainers of the same, by Fine, Amercement, &c.

A Bailiff is usually an Officer or Minister under the Commissioners of Sewers, to serve their Warrants, Precepts, and Summons's relating to the Court of Sewers, &c. A Surveyor is one that hath the Overseeing of Defects, or Care of the Repairs of Banks, Walls, and Sewers; And he hath Power to take an Information by the Examination
tion of others; but can make no Presentment, but of such Things as happen within his View and Survey: He cannot Present, that a Person is bound by Prescription, Custom or otherwise, to repair such a Wall, Bank, or Sewer; for this is not within his Office. An original Presentment, that A. B. by Tenure of his Lands, ought to repair such a Bridge, Wall, Bank, or Defence, Surveyors cannot make; but they may make a Supplemental Presentment, That it having been Presented before by a Jury, that he ought to have repaired, he hath not done the same by the Day prefix'd. A Collector is the Receiver of the Money order'd to be levied for the necessary Reparations of the Walls, Banks, and Sewers, by the Rate and Assessment of the Commissioners; who is to account for the same, of the Receipt thereof, and Payment to the Expenditor. The Expenditor is the Person appointed by the Commissioners, to pay, disburse, or expend, the Money collected by the Tax, when paid into his Hands by the Collector, on the Reparations, Amendments, and Reformations order'd by the Commissioners; for which he is to render his
his Accomp't, when thereunto required.

These are the Officers appointed by Commissioners of Sewers; who are deputed and assigned in the following Manner.

_An Appointment of a Bailiff of Sewers._

_W_ E A. B. C. D. E. F. &c. Esqrs. (Six) Commissioners of Sewers within the County of &c. aforesaid, Do hereby depute, assign, and appoint T. D. of, &c. to be our Bailiff of Sewers for the Level or Limits of, &c. to execute all Warrants, Precepts, and Summons's to him directed, by us, or any of us, or any other his Majesty's Commissioners of Sewers for the said County, relating to the Reparation, Amendment, and Reformation of the Walls, Banks, and Sewers there; pursuant to the Laws and Statutes in that Case made. Given, &c.

_Assignment_
Assignment of a Surveyor of Sewers.

We A.B. C.D. E.F. &c. Esqrs., his Majesty's Commissioners of Sewers for the County of, &c. Do, by Virtue of the Statutes of Sewers, and of the Power to us thereby given, by this our Order under our Hands and Seals, assign and appoint L. A. of, &c. Surveyor of the Walls, Banks, and Sewers, within the Level of, &c. in the said County, To Oversee, Survey, Inspect into, and take Care of the Reparations of the same, from Time to Time, according to the Orders and Directions of us, or any of us, or any other Commissioners of Sewers for the said County; And also to Present the Defects and Decays thereof; during our Will and Pleasure, or for and during the Space of, &c. Given, &c.

An
An Appointment of a Collector of Sewers.

W. E. A. B. C. D. E. F. &c. Esqrs. Commissioners of Sewers, &c. Do hereby assign and appoint A. T. of, &c. our Collector and Receiver, during our Will and Pleasure, to collect and receive all Money, by us, or any other of his Majesty's Commissioners of Sewers for the said County, from Time to Time order'd and directed to be levied, by Rate and Assessment, or otherwise, on all Owners and Occupiers of Lands, within the Level of, &c. and to pay over the same to B. M. &c. our Expenditor appointed; He the said A. T. rendring to us, or some of us, a just, true, and perfect Account of all such Money by him collected and received within the said Level, when thereunto required, by us or any of us, or yearly, &c. Given, &c.

Assignment
ASSIGNMENT of an EXPENDITOR.

WE A. B. C. D. E. F. Esqrs. Commissioners, &c. Do, by Virtue of the Authority to us given by the Laws of Sewers, nominate, assign, and appoint, B. M. of, &c. Gent. Expenditor, to pay, disburse, and expend, all Money raised and levied by our Rate and Assessment, within the Level of, &c. on all Owners, and Occupiers of Lands, &c. chargeable towards the Reparations and Amendments of Sewers, and by him had and received of and from our Collector appointed; So as he the said B. M. do and shall from Time to Time when thereunto required, yield, render, and deliver unto us, a true and perfect Account and Accounts of all Money by him thus paid, for and towards the Reparations above mention'd. Given, &c.

A WARRANT
A WARRANT or Order for a Collector to accompt.

To T. D. Bailiff of Sewers, for the Level of, &c.

WHEREAS we have appointed A. T. of, &c. our Collector of Sewers, within the Level of, &c. to collect and receive all Money rated and to be levied on the Owners of Lands, &c. towards the Repairs of the Banks, Walls, and Sewers therein, He the said A. T. from Time to Time, accounting with us for the same, when thereunto required; These are therefore to command you forthwith to give Notice to the said A. T. personally to be and appear before us, at, &c. on, &c. next, to give and render unto us a true and perfect Account in Writing of all Money by him received, of all and every Person and Persons, for and towards the Reparations aforesaid, and of all other Things relating to his Office of Collector; which he the said A. T. is hereby order'd to do at his Peril. Given, &c.
An Account of a Collector.

The Account of A.T. Collectofr
of the Rates and Assessments
on the Owners of Lands,
within the Level of, &c.
towards the Reparation of
Sewers there, for the Year
beginning, and ending, &c.

<table>
<thead>
<tr>
<th>Description</th>
<th>l.</th>
<th>s.</th>
<th>d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receiv'd of M.B. for his</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Tenement and Lands</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of B.T. for 150 Acres</td>
<td>1</td>
<td>15</td>
<td>0</td>
</tr>
<tr>
<td>of Meadow Ground</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of N.E. for 100 Acres</td>
<td>1</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>of Ground</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of W.N. for 80 Acres</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>of Pasture Land</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of E.R. for 170 Acres</td>
<td>1</td>
<td>17</td>
<td>6</td>
</tr>
<tr>
<td>of Meadow</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>of H.T. for 50 Acres, &amp;c.</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>of, &amp;c. for, &amp;c.</td>
<td></td>
<td>10</td>
<td>0</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total receiv'd, answering the Rate and Assessment</td>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Paid
Paid to Mr. B. M. Expenditor 5 0 0
—— to Ditto 3 0 0
—— to Ditto, as per Receipt 2 0 0
—— to, &c.

Total paid, L. ——

Balance in the Collector's Hands 3——

We whose Names are hereunto subscribed, six of his Majesty's Commissioners of Sewers for the County of, &c. have perused the above Account, and do hereby allow of the same, this Day, &c.

A. B.
C. D.
E. F.
&c.
An Expenditor's Account

The Account of B. M. Expenditor of all Money collected and receiv'd of and from the Owners of Lands in the Level of, &c. for the Reparations of Sewers, for, &c.

<table>
<thead>
<tr>
<th>Description</th>
<th>l.</th>
<th>s.</th>
<th>d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receiv'd of A.T. Collector</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>--- of Ditto</td>
<td>3</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>--- of Ditto</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>--- of, &amp;c.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Receiv'd, L.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paid to T.D. for Timber</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>for a Goat</td>
<td>3</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>--- to L.M. for working</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and erecting the same</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>--- to M.N. for working</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>on the Wall of, &amp;c.</td>
<td>1</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>--- twenty Days</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--- to D.R. for erecting a Bank in, &amp;c.</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>--- to A.K. for cleansing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>the River of, &amp;c.</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>--- to, &amp;c. for stopping a Breach, &amp;c.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Paid, L.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ballance, L.</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>
The Account above is allow'd by us, this Day, &c.

A. B.
C. D.
E. F. &c.

Of the Commissioner's Power to arrest Carts, Horses, Oxen, &c. and appoint Workmen, take Trees, and Wood, for Reparations.

The Commissioners of Sewers are empower'd by Statute, to seize and take what Number of Carts, Horses, Oxen, Beasts, and Instruments, necessary to carry on and finish the Reparations of Banks, Walls, and Sewers, and as many Labourers and Workmen, as they shall adjudge sufficient to accomplish the same, as the Exigency may require; making a competent Payment and Allowance for the same: And also to take and order as many and what Number of Timber-Trees as shall be requisite to make and perfect all needful Works and Reparations, paying to the Owners
ers a reasonable Price, by them assessed and limited; And this may be done by the general Power of their Commission, as well within the Bounds of the Level, as in any other Place near unto the same in the County; But this I take it, is where there is not Timber sufficient within the Level for the Purposes aforesaid.

An Order to provide Carts and Carriages, for Repairs of Sewers.

WE A. B. C. D. E. F. &c. Esqrs. his Majesty's Commissioners of Sewers within the County of, &c. Do hereby order and require T. B. D. W. L. M. &c. who keep Horse Teams in the Parish of, &c. That they and every of them, send or cause to be sent out of the said Parish, unto, &c. in the aforesaid County, six Carts or Carriages, on, &c. next ensuing, furnish'd with a sufficient Number of able Horses or Oxen and Workmen, to work on the Reparations of the Walls, Banks, and Sewers, within the Parish and Level aforesaid, according to the Acts of Parliament in H that
that Case made; being allow'd, &c. per Day for the same. Given, &c.

A WARRANT or Order for Labourers to work on the Reparations.

To W. L. N. P. T. A. &c.

These are to command you and every of you, That on Notice of this our Order, you forthwith go and repair to, &c. in the County of, &c. and then and there, as many Days, and so long Time as shall be adjudged Necessary by our Surveyor of Sewers, do diligently work and labour in the Reparations and Amendments of the Walls, Banks, and Sewers in the said County; and that you or either of you do not thence depart, without Leave of our said Surveyor, first obtained for the same; All which you are to observe at your Peril. Given, &c.
An Order to take Timber-Trees for Reparation of Sewers.

To T. A. Gent. Surveyor of Sewers in, &c.

WHEREAS we A.B. C.D. E.F. &c. Esqrs. Commissioners of Sewers for the County of, &c. on View do find, that the Walls, Banks, and Sewers within the Level of, &c. in the County aforesaid, are very ruinous and defective, and require much Timber Work to put the same in Repair; And we being credibly inform'd, that T. D. living within the Limits of the said Level, hath six large Timber-Trees standing and growing on his Land, called, &c. fit and proper to be cut and employ'd in the said Reparations: These are therefore to authorize and empower you, with Workmen, &c. to enter into and upon the Land of the said T. D. and cut, take, and carry away from the same, the said six Timber-Trees, at seasonable Times, without doing any Damage to the said Land, for and towards the Reparations of the Walls, H 2 Banks,
Banks, and Sewers aforesaid, and not otherwise; Giving to the said T. D. Notice thereof, and tendering and paying to him the Sum of &c. which we adjudge a reasonable Price for the same; And this shall be your sufficient Warrant in the Premisses. Given, &c.

This last Order or Warrant, it is said may be executed by Statute, and Entry made on the Land, without the Consent of the Owner, and be no Trespass; but it may be best to have the Consent of the Owner, or Possessor of the Land, if it may be had: And as well Trees standing, as cut, where there are none others fitting, may be taken by the Commissioners, at a reasonable Price.
Of the Authority of the Commissioners to make Statutes and Ordinances, for Conservation and Redress of the Premisses, and to see them duly observ'd.

Commissioners have Authority to make and ordain Statutes, Ordinances, and Provisions, from Time to Time, as Occasion shall require, for the Safeguard, Redress, Correction and Reformation of all Matters relating to the Sewers within their Bounds and Limits, necessary and convenient. And the Laws and Ordinances, made by Virtue of their Commission, shall continue in Force, without any Return thereof made into the Chancery, and without the Royal Assent, until they shall be alter'd or repeal'd by new Commissioners appointed: But they must be written in Parchment indented, under the Seals of the Commissioners, or six of them; one Part whereof is to remain with their Clerk, and the other Part where they shall appoint: Which Laws shall then be in Force for the Space of one Year next after
the Expiration of the ten Years of their Commission. By the Stat. 13 Eliz. the Commissioners of Sewers shall not be compell'd to make a Return or Certificate, of their Laws or Orders, nor be fined for that Cause. But this relates to Certificates and Returns made into the Chancery; and not into the Court of King's Bench, upon Certiorari's delivered, &c.

Where there is no new Commission issued at the End of the 10 Years, Justices of Peace have the Execution of these Laws and Ordinances for the Year afterwards; but there are to be six of them (Quorum unus) to act, and they must be Justices of the County where the Laws are to be executed by Virtue of the Commission expired. Tho' a new Commission being once granted, if within the Year, the Authority of the Justices is then to cease.

I shall here insert the Form of a Set of Laws and Ordinances for the well Government and Reparation of Sewers within a Level.

Laws
Laws and Ordinances of Commissioners of Sewers.

Lincoln s. Laws and Ordinances, made and ordained by A. B. C. D. E. F. G. H. &c. Esqrs. Commissioners of Sewers for the County aforesaid, at a Court of Sewers held, &c. To be kept and observe'd within the Level of, &c. in the said County, for the well Ordering, and better Government of the same.

Impromis, We ordain, That all and every the Owner and Owners of Goats, Flood-gates, and Sluices, within the Level aforesaid, do constantly keep the same, and every of them, up and open, from, &c. to &c. yearly, and longer if it be found necessary, on Notice given by our Surveyor; Or all and every the Owner and Owners of such Goats, Flood-gates and Sluices, shall be fined 6 s. 8 d. for each Default.

Item, We ordain, That no Person or Persons whatsoever, do cast, throw, or empty into any of the Rivers, Streams, or Sewers, within the Limits of the said Level, any Sand, Stones, Dirt,
Earth or Rubbish, to the Interruption of the Current of the said Rivers and Streams; or do erect or set up any Stakes, Piles, or other Things therein, to the Annoyance thereof; under the Penalty of forfeiting, on Conviction thereof, for every Offence 3 s. 4d.

Item, We ordain, That all and every the Owner and Owners of the Lands adjoining to the Rivers of, &c. in the said Level, do yearly, once in every Year, within one Month after, &c. cut or cause to be cut, the Weeds, Rushes, and Docks in the said Rivers, and cleanse the same Rivers of and from all Filth therein arising; and on Default thereof shall be fined 16 s. 8d.

Item, We ordain, That the Owners and Occupiers of the Lands next to the Ditches in, &c. do new dig the said Ditches in the best Manner, once in every seven Years, so as to be, &c. Feet deep, to carry off the Water thro' the said Lands; on Pain of forfeiting 13 s. 4d. for every Neglect.

Item, We ordain, That if any Person or Persons, who of Right ought to amend and repair any Wall or Bank, shall on Notice of our Surveyor, neglect to do the same; That then our said Surveyor shall make good the said Reparation
Reparation at the Charge of the Level, and the Person neglecting it, pay and forfeit double Costs to the said Surveyor, for the common Benefit of the whole Level, towards repairing the Walls and Defences thereof.

Item, We ordain, That whenever any Post or Timber-work belonging to the Sewers, shall yield or give way to the Rage of the Waters, that then the Owner of the Lands adjoining, shall immediately do what in him lies to amend the same, till our further Orders be obtained therein; or shall forfeit 30 s.

Item, We ordain, That if at any Time hereafter, it shall so happen that by the Violence of the Sea, or of Land Floods, any Wall, Bank or Work within the said Level, shall be broke down or over-turned, or any Breach made in the same; that then on Notice of our Surveyor, all and every Person and Persons, having Lands in the said Level, liable to Inundations, do and shall forthwith send Labourers and Workmen, with proper Tools, each Owner of Lands one Workman, to repair the same, during the present Exigency, until we can make further Order therein; and if any shall make Default here-
in, and be convicted thereof by the Testimony of, &c. he shall be amerced 13 s. 4 d.

Item, We ordain, That no Person or Persons, Owners of Lands, or others whatsoever, do at any Time obstruct, hinder, or interrupt the Reparation of any Breach, in any of the Walls, Banks or Defences, within the said Level, whereby any Damage, Injury or Prejudice shall happen to the adjoining Lands; on Pain of forfeiting, &c. according to the Quantity of the Offence; or forfeiting for every Offence 20 s.

Item, We ordain, That if on any extraordinary and necessitous Occasion, thro' some sudden Inundation of the Water, Earth, Stones, Timber, or other Materials, shall be wanting immediately to fill up the Breach of any Wall, Bank, or other Thing; that then any Person or Persons inhabiting in the Level aforesaid, taking with them our Surveyor of Sewers, may go upon the Lands nearest to the said Breach and Inundation, and then and there take and carry away to the Place where required, any Earth, Stones, Timber, or other Things necessary for the same, 'till
till our further Order can be had and obtained therein.

Item, We ordain and require, That all these Laws and Ordinances be well and duly observed and kept, under the several Pains, Penalties, and Forfeitures aforementioned, according to the Tenor and true Meaning thereof.

Given, made and ordained, by Indenture between us the aforesaid Commissioners, and ingross'd in Parchment, under our Hands and Seals, this Day and Year, &c.

A. B.
C. D.
E. F.
G. H. &c.

N. B. It may be necessary to proclaim these Laws; and that all the Offences, as they happen, be presented by the Jury to enquire of Defaults, before the particular Penalties are levied.
Of Sheriffs returning Juries, at Times appointed by the Commissioners, to enquire of Defaults, &c.

Sheriffs of Counties are commanded, by the Commission of Sewers, to cause to come before the Commissioners, or six of them, at such Days and Places as they shall appoint, such and as many honest Men of their Bailiwicks, by whom the Truth may be best known, to enquire of all Defaults, Neglects, and Wants of Reparation and Amendment of any Walls, Banks, or Sewers, within the Limits of the Commission; and all other Ministers and Officers are to be attendant on the Commissioners in and about the due Execution of their Commission.

This is by the latter Part of the Commission; and the Commissioners may issue their Precept or Warrant to the Sheriff of the County, to return such Jury.
A PRECEPT or Warrant for a Sheriff
to Summon and Return a Jury.

To A. M. Esq, Sheriff of the
County of, &c.

WE whose Names and Seals are
hereto put and affix'd, Commissioners of Sewers for the County
aforesaid, do hereby require you or your
sufficient Deputy, to Summon and Re-
turn such, and as many honest and sub-
stantial Men of your Bailiwick, quali-
fied to serve on Juries, by whom the
Truth may be best known, to be and
appear before us, and other Commission-
ers of Sewers for the said County,
on, &c. next, at, &c. then and there
to enquire into all Defects, Defaults,
and Wants of Reparations of and in
the Walls, Banks and Sewers within
the Level of, &c. in the County afores-
aid, pursuant to the Statute in that
Case made and provided. Given, &c.
Of the Court of Commissioners of Sewers, and the particular Proceedings therein.

ONE of the last Businesses of Commissioners of Sewers, is the Court of the Commissioners, who are a Court, notwithstanding that Word not mentioned in the Statute; for they are call'd Justices, and they have Power to hear and determine Suits and Complaints; to make and direct Writs, Precepts, Warrants, and other Commandments, to all Sheriffs, Bailiffs, and other Ministers, &c. And he that thinks himself aggrieved, may here pursue and have his Right; all this is by the Statutes; And where there are Justices and legal Proceedings, and Parties grieved may have Remedies for Wrongs and Injuries done them, there is properly a Court of Justice: Also the Commission of Sewers, is a Member of the ancient Court of Oyer and Terminer, which has great Authority; the Commissioners have a Clerk to register their Laws; and Power
to make Orders and Decrees, which have the Force of Judgments; and Writs of Error have been allowed to reverse such Judgments, tho' some of them cannot be reversed, but by Act of Parliament: And they may issue out Process to compel the Performance of their Orders; wherefore in Gregory's Case, in the Lord Coke's 6. Report, they are allow'd to be a Court of Record; there being Six of the Commissioners, according to the Statute. Things contained within the Laws of Sewers, and which have their Dependency thereon, may be prosecuted before the Commissioners, who are Justices of Sewers; a Bill of Complaint, or Action, may be brought before the Commissioners in the Court of Sewers; but where a Person is dispossessed of a Piscary, chargeable to the Repairs of Sewers, Action of Afflue, or Trespas, may not be had in this Court: Nor where the Bank of a River is broken down by a Person, and the Water overflows the Ground of another, such other can't have his Remedy to recover Damages in this Court; but is put to his private Action at Common Law: Tho' if the Person that broke down the Wall, be presented before the Commissioners
Commissioners of Sewers, they may order him to repair the Breach, but not award Damages, as in Courts at Law; for herein Commissioners of Sewers, are like Justices of Peace, and Stewards of Leets, which have originally Power only to meddle with the publick Wrong; tho’ by the Power of their Commission they many Times determine private Injuries. As if a Town be assessed by the Laws of Sewers, and the Goods of one of the Inhabitants are taken for the Tax, that Party, on Complaint to the Commissioners, may have Process out of this Court, to call before them the rest of the Inhabitants to contribute towards the Party’s Damage, who was solely distressed. And if a Man’s Goods taken for this Tax, are sold for Payment thereof, for more Money than his Cess comes to, the Commissioners or Justices of Sewers, have Power to cause the Officer to restore the Overplus. Where Trees are taken for Reparation of a Defence against the Sea, by the Officers of the Commissioners, by their Appointment; or a Trench is made over the Grounds of a Person; the Parties may recover the Money for the Trees, and have Recompence for the Injury
Injury in the Grounds, in the Court of Sewers. If Labourers, Workmen, or others, are set on Work by the Power of these Laws, they may by the same Power recover their Wages before the Commissioners of Sewers; for the original Cause arose from this Commission, and therefore the Commissioners may determine it, as incident to the Authority of their Court: But if the original Cause did not arise from the Commission of Sewers, then this Court hath no Jurisdiction of the Matters depending thereon. If a principal Matter is determinable in this Court, a Matter accidental, depending upon it, shall also be here determinable.

A Traverse may be taken to a Presentment made in a Court of Sewers; and herein this Court may be resembled to a Sessions of the Peace: And by the Charter of Rumney Marsh, one Godfrey being presented, That he ought to repair a Bank or Wall, and that he did neglect to do the same, he came in and pleaded a Plea thereto, before the Commissioners of Sewers, which was tried. But those Things which the Commissioners do by their View, Survey, or Discretion, are so binding as
not to admit of a Traverse, because they are merely the Acts of the Court, and of the Commissioners themselves; and the Act of a Judge is not traversable, if he be absolute Judge of the Cause: If they fine a Man for his Contempt in Court, by a Record of their own View, and not upon a Presentment, this being the Act of the Court, the Party shall not be received to traverse the same. And altho' a Traverse may be taken to a Presentment in the Court of Sewers, yet if the Presentment there made has gone so far, that the Commissioners have made a Decree thereupon, then a Traverse may not be taken; because a Decree is the final Judgment of the Court, and being an Act judicial, it cannot be traversed and tried by a Jury: and at the Common Law, after Judgment, no Traverse can be taken. But if in the Court of Sewers, a Cause proceed to a Decree, the Party grieved thereby may prefer his Bill in Equity, as is done in the High Court of Chancery, and so have the Cause here thoroughly examined and determined.

If any one give ill Language to Commissioners in Court, or disturb the Peace there, or hinder the Business
of the Court in a turbulent Manner, he may be fined by the Commissioners, or committed to Prison, or both, at the Discretion of the Commissioners; for by Statute, in every Case where a Man may be fined, he may be imprisoned, and where imprisoned, may be fined. If a Person oppose any Law of Sewers, by a refractory, contemptuous Behaviour, or by disdaining Persons not to obey the same, he is finable and imprisonable; and if done in the Face of the Court, it aggravates the Contempt. Where one refuses to obey the Decree, or Order of the Court, if done in Affront of the Commissioners, when in Execution of their Commission, this is a Contempt, for which the Offender may be imprisoned. If one be rated towards Repairs of Sewers, and he neglect to pay the same, he is not finable therefore; but is to be amerced in this Case, or his Goods may be distrained: But if a Collector or Officer of Sewers, distrain a Man contrary to an Inhibition of Sewers, directed to him by the Commissioners, he may be fined and imprisoned. If a Purpresture be committed in great Rivers, as by fixing Piles or Stakes there-in, or in stopping, straitening, or diverting
verting the Course of the Water from its ancient Channel, which is in Nature of a Nuisance at Land, this being presented and found to be done by Force, is sable; but if it be not thus found, Amerciament is only to be inflicted. A Person refusing to accept of an Office when chosen, or misdemean- ing himself when in Office: A Surveyor refusing to make a Presentment; a Juror departing after Sworn, or before, after his Appearance is record- ed; the Sheriff not attending on Notice, or neglecting to return a Jury, having a Warrant from the Commis- sioners: In all these Cases, the Com- missioners may set a Fine. But Fines are to be reasonable: And the Com- missioners of Sewers have not Power, 'tis said, to levy these Fines; but they are to be estreated into the Exchequer yearly, together with the Amerce- ments, by the Clerk of the Commission. Fines are to be set by the Court, but Amercements by the Jury; and Amercements are generally for Offences which consist in non agendo, and in this Respect they differ from Fines, for those are usually imposed on Offenders, for doing what they ought not to do. They arise by Sufferance, Neg-
left, or Nonfeazance, by suffering Walls or Banks to be in Decay, neglecting to repair a Bridge, cleanse a River, or the like: But if the Violence of the Water is so great and extraordinary, by a sudden Flood or Inundation, that Defences are broken down, these Things not being to be prevented, are not amerceable. Casting Dirt, Sand, &c. in a River, this is an Act done, and the Presentment of it must be, that it was done Vi & Armis, or that 'tis a Purpecture; and then the Offender may be amerced, &c. Amercements are laid by Presentment of the Jury; and may likewise be set by the Presentment of the Surveyors of Sewers.

But Commissioners and others are to be careful, and not think that they may fine, imprison, or amerce in any Case, as I have already given some Examples to the contrary; for they are to imprison only where Imprisonment is due, fine in Cases fineable, and amerce, where amerceable; they may not imprison, if by the Laws they ought not to do it, but every one of the said Punishments is to be used in its proper Kind. And it is said, That Commissioners cannot imprison generally for disobeying
disobeying their Orders; as they may for a Contempt in their Presence.

The Returns and Proceedings of Commissioners of Sewers, are all in English. And if the Commissioners proceed after a Certiorari delivered, the Court of B. R. will grant an Attachment against them; and they may be fined and committed.

I now come to the particular Proceedings of the Court of Sewers, for which I have framed a useful Form, and Precedent, with the Charge to the Jury, Presentments, &c. And previous to it, I shall insert a Warrant or Precept to the Bailiff to summon the Court.

A PRECEP'T to the Bailiff to Sum
mon a Court of Sewers.

To T. D. Bailiff of Sewers, for
the Level of, &c.

THI5 is to require you to sum
mon and give Notice to all the
Owners and Occupiers of Lands, with
in the Level of, &c. aforesaid, charge
able to the Reparations of the Sewers
there, That a Court of Sewers will be
holden for the said Level and County of,
of, &c. at the House of, &c. on, &c. next, when and where they are personally to be and appear before the Commissioners, and be ordered in all Things touching the Reparations of the said Sewers, according to the Laws in that Case made. Given, &c.

Form of holding a Court of Sewers.

After three Proclamations made by the Bailiff or Crier, the Commissioner who is Chairman, and acts as Steward of the Court, says,

All Manner of Persons that were warn'd to be and appear at this Court of Sewers, now to be holden in and for this Level of, &c, draw near and give your Attendance.

Then a List of the Names of Persons residing within the Level, being Owners of Lands, is read; and the Sheriff call'd upon for his Return of the Jury, the Names of whom are also call'd over, and then they are Sworn, thus:

I 4 Oath
Oath of the Jury.

You shall enquire, and make true Presentments and Judgments of all such Things as shall be given you in Charge, and which are enquirable and punishable within this Level, relating to the Repairs of the Walls, Banks, and Sewers; You shall do nothing out of Malice or Hatred, nor conceal any Thing thro' Fear, Favour or Affection, but in all Things shall impartially do your Duty herein, according to the best of your Knowledge.

So help you God.

If any one return'd on the Jury do not appear, I take it the Court may fine him, as in the Court Leet. But the Jurymen being all sworn, after another Proclamation by the Cryer, you proceed to the Articles of your Charge, as follows:

Charge
Gentlemen of the Jury, That you may not be Strangers to the particular Heads and Articles, you are by your Oaths obliged to enquire upon, I shall briefly enumerate them, in the Nature of a Charge; and I hope in such a Form, as you may be thereby influenc'd to acquit your selves as you ought.

And First, you are to take Notice, That as this Kingdom is an Island, encompass'd by the Sea, to guard against the Rage and Violence whereof, the Commission of Sewers is appointed, the Importance of that Commission is great: In Holland, and other Countries abroad, it is owing to the well Government of their Sewers, that numerous Provinces are preserved from being swallow'd up by the Ocean; And in this Kingdom, that very large Tracts of Lands are separated and secured from the Incroachments of the Sea, and become greatly beneficial to the Owners thereof.

That these great and commendable Improvements, are made by the Vigi-
lance, Diligence, and Industry of the Owners of the Lands adjoining to Sewers, and subject to the Incursions and Inundations of the Waters, is demonstrably evident; But tho' it is the undoubted Interest of all the Owners of such Lands, to maintain and fence, in the most effectual Manner, the Bounds of their Possessions, yet we too frequently find, that many of them are remiss and negligent herein, not only to the Damage and Injury of their own Estates, by the Overflowings of the Water, but also of all their Neighbours round about them, who are equally Sufferers with them on all Inundations.

To prevent this Negligence and Remissness, and keep all Persons to their Duty, this Court of Sewers is now call'd and held, by us his Majesty's Commissioners; And in order to the same, you are to enquire into and present all Defects and Annoyances of publick Streams and Rivers, made, committed or permitted, by any within this Level, and of the Persons through whose Means and Neglect they have happened, and whose Lands, Tenements, Common of Pasture, or Fishing, may be injured thereby.
If any Flood-Gates, Mill-Dams, Wears, Stakes, Piles, or other Impediments, be set up or erected upon or in any of the Streams or Rivers, whereby the free Course and Passage of such Streams are any Ways hindred or obstructed, you are to make Enquiry into the same; and who have receiv'd, or may any Ways receive any Loss or Damage by such Impediments.

You shall diligently enquire into, and Presentment make, of all Walls, Banks, and other Defences, that want Reparation, and by whose Default and Negligence; of Sewers, Ditches, Rivers, and Streams, that require to be cleansed, and of the Persons who are obliged to do the same; either by Custom or Prescription, that Time out of Mind have done it; by Ownership, where a Man is Owner of a Bank, Wall, or other Defence; by the Use of Walls, Defences, or Rivers; by Covenant, to Repair; Tenure of Lands, where held by repairing a Wall, Bank, or Sewer, or otherwise; and if by Tenure, by Reason and Means of what Lands bound, where the Lands lie and are situated, and who are the Owners and Occupiers of such Lands.

Also
Also of what Lands and Grounds are lying and being within the Reach of Injury or Danger, by any Defects or Defaults, and to whom they are belonging; the Persons fit and proper to be charged to the Repairs, with the Quantity and Quality of their Estates; that all such Persons may be charged and taxed, in Proportion to their Rights and Interests.

You shall especially enquire into what common Reparations are to be made and kept by particular Persons; and what Works and Defences, on inevitable Occasions, by sudden, violent Inundations, and the Inability of others to do the same, are to be repaired by the whole Level; For the Law requires not of any one Impossibilities, but in all Cases endeavours to relieve Persons under Accidents.

And you shall likewise enquire, Whether there be any and what Lands that are or ought to be exempted from the Charges and Taxes of Repairs of Walls, Banks and Sewers, by special Custom, or any other Consideration; who are the Owners and Proprietors of such Lands, and what is the respective Consideration of the same.

If
If any of the Officers within this Level, have been remiss or negligent in their Duty, in their several Offices, you are to enquire into it, and Present wherein; so you are likewise into all Contempts to the Decrees or Orders of this Court, that the Offenders may be fined: And you are to set Amercements on Persons, for all Negligences.

And if there be any other Thing unjustly done or committed, here enquirable and presentable, you are to make Enquiry into, and Present the same accordingly.

When the Charge is thus deliver'd, Proclamation is to be made, and the Crier to say after you.

If any Person can inform this Court or Jury, of any Thing given in Charge, let him come into the Court, and give Information thereof.

Then say, also the Crier repeating after you.

If any Man will enter any Plaint, let him come into Court, and pray entry of the same.
And after Proclamation, adjourn the Court to three a Clock in the Afternoon; at which Time, you receive the Presentiments of the Jury, assess Fines, and try Plaints, if any; and then swear new Officers appointed, to do and execute all Things belonging to their Offices faithfully, according to the best of their Knowledge; and all Business being over, you Discharge the Court, thus:

All Persons that have made their Appearance this Day at this Court of Sewers, may now depart, and appear again when thereunto summon'd.
ENTRY of Proceedings of a Court of Sewers.

At a Court of Sewers, held the Day and Year, &c. before A.B. C.D. E.F. &c. Esqrs. Commissioners of Sewers for the said Level and County, &c.

T.D. Bailiff of Sewers, ap.
L. A. Surveyor, ap. And made Presentments of
A.T. Collector, ap. what done in
B.M. Expenditor, ap. their Offices.

The Jury Sworn.

\[
\begin{align*}
L. W. & \quad T. K. \\
W. B. & \quad E. M. \\
C. L. & \quad M. C. \\
T. A. & \quad T. B. \\
M. C. & \quad E. T. \\
J. W. & \quad \text{&c.} \\
S. E. & \\
\end{align*}
\]

Imprimis, The Jury aforesaid Present, That all Manner of Persons that have any Lands subject to Inundation, or who receive any Benefit by the Sewers,
Sewers, ought to be and appear at this Court, and be ordered by the same.

Item. The aforesaid Jury upon their Oaths Present, That L. E. of, &c. by the Tenure of his Estate, of Right ought to repair the Wall, or Sewer, of, &c. And that he the said L. E. is thus bound, by Reason of, &c. Lands, now in the Possession of him the said L. E.

Item. The said Jury Present, That E. W. by Prescription, Time out of Mind, ought to repair the Bank of, &c. He the said E. W. and his Ancestors, having always repaired and amended the same, by Means of his Estate there.

Item. The aforesaid Jury Present, That T. E. of, &c. and those whose Estate he hath, have Time beyond Memory had the Use of the River of, &c. for their own private Occasions; And that the said T. E. by Reason of the said Use of the said River, is and ought to keep the Banks of the same in Repair.

Item. The said Jury Present and find, That A. D. of, &c. by Indenture of Lease, or Grant from, &c. is by Covenant obliged to pay the Sum or Rent
Rent of, &c. yearly, towards the Repairs of the Walls or Banks of, &c. And that the said A. D. is in Arrear the Sum of, &c.

Item, The aforesaid Jury Present, That the Channel of the River of, &c. is choak'd up with Weeds, Sand, and other Rubbish; and that the same hath happened thro' the Default of E. L. of, &c. Whom they do amerce 10s.

Item, The said Jury Present, That W. E. of, &c. hath erected and set up a Mill Dam on the River, &c. to the Annoyance of the Stream there-in, and the great Loss and Damage of, &c. And they do amerce the said W. E. 20s.

Item, The aforesaid Jury Present, That the Walls and Banks of, &c. are ruinous and out of Repair, and not sufficient to oppose the Violence of the Sea; And that E. B. J. L. R. J. &c. by reason of, &c. Lands, are fit and proper Persons to be charged to the Reparation thereof.

Item, The said Jury Present, That the Wall or Bank of, &c. which should be repaired by, &c. by a sudden Tempest having been overturn'd, without any Default in him, and he not being able to do the same; That the
the said Wall ought to be new built and erected by all and every the Owner and Owners of Lands within the Level.

Item, The aforesaid Jury Present, That whereas L. E. is obliged by Tenure of his Lands, to make good the Repairs of the Wall of, &c. aforesaid, That the said L. E. and his Tenant, ought therefore to be exempted from all Taxes of Sewers; they repairing the aforesaid Wall.

Item, The Jury aforesaid Present, That L. A. Surveyor of Sewers, hath neglected to Survey the Works of, &c. lately overthrown by Wind, and to give Directions for the Reparation thereof, to the great Damage of T. B.

Item, The said Jury Present, That A. T. of, &c. hath contemnuously refused to obey the Order of this Court, made in the Case of, &c.

Orders of the Court.

ORDERED by this Court, That L. E. of, &c. do well and sufficiently repair and amend the Wall of, &c. on or before, &c. next, under the Penalty of 20s.

Ordered,
Ordered, That T. E. do well and sufficiently repair or cause to be repaired, the Banks of the River of, &c. before, &c. next; Or shall be amerced, &c.

Ordered, That A. D. do on or before, &c. pay unto A. T. our Collector, the Sum of, &c. which he the said A. D. is in Arrear of Rent on Lease, towards the Repairs of Sewers.

Ordered, That W. E. of, &c. do remove and take down the Mill-Dam and Flood-Gate, by him lately erected on the River, &c. on or before, &c. under the Penalty of, &c.

Ordered, That E. B. &c. do pay the Sum of, &c. towards the Reparation of the Wall of, &c.

Ordered, That B. M. Expenditor, do pay the Sum of, &c. to, &c. for several Timber Trees used in Repairs; heard and determined by Plaint.

Ordered, That L. E. and his Tenant of, &c. Lands, be exempted and discharged from all Taxes of Sewers; they well and duly repairing the Wall of, &c. aforesaid.

Ordered, That L. A. Surveyor, and B. M. Expenditor of Sewers, be fin'd for Neglect of Duty, in, &c. made out
out upon Oath by, &c. And they are accordingly fin'd 5 l. each.

Ordered, That A. T. be fin'd for his Contempt in not obeying the Order of this Court, made for, &c. And he is accordingly fin'd 2 l. 10 s.

Ordered, That T. G. for giving abusive Language to the Court, whilst sitting, and contemning the Authority thereof, be fin'd 36 s. 8 d. And committed for one Month.

A Commitment of a Person to Prison.

To T. D. And the Keeper of the common Gaol of, &c.

WHEREAS T. G. of, &c. in the said County, hath this Day before us his Majesty's Commissioners of Sewers within the County aforesaid, been guilty of ill and abusive Language and Contempt against our Authority, contrary to the Laws and Statutes in that Case made and provided: These are therefore to command you the said T. D. to convey him the said T. G. to the Gaol of, &c. aforesaid, and to deliver him to the Keeper
Keeper thereof; commanding also you the said Keeper of the said Gaol, that you receive the Body of the said T. G. and him do safely keep in your Custody, for the Space of one Month; or until he be discharged by due Course of Law; and hereof fail not. Given &c.

A. B.
C. D.
E. F. &c.
THE

Laws, Statutes and Customs

OF

Rumney-Marsh,

And other

Marshes and Fens.

The Commission of Sewers, directed by Statute 23 H. 8. referring to the Laws and Customs of Rumney-Marsh, in the County of Kent, in the making and ordaining Ordinances and Provisions for the Conservation, Correction, and Reformation of Matters relating to Walls, Banks and Sewers, and those Laws and Customs being become an Example and Law to all other Marshes and Fens; I think it necessary to present the Reader with the
the same, now I have finish'd my Account of Sewers in general; and also the Laws and Statutes relating to Bedford Level, &c. which tho' of a more private Nature, are worthy to be known, and may be particularly useful to a great many Persons.

And first I shall insert the Charter, and several Ordinances concerning Rumney-Marsh.

The Charter of King Hen. III. relating to Rumney-Marsh.

HENRY, by the Grace of God, King of England, &c. To all his Bailiffs and faithful Subjects to whom these Letters shall come, Greeting: Because by four and twenty lawful Men of Rumney-Marsh (Time out of Mind) thereunto chosen and sworn, Distresses ought to be made 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 also upon all those which are bound and charged for the Reparation of the said Walls: We have granted to the said twenty four Men, That for the Safety of the said Marsh,
Marsh, they cause those Distresses to be done, so that they be equally made, according to the Portions which Persons have in the same Marsh, and according to that which some are bound and charged: And therefore we will and grant, that none of our Sheriffs of Kent, or any their Bailiffs, do in any Manner intermeddle touching those Distresses made by Consideration of the said four and twenty Jurors to avoid the said Danger: For whosoever shall make Complaint unto us, of the Consideration of those Distresses, we will cause Justice to be done unto him in our Court, and that Justice we reserve specially to our Self, or our special Commandment. In Witness whereof we have caused these Letters to be made Patents, in the 36th Year of our Reign, &c.
The Ordinance of Henry de Bathonia, in the 42d Year of King Henry III. made by Precept of the said King.

Our Sovereign Lord the King hath given in Charge to Henry of Bathonia; That whereas Judgment ought to be given by four and twenty lawful Men of Rumney Marsh, to distress upon all those which have Lands and Tenements in the said Marsh, to repair the Walls of the same, against the Force of the Sea and Inundations of other Waters, and also upon all those which are bound and charged with the Reparation of the said Walls: And to the said twenty four Jurors, our Lord the King, by his Letters Patents, hath lately granted, That for the Safety of the said Marsh, they should cause Distresses to be made, according to the Portions which Persons have in the same Marsh, &c. So as no Sheriff of Kent, or any his Bailiffs, in any wise intermeddle with those Distresses, &c. But if any should think himself grieved unjustly, he should bring his Complaint unto our said King,
King, and he could cause Justice to be done, and that Justice was specially reserved to him our Lord the King, or to his special Mandate: The said four and twenty Jurors, (By the Resistance of certain Men of the same Marsh, which are bound to repair the said Walls, according to the Quantity of the Lands and Tenements which they have in the said Marsh) cannot make the same Distresses, whereby the Walls and Watergages lie waste and ruined, by Reason whereof the Inundations of the Sea, and other Waters, overflow a great Part thereof, to the great Detriment of our Lord the King, and the Men of the same Marsh. He, our Lord the King, hath appointed the said Henry his Justice, to hear and determine the Contentions arisen touching the said Reparations, between the said four and twenty Jurors, and Men of the said Marsh, and to provide for the Security and Defence of the said Marsh, against all Inundations and Peril of the Sea and other Waters, by Reparation of the said Walls and Watergages to be made by those which are bound to repair the same, according to the Quantity of the Lands and Tenements which they have in the same Marsh, and
and to that which some are otherwise bound and holden hereunto: Our said Lord the King commanding the said Henry, That at the Day and Place which he should limit, he shall provide to dispatch the same, as is aforesaid: And what he shall do therein, that to him the said Lord the King he make known the same in Writing, that the said King might cause it to be inked, &c.

By which Mandate, the said Henry, on the Day, &c. being at Rumney, and joining to him Nicholas de Handlo, &c. and the Sheriff of Kent assisting, who by Precept at the same Day, caused to come before him, so many and such honest and lawful Men of his Bailiwick; by which the said Strifes may be ended, and the said Provision be the better effected, and none of the said Marsh then withstanding it: The said Henry, in the Presence of the Commonalty of the said Marsh then being there with their Council pleading, Ordained as followeth, that is to say; That by the whole Commonalty of the same Marsh, Twelve lawful Men shall be chosen, six of the Fee of the Archbishop of Canterbury, and six of the
the Barony, which being sworn, shall Measure all the Walls new and old, and those which ought to be new erected: And afterwards the same Jurors, upon their Oaths, shall also Measure all the Acres of Lands and Tenements which are subject to Danger within the same Marsh; Which being done, the Twenty four Jurors, by the Commonalty first elected and sworn, having respect to the Quantity of the said Walls, Lands and Tenements, shall ordain how much appertains to every Person, to uphold and repair of the said Walls; so that for the Portion of Acres of Lands lying subject to Danger, there be assigned to every one his Part by certain Bounds, that it may be known where, and by what Places every one ought to make Defences, and when Need shall be, by whose Occasion the Force of the Sea should be withstood, by repairing the said Walls; And there ought to come the four and twenty Jurors, to see through which of the said Places it happeneth, and to whom the same Places were assigned, that it be defended and repaired: And the common Bailiff shall give Notice to them to whom the said Places were appointed
to be kept, that they repair and amend the same Places within the Time by the four and twenty Jurors limited; within which Time, if they neglect to do it, the said common Bailiff, at his own Charge, shall repair such Defaults by the View of the four and twenty Jurors, and the Party neglecting shall be compell'd to pay double Costs to the said Bailiff for his Charges laid out upon the same Reparations, which double Costs shall be reserved for the Benefit of the said Reparations. And also those that are negligent herein, may be distrained by their Lands within the same Marsh: And if any Acres or Perches of Lands are holden in common, so that to every Tenant or Partner, a certain Place for the Portion of his Part cannot be appointed, by Reason of the Smallness of the same, then by the Oath of the four and twenty Jurors, it shall be ordained and seen, how much the Land so holden in common ought to defend; and there shall be a certain Part of Defence assigned to the same Partners in common, for the Portion of their common Land. And if any of the Partners shall be remiss in defending his Part when warned by the said
said Bailiff, the part of the Partner so
remiss, may be assigned to the other
Partner which shall make Defence.
And they which hold in their Hands
the part of the Person neglecting, shall
keep it until he pay double Costs
bestowed in and about the same De-
fence of his Part, by View of the
four and twenty Jurors, for the Bene-
fit of the said Reparations as aforesaid.
And if all the Partners shall be negli-
gent in the same, then the said com-
mon Bailiff shall make the said Defence
at his own Costs, and may distrain the
said Partners afterwards for double the
Costs, by View of the four and twen-
ty Jurors as aforesaid; the Right of
the chief Lords of the Fee in the
aforesaid Marsh, which they have to-
wards the Tenants of their Defence,
according to their Feoffments, always
reserved. And that all the Lands in
the Marsh may be kept against the
Force of the Sea, and Inundations of
Fresb Waters, by the Walls and Wa-
tergages, by the Oath and Considera-
tion of twenty four Jurors, for the
best Safety, as of old Time was ac-
customed: Saving the Tenor of the
Charter of our Lord the King to the
Commonalty of the said Marsh grant-
ed; That no Sheriff, nor his Bailiff or Minister, make any Distress within the said Marsh, by Occasion of any of the said Articles, as in the said Charter is contained; Which Charter, notwithstanding this Ordinance, shall continue in Force, &c.

Here follow the King's Writ to the Sheriff of Kent, commanding him not to meddle with the Distresses made by the Jurats, but cause them to be returned by the Twenty four Jurors, and their Bailiff, according to the Charter and Ordinance aforesaid; And the Number of all the Acres within the Marsh, as found by Measure, and the Agistation, as to the Quantity of Lands of each Person, &c.
ACTION of Trespass brought on the foregoing Ordinance.

Hamo Pitt, John Cobb, and Henry Plaint.
Long, were attached to Answer unto Godfrey Faulconer, For that they, with others, lately came to the Manor of the said Godfrey in, &c. and his Goods and Chattels there found to the Value of 20l. took and carried away, and other Damages and Grievances to him there did, to his great Loss, and against the Peace, &c. and whereof the said Godfrey complains, That on the Day, &c. in the Year, &c. the said Hamo, with others, took ten Kine in the Town of, &c. whereby he faith he is damaged, and hath lost to the Value, &c. and thereupon bringeth Suit, &c. And the said Hamo and others, came and defended, &c. and so far forth as Plea.

is against the Peace, &c. when, &c. And they acknowledge that they took ten Kine aforesaid of the said Godfrey justly, and in the Peace of our Lord the King; because he faith, That the said Godfrey hath Lands, &c. in Rumney Marsh, where all the Tenants having Lands and Tenements in the
same Marsh, ought according to the Quantity of their Land, to make Walls and Watergages against the Sea, to prevent the Inundations thereof, and Twenty four lawful Men of the said Marsh, being chosen by the Commonalty of the same, are to be Jurats, to make Distresses upon the Tenants in the said Marsh, according to the Quantity of their Tenements, when it shall be needful, to repair the said Walls and Watergages; which Jurats in the said Marsh, as the Manner is, for that they all could not be at Leisure, have chosen the said Hamo to distress, and made him their Bailiff for that Purpose; and this Liberty they have by ancient Custom of the said Marsh, and by Charter of our Lord the King, which they produce in these Words, Henry by the Grace of God, &c. Whereby he faith, That by Reason of the Default of the said Godfrey, he lawfully took the same Distress for repairing the said Walls and Watergages, of which in the Wall of, &c. there were assigned to him for his Part, by the said Jurats, three Perches and a half at his Charges to be repaired, and more, according to the Inundations of Waters, if it shall be needful; and that they
they may take a greater Distress, and they put themselves upon their County, &c. Notwithstanding they say they took of one A.B. six Bullocks, who was Farmer of the said Godfrey, and ten Sheep of, &c. Tenants of the said Godfrey, by Reason of the Defects of the said Walls and Watergages, for which they afterwards paid, and had their Beasts again; and being required to answer for what they made the first Distress, and for how much the second? They say, That the first Default of the said Godfrey was accounted at four Marks, and the second Default at 48 s. And the said Godfrey faith, Plaintiff's... That he holdeth his Tenements in the Reply. said Marsh, by the Gift and Grant of the Lord Henry, late King of England, Grandfather to our now Lord, King Henry, the which said Lord Henry hath given to, &c. the Ancestor of the said Godfrey, whose Heir, &c. he is, by which Grant the said, &c. And he afterwards held his Tenements in the said Marsh freely and quietly, as, &c. held them before: And he faith, That neither of his Ancestors or Predecessors, nor of him, any such Custom was ever sought to repair the said Walls and Watergages, unless, &c. after that...
the said Hamo was made Bailiff, to keep the said Walls and Watergages; and he bringeth the Charter of the said King Henry, in these Words; Henry by the Grace of God, &c. And faith, That by the said Grant and Feoffment, his Ancestors have held the said Tenements so freely, that they never made nor repaired the said Walls or Watergages, nor was he after that he held those Lands, nor his Predecessors, distrained until, &c. that the said Hamo and others have taken the Beasts aforesaid, as a Distress for Default of Reparation of the said Walls and Watergages, which neither he nor his Predecessors have done, nor ever used or ought to do, and desireth Judgment of their Acknowledgment. And the said Hamo, and others, say, That sometimes there were Controversies betwixt the Tenants in the said Marsh, concerning the Reparation of the said Walls and Watergages, so that Plea was moved thereby in the County, before the Sheriff, for which the Twenty four Jurats finding themselves aggrieved, came to the Court of our Lord the King, and complained of the said Sheriff, alledging, That the said Plea appertained not to the Sheriff to
to be holden; and by Council of our Lord the King it was provided, That there might be sent the Justices of our Lord the King, to ordain that which should be meet and convenient to appease and determine the said Strifes: So that Henry de Batbonia was sent thi- ther, and all the Tenants of the said Marsh had Summons of forty Days; and the said Henry having seen the Walls and Water-Banks aforementioned, by Assent of the whole Commo- nalty of the said Marsh, hath ordained, That the Archbishops, Bishops, Earls, Barons, and all Tenants in the same Marsh, shall contribute, according to the Quantity of their Tenure, to make good the said Walls and Watergages; whereby, and as the said Godfrey will be defended by the Walls and Watergages aforesaid, he is required to contribute to the Repairs of them, as by the said Justice was ordained: And that the Ordinance is such as aforesaid, he referreth himself to the Record of the Rolls of the said Henry de Batbonia. Also the said Hamo faith, That it is needful that he contribute to repair the same Walls, for except the said Godfrey's Land should be de- fended by the said Walls, the same L 3 would
would be overflowed with Water. And the said Godfrey faith, That altho' the same Ordinance had been made by the said Henry, the said Godfrey never consented thereto, nor was summoned or called to come before him, to make the said Ordinance: He also faith, That neither before the Ordinance, nor after, he nor his Predecessors did make such Contribution, but always held their Land quietly, from all Manner of Exactions, according to the Tenor of the said Charter or Grant of King Henry, Grandfather to the now King, until, &c. past, the said Hamo, and others, took his Beastts; whereof he prayeth Judgment, Whether the same do injure him in this Behalf? And the said Hamo, and others, say, That he had a common Summons of forty Days, as all the Commonalty of the same Marsh had, which he ought not to be ignorant of; whereby he faith, That altho' he would not come thither as he should with his Neighbours, he ought not to be therefore freed from the said Contribution to repair the said Walls, insomuch that it is the common Benefit of all the Tenants in the said Marsh, that as well his Land, as the Land of the other Tenants,
nants, may be defended by the said Walls and Watergages, whereof he de-
tireth Judgment: He also faith, That after the said Ordinance, the said God-
frey, and those Persons, have given a Mark to repair the said Walls and Wa-
tergages aforesaid, before he the said Ha-
mo was Bailiff, and that he is ready to verify the same, &c. And the said God-
frey faith, That he holdeth himself to the said Grant and Charter of our Lord the King, and to his Liberty, which he and his Predecessors used; against which, no Ordinance made by the said Henry, can or ought to hurt him; and he well defendeth, That neither he, nor any by him, hath gi-
ven any Thing, at any Time, before the said Ordinance, nor after, to the said Reparation; and this he is ready to verify, &c. Afterwards, on the Morrow after St. Martin, in the Year of the Reign, &c. there came the said, &c. and others, &c. and it was com-
manded to the Sheriff, That he cause to come, in three Weeks after Easter, vin. Fac. a-
wheresoever, Twelve Men, as well Knights, as, &c. by which, &c. and which neither have Lands in the said Marsh, &c. to enquire, &c. If the said Godfrey and his Predecessors, after that L 4 they
they had his Land of, &c. of the Gift and Grant of our Lord, Henry King of England, &c. together with other Persons, having Land in the said Marsh, were wont to repair the Walls and Watergages, and to contribute with them to repair the same when needful, whereof the said Godfrey, according to a certain Ordinance granted before Henry de Batbonia, whom our Lord the King had sent in that Behalf, gave a Mark to repair the said Walls and Watergages, before the said Hamo was Bailiff of the said Marsh, as the said, &c. does affirm: Or if the said Godfrey, or his Predecessors, were freed from the Reparations of the said Walls and Watergages, and Things incident thereto, by Charter of the said King Henry, &c. so that the said Godfrey hath not agreed to the said Ordinance, nor ever gave any Thing to repair the said Walls and Watergages, as the said Godfrey alleges, because as well, &c. Afterwards, at that Day, there came the said Godfrey, and others, and desired Judgment to be done according to the Record and Process of the same Plea, and the Plea was recited before the Lord the King, and his Council; and because it is found according
according to that Record, That the Lord the King had sent Henry de Bathonia his Justice thereunto assigned, to the said Rumney Marsh, who ordained that all those which had Lands and Tenements in the said Marsh, should according to the Quantity of their Tenements, contribute to repair the said Walls and Watergages of the said Marsh, as the said Hamo, and others, alledge; to which Contribution the said Godfrey faith he is not bound; neither as yet is it manifest in the Court of the King here, of the same Ordinance and Disposition, without which they cannot proceed rightly unto Judgment: Day is given them in fifteen Days after the Day of St. Michael wheresoever, &c. and in the mean time, the Rolls of the Time of the said Henry de Bathonia are to be sought; and it must be known, that it is forbidden that the said Hamo distrain the said Godfrey, whilst the Plea dependeth. Afterwards, in fifteen Days after the Day of St. Michael, in the Year, &c. the said Godfrey came and withdrew his Writ against the said Hamo, and others, &c. and therefore he in Pity, &c. And further, he granted for himself and his Heirs, that from
from thenceforth they should cause to be repaired the Walls and Watergages for his Part of the Quantity of his Lands, together with his Neighbours, as the Custom is, without Contradiction for ever. And the said Hamo hath granted for himself, and others, That he will account before the Twenty-four Jurats of the Country, for the Distresses and Beast's taken of the said Godfrey for repairing the said Walls and Watergages, from the Beginning of this Plea till now, &c. And those Distresses, according to the Quantity of the Part happening unto him, shall in the mean Space satisfy for Reparation of the Walls and Watergages aforesaid, as is afore declared by the Distresses; And that the said Hamo, and others, pay in all Things that shall be enjoined by the said Account between them for the Surplusage receiv'd of the Beasts fold by the said Hamo by the same Occasion. And the said Godfrey hath also granted, That if the said Hamo verify by Accompt, That the Beasts taken by him in the Name of Distresses by Occasion aforesaid, in Value cannot satisfy for the Part of the Quantity of his Land for the repairing of the said Walls and Watergages; that he the said Godfrey
Godfrey will satisfy him all Arrearages, from the Beginning of the said Plea, 'till now, by the View and Estimation of the said Twenty four Jurors of the Country, &c.

ORDINANCE of John de Lovetot and Henry de Appledorefield, the King's Justices, in the 16th Year of Edw. I.

Before J. de Lovetot and H. de Appledorefield, at Rumney, the 5th Day of December, in the 16th Year of King Edw. I. Our Lord the King hath sent to his well-beloved and faithful John de Lovetot, &c. his Writ, in these Words; Edward by the Grace of God, &c. To our well-beloved John de Lovetot, &c. Know ye, That whereas we are bound by Reason of our Princely Dignity, and by Oath to provide for the Safety of our Kingdom; we have assigned you to oversee the Walls and Ditches by the Sea-Coast, and Parts thereto adjoining, in the County of Kent, diversly ruined by the Rage of the Sea, to enquire by whose Default the same hath happened there, and of all those which hold Lands and Tenements
ments in those Parts, and by any Ways have Defence and Safety, or may have Defence or Safety by those Walls and Ditches; and them, for the Quantity of their Lands and Tenements, or by the Number of Acres of Land, or rated Portion of their Tenure, to di-strain, together with the Bailiff of the Liberties, and others, to repair them in Places necessary, as often, and when as Need shall be; so that none having Lands or Tenements, of what Condition, State or Dignity forever, which have any Defence by these Walls and Ditches, whether it be within Liberties or without, shall be spared and exempted. And therefore we command you, That for the Execution thereof, you behave your selves faithfully and discreetly, so that as well Men resident in the same Places as their Lands, may be saved against like Perils and Casualties; and that you do that which you shall ordain in this Behalf, under your Seals, and the Seals of the Ju-rors, as well Knights as other honest and lawful Men, and you distinctly and publickly certify it unto us. And we have commanded our Sheriff of the same County, That at certain Days and Places which we shall limit, he cause
cause to come so many and such honest and lawful Men of his Bailiwick, by whom the Truth of the Matter may be known, and the Premisses enquired into. In Witness, &c.

By which Mandate it was commanded to the Sheriff, That he should cause to come before the said Justices here this Day, the Twenty four Jurors of Rumney Marsh, and all the Lords of the Towns of the said Marsh, and such and so many honest and lawful Men of the several Lands near to the Sea-Coast in his Bailiwick, by which the Truth of the Premisses may the better be known and enquired of, and further to do that which in the Premisses shall be ordained. Who now came, and the said Twenty four Jurors of the said Marsh, together with the Commonalty of the said Marsh, alleged, That the Lord King Henry, Father of the now King, by his Charter, hath granted unto them certain Liberties in the Lands of the said Marsh, and required that their said Liberties may be reserved unto them, and that nothing be ordained to the Prejudice of the same, and produced a Charter of the said Henry our King aforesaid,
aforesaid, in these Words; Henry by the Grace of God, &c. And they also alleged, That the Lord the King, Father of our now Lord the King, in the 42d Year of his Reign, by Reason of certain Discords arisen amongst divers Persons of the said Marsh, by Means of repairing the Walls and Watergages there, did send Henry de Batbonia his Justice thither, to hear and determine the Strifes arisen concerning the Reparation of the same, between Twenty four Jurors, and the Men of the said Marsh, and to provide for the Safety and Defence of the said Marsh, against the Overflowing and Danger of the Sea, and other Waters, by repairing the said Walls and Watergages by them who are bound thereto, according to the Quantity of their Lands and Tenements which they have in the said Marsh; whereby they affirm, That the said Henry de Batbonia, by Authority of our Lord King Henry aforesaid, hath ordained and established for them there, a certain Law and Ordinance, by which that Marsh is hitherto kept and conserved, and therefore require that by that Ordinance and Law they may hereafter be tried and defended, as heretofore they have been
been accustomed: And to that End, they brought the said Ordinance of the said Henry de Bathonia, under the Seal of our Lord the King, in these Words: Before Henry de Bathonia, &c. ut supra.

And because the Ordinance of the said Henry is agreeable to Equity, and hitherto hath been allow'd; It is commanded and appointed, That the same Ordinance be in all Things observed, without any Impeachment; adding nevertheless, That because in the said Ordinance nothing is express'd of the Choice of a common Bailiff of our Lord the King in the same Marsh, by what Means, and whom that Choice ought to be made: It is ordained, That from henceforth the said common Bailiff of the said Marsh dying or deceasing, another which is Resident, and hath Lands in the same Marsh, may have and hold his Place; and that the said Choice be from henceforth made by common Assent of two Towns of the said Marsh, and where the greater Number agree, it shall stand at their Choice, because it hath been so accustomed to be done. And for levying of the double Costs on Defaults in Reparation of the same Marsh, for the Punishment
Punishment of those who neglect the Repairs; It is ordained and agreed, That the same be levied as in the former Ordinance is appointed, and that the said double Costs be reverted for the common Benefit of repairing the said Marsh, and not to be for the Use of the said Bailiff. And because in the said Marsh, there be divers Walls and Watergages, to whose repairing and maintaining the Commonalty of the said Marsh do not contribute, but only those who have Lands adjoining and nearest to the same; and some by Oppression of the Lords of the said Marsh, do pay sometimes towards repairing and upholding of the same, as much for forty Acres as others for fifty Acres, against the Laws of the said Marsh; It is ordained, That notwithstanding any Custom to the contrary, all and singular Persons having Lands and Tenements subject to the Danger of the Sea, and that have there also Safety from the same, may henceforth be distrained to repair and support the aforesaid Walls and Watergages, so that all do contribute equally, according to the Number of Acres which they have there, and none be spared, of what State and Condition forever
forever they be, which thereby have Safety and Defence. And because in the said Marsh of Rumney, beyond the Water-Stream of the Dock, stretching from Suergate towards Rumen-ball, on the West Part of that Creek, unto the County of Sussex, there was no certain Law of the Marsh appointed nor used, but of such as have Lands at Will therein; whereby divers Perils and great Losses have happened by Inundations of the Sea, that from henceforth such Dangers may be prevented, for the common Benefit; It is ordained, That in the Marsh beyond the said Creek, towards Sussex, there be appointed to be chosen by the Commissal, Jurors, which for the Security of those Parts in that Behalf, shall be sworn, and having respect to the Number of Acres which are subject to Danger, and to the Quantity of Walls and Watergages there to be repaired and maintained, on their Oaths shall consider and appoint as much as shall be needful to repair and uphold them; so that every one for the Portion of Acres liable to the said Danger, do equally contribute to sustain them; and so that according to the Portion of their Acres and their Value, there be assigned
assigned to every one in the said Walls and Watergages, his Portion of Perches to be uphelden, as is contained particularly in the Ordinance of Henry de Bathbonia. And further, for that hitherto in those Parts beyond the said Dock, towards Sussex, there was no common Bailiff appointed, which should provide against the Dangers there happening, for the common Good of those Parts; It is ordained, That henceforth there be chosen a Bailiff in the said Marshes, beyond the said Water-courses towards Sussex, to oversee and keep in repair the Walls and Watergages by the said Places of the said Marsh, where he shall see it most convenient for the whole Commonalty; And cause the Jurors of the said Marsh to meet together at Places required, when it shall be needful to make Ordinances for the Safety of the Lands of those Parts, and to distrain therefore, and double Costs to be taken of the Negligent; also to levy the same according to the Ordinance of Henry de Bathbonia, at the Choice of the said Bailiff, when it shall happen: And that the Lords of the Towns of the said Marsh, be always aiding and assisting, and called beyond the said Water-course towards Sussex, if
if they will be present, and the Jurors and whole Commonalty of the said Marsh. It is also ordained, That the common Bailiff of the King in Rumney Marsh, be Overseer of the said Bailiff and Jurors, in the Marsh beyond the Water-course towards Sussex, when it shall be needful, and cause them to assemble to execute their Ordinances for the Safety of the Lands of the said Marshes, so that always, on either Side of the said Water-course, they stand to the Ordinance of the said Jurors, for the less Damage and better Safety of the Lands, any Custom notwithstanding; Saving always the Tenor of the Charter of our Lord the King, granted to the Commonalty of the said Marsh, and the Ordinance of the said Henry de Bathonia, to endure in Force for ever.
The Ordinance of the Lord Tho. de Ludlow, the King's Justice, and his Fellows, in the 33d Year of Edward III.

The King, To his well-beloved and faithful Thomas de Ludlow, Robert Belknap, and Thomas Culpepper, Greeting. By the great Complaint of the Reverend Father, Symon Archbishop of Canterbury, and others having Lands within the Precinct of Rumney Marsh, we are given to understand, That whereas all their Lands lie near to the Sea-Coast, and without a continual keeping up of the Walls, Ditches, and other Defences, as well for avoiding the Sea Water, as excluding the Fresh Waters there, they by no Means can be defended and saved; for which in the Time of the Lord Henry, late King of England, our Great Grandfather by Henry de Bathonia and his Fellows, Justices of the said King our Grandfather, &c. to oversee the Walls, Ditches and Sluices, and the Defences thereof, and to cause them to be made and repaired, amongst other Laws, it was ordained, That whosoever of the Tenants...
nants and persons resident within the said Precinct, whom the greater part of the Lords having Rule within the said Precinct, would choose, should be Bailiff, to levy the Assessments for Reparation of the said Walls, Ditches, Sluices and Defences aforesaid, as by the same Ordinance is more apparent: And altho' according to the said Ordinance, John de Lese, Tenant and Resident within the same Precinct, to the said Office of Bailiff, to levy the Assessments aforesaid, by the Lords of the said Marsh, in Form aforesaid, was within the said Precinct chosen and appointed; yet notwithstanding, Matthew at More, and other his Confederates, by their false Deceits, being confederate together, to make another Bailiff there by their own Assent, which might be partial in executing the said Ordinances, did terrify the said John, and threaten and hinder him, that he could not, nor dare take upon him the Office accordingly; and so, in Default of the said Bailiff, all the said Marsh, by the daily overflowing of Waters, remaineth in Peril, and will be inevitably spoiled, unless speedy Redress in this Behalf he had: We respecting the Injury and Peril, which as well to us,
as to all our Kingdom, and especially in those Parts, may be done and happen by the overflowing of the said Waters, if meet Defence be not made to avoid the same, and willing to prevent these Dangers and Injuries; Have assigned you, three or two of you, to oversee and repair the Walls, Ditches and Defences in the said Marsh, and to inspect into the same Ordinances, and in case the said Ordinances for the Safety and Defence of the said Marsh, be found defective and insufficient, to correct and amend the same, and if Need shall be, to ordain anew such as the said Marsh may be defended by, against the Overflowings of the said Waters from henceforth, what Accidents soever may happen: And for the Punishment of those which against the Form of the Ordinances by you made, shall in any wise transgress: And that you cause the same Ordinances to be proclaimed, that they may be for ever circumspectly observed in those Parts; And that you cause all other Things to be performed, which for the Safety and Defence of the said Marsh, and excluding and avoiding the said Waters, shall be needful and fitting. And also to enquire by the Oaths of
of honest and lawful Men of the County of Kent, of the Confederacies and Allegations aforesaid, and also of the Contempts of us, by the said Matthew and his Confederates, and of the Names of his Adherents; and that you hear and determine the same Confederacies, Allegations, Trespasses and Contempts, according to the Laws and Customs of our Realm. And we command you, That at certain Days and Places which you three, or two of you shall limit, ye hear and determine all and singular the same; and that ye do that which to Justice shall appertain: Reserving to us the Amercements thereby accruing. And we have commanded our Sheriff of the said County, that at certain Days and Places which you shall appoint, he cause to come before you, so many, and such honest and lawful Men of his Bailiwick, by whom the Truth of the Matters and Premisses may be known and enquired. Witness, &c. at Westminster, &c.

By which Mandate, the said Thomas de Ludlow, Robert Belknap, and Tho. Culpepper, in the Year, Day and Place (Crowthorne) aforesaid, by Consent
ent of the Lords, Bailiffs, Twenty
four Jurors, and Commonalty of the
said Marsh, that is to say, of, &c. and
other Lords thereunto specially choosen,
with certain of the Commonalty, to
wit, &c. for the said Commonalty ele-
ceted; Have ordained, That the com-
mon Bailiff of Rumney Marsh, which
hath Lands, and is Resident there, be
choosen by the common Assent of the
Lords of the Towns of the said Marsh,
or their special Attornies, and where
the greater Part of them in Number
shall agree, their Choice shall stand;
and so in keeping Assemblies, at, &c. or
other meet Places, within the Precinct
of the said Marsh, in quindena of St.
Michael yearly, by the Summons of
the said Bailiff, except within that
Year, when for some reasonable Cause
the Bailiff ought to be put out, and
another elected in this Place: And if
the Person choosen being present, will
not take upon him that Office, he shall
be amerced in 40 s. which the succeed-
ing Bailiff may cause to be levied of
his Goods and Chattels, for the com-
mon Benefit of the said Marsh: And
so forthwith a new Choice shall be
made of another Bailiff, which will
accept of the Oath and Office, and he
shall
shall have for his Labour the Fines to be levied, which happen of the Assessments, and also the double of all his Costs laid out for the Negligence of others whatsoever. And if he which is chosen, be afterwards hindered by any, whereby he dare not take upon him that Office, those Hinderers shall be punished by the same Chusers, as the Bailiff should be punished, if he refused the same Oath and Office: And if it happen that he, in the Time of his Election shall be absent, he shall be forthwith distrained by the preceding Bailiff of the said Marsh, by all his Goods and Chattels, and they shall be detained in Places meet and accustomed, until he shall come to the Archbishop of Canterbury, &c. for the Time being, or one of them, and perform the Oath, and thereupon shall bring their Letters under Seal, to the preceding Bailiff, and shall do the same within six Days after the Choice made; otherwise he shall be amerced as aforesaid, and forthwith a new Choice shall be made. And at the principal Assembly, the common Collectors of all the preceding general Assessments, and Defrayers thereof, shall accompt before the said Lords or their Attornies,
unto the Bailiff, Twenty four Jurors, and Commonalty of the said Marsh, and the Accompts shall be by Indenture made between them and the Bailiff, and Twenty four Jurors, and Commonalty aforesaid; and the Accompt of the Bailiff, for those Things which happen by him to be done in the same Manner: And if any of the Twenty four Jurors make Default in the said principal Assembly, unless he hath a reasonable Excuse, he shall be amerced to the Use of the Commonalty, to be levied by the Bailiff. And if it happen that any of the said Twenty four Jurors die within the Year, or ought to be removed from his Place, others shall be chosen, and set in the principal Assembly, by the Lords of the Fees, the Bailiff, Jurors, and Commonalty, of best Discretion and Ability within the same Marsh, to make up the said Number of Twenty four. In like Manner also shall be done concerning the Collectors and Defrayers; so that they may not be chosen of the said Jurors, if the said Lords will be present. And if any of the said Twenty four Jurors, Collectors or Disbursers shall be chosen, and will not be sworn, let him be amerced in
in 20s. to be levied to the Use aforesaid, and forthwith others be chosen and charged in their stead. And if the said Twenty four Jurors shall be summoned wherefoever within the precinct of the said Marsh, at a common or special Meeting, where all but eight or ten of them at the least shall be absent, so as Judgment and Award for the Safety of the said Marsh, may not be made, in Default of the greater Number being away, every of them being absent, shall be amerced by the Bailiff in 6d. as aforesaid, to be levied: Of which, and other like Things, the said Bailiff shall accompt in the principal Assembly aforesaid. Also every of the said Jurors, Collectors and Defrayers, and Bailiff, shall take the following Oaths.

Oath of the Jurors.

You shall swear, That you will make true Judgments and Awards, with your Fellow Jurats, without sparing any, Rich or Poor, as well touching Distresses, as of the Lands, Walls, Watergages, Sewers, Ditches, Gutters and Bridges; and of all Impediments whatsoever,
whatoever, happening within the Precinct of the said Marsh, to be remov'd, to punish the Offences: And that you be Attendant on the Bailiff of the said Marsh, the Distresses taken and detain'd by the Space of three Days and more, to appraise and sell in Places accustomed; and that you cause all the Judgments and Awards by you made, to be inrolled by Indentures thereof to be made between you and the Bailiff of the said Marsh for the Time being.

Oath of the Collectors and Defrayers.

YOU shall swear, That you will truly levy, collect and dispose, and also account for all Assesments imposed by the Lords, Bailiff, and Twenty four Jurors, or the greater Part of them; and in like Manner, of all Watergages within the Precinct of the said Marsh, and before the Lords of the Towns, if they will be present.
Oath of the Bailiff.

YOU shall swear, That you will make true Execution of the Judgments and Awards of the Twenty four Jurors, of those Things which appertain to them to judge and award; and that you will charge all the Collectors and Defrayers, the general and several Assessments faithfully to levy, collect, and accompt for; and that you will in proper Person oversee all the Walls, Lands, Watergages, Sewers, Gutters and Bridges, when it shall be needful, at least twice in the Year, once in the Month of December, and the second Time in the Month of June; and that you shall deliver to your Successor, all the Evidences which are in your Custody, as well Charters concerning Liberties and Customs of the said Marsh, as Rolls of Judgments and Awards by the aforesaid Twenty four Jurors; with all the Proceedings of Accompts, Collections and Expences whatsoever, in your Time had and made.

And
And the Clerk of the said Bailiff shall have for his Labour, of the Commonalty of the said Marsh, 6s. 8d. Fee. And it shall not be lawful henceforth to make Dams or Fords, or other Impediments, in any Lands, Watergates, Ditches, or common Conduits in the aforesaid Marsh, whereby the right Course of the Water may be any wise hindered: And if any do so, and it be testified by the Bailiff and six of the Jurors, or by the Commonalty where the Damage shall be done, he shall be amerced according to the Quantity of the Offence, by the said Bailiff and Twenty four Jurors, which Amercement shall be forthwith levied for the common Benefit: And if any other than the Commonalty shall be injured thereby, and the same be proved by the Testimony of the Bailiff, and six of the Jurors, the Party offending shall recompense the damned. Also it is ordained, That every Assessment in the said Marsh shall be proclaimed in certain publick Places, and that Day of Payment thereof be assigned and proclaimed, that none may be ignorant thereof. And it is ordained, That it shall not be lawful for any one to take away Labourers, being in the
the common Work, for his own private Business, nor to keep them in any other Place, until the same Work be finished; and if any be convicted thereof, by Testimony of the Bailiff and Jurors in common Assembly, he shall be amerced in 10s. to be levied forthwith by the said Bailiff, to the common Profit as aforesaid. And it is ordained, That all the Conduits and Water-courses within the said Marsh, thro' all the Lands and Tenements in every Watergage, be so kept, that the Water run not out of its ancient Course, to the Damage of any Body, on Pain of, &c. to be levied by the Bailiff, to the Use of the Commonalty. And because of old it is granted by our Lord the King, That all the Lands near the Sea-Coast be kept by Laws, Ordinances, Statutes and Customs of Rumney, from the Isle of Thanet unto Penensis, as well in the County of Kent, as in the County of Sussex; it may be lawful for the said Bailiff, and Twenty four Jurors, to ask and have their reasonable Costs of those which will bring them to Places, whether they are Lords, or of the Commonalty, where they ought to make their Ordinances, according to the Law of the Sea-Coasts, as well for Walls
Walls as Watergages, Ditches, Sewers, Fishings, and other Things whatsoever touching the said Law. Also it is ordained and established, That if any make Refcous upon the Bailiff of the Marsh, or his Ministers, for any Distresses whatsoever taken upon any whomsoever, by Occasion of any Ordinance made or to be made for the Benefit of the said Marsh, and thereupon by Testimony of the said Bailiff, and six of the Jurors of the Twenty four or of, &c. to be convicted, let him be amerced 20s. to be levied to the Use of the Commonalty, by the Bailiff as aforesaid. In like Manner, it shall be done in Places where the Law of the Sea borders and runs, betwixt the Isle of Thanet and Penensis, in the County of Kent, or in the County of Sussex.

By Statutes, 4 Jac. 1. c. 8. & 13. Provision is made for draining and securing from Inundation, the drowned Grounds and Marshes of Lesness and Fants in Kent; and the Fens and low Grounds in the Isle of Ely, compassed about with Banks, called the Ring of Waldersey and Clodham: And now I come to the Laws relating to Bedford Level, &c.
The Statutes concerning Bedford Level.

The 15 Car. 2. c. 2. Enacts, That the Governors, Bailiffs, and Conservators of Bedford Level, shall have such Power, as well for Maintenance of the said Level, as for Laying and Levy-ing of Taxes, to be used and exercised within the great Level, and the like Laws and Customs, and may constitute and appoint such and the like Officers, from Time to Time, as are or may be lawfully used, constituted and appointed in Rumney Marsh, in the County of Kent. And by 15 Car. 2. c. 17. William Earl of Bedford, and the Adventurers, &c. are constituted a Body Politick, to consist of a Governor, six Bailiffs, and twenty Conservators of the Commonalty, capable to purchase Lands not exceeding 200 l. per Ann. and to lay Taxes upon the 95000 Acres of Land which Francis Earl of Bedford was to have as a Recompence for draining the great Level of the N Fens;
Fens; and they may levy the same, with Penalties for Non-payment, not exceeding a third Part of the Tax. And the said Governor, Bailiffs, and Conservators, or five of them, are declared Commissioners of Sewers within the great Level. For the levying of Taxes and Penalties on the respective Parts of the said 95000 Acres, the Governor, Bailiffs, &c. shall on Wednesday and Thursday in Whitsun Week, at the Shire House in Ely, sell so much as the said Governor, Bailiffs, &c. shall adjudge sufficient to raise Taxes and Penalties, by Writing, under the Seal of the Corporation; but no such Sale is to be made for any Tax or Penalty, not in Arrear four Months next before the Sale: And publick Notice shall be given of the Lands to be sold, by a Schedule under the Corporation Seal, containing the Lands, with the Names of the Owners, &c. Also Tenants at Will, or by Leafe, upon improved Rent, shall not be removed 'till they have taken off their Crop, but may continue out their Terms, paying a proportionable Rent. Conveyances by Indenture of the said Lands, are to be entred with the Register appointed by the Corporation; and shall be then of equal
equal Force as if the same were inrolled. The Corporation may erect new Works within or without the said great Level, to convey the Water thereof to the Sea: And they that cut or throw down any of the said Works, shall answer treble Damages to the Corporation, and Costs of Suit, in Action of Trespass, &c. And every Writ, Bill, or Information, concerning any Part of the Grounds within the said Level, or any Trespass done within the same, and Proceedings thereupon, shall be good, tho' the Place be not rightly named, so as there be other Certainty whereby the same may be known.

The Governor, before he takes upon him the Office, shall take an Oath before any of the Bailiffs, That he will well and truly execute it; and the Bailiffs, Conservators, and other Officers, are to take the like Oath for the true Execution of their Offices, before the Governor, Bailiffs, &c. or any two of them. And on Wednesday in Whitson Week yearly, a new Governor, Bailiffs and Conservators, are to be elected, by the Governor for the Time being, Bailiffs, Conservators and Commonalty. But none shall be qua-

N a lified
lified to be a Governor or Bailiff, that
hath not 400 Acres, or a Conservator,
that hath not 200 Acres, nor any of
the Commonalty to have a Voice in
Elections, that hath not 100 Acres
of the aforesaid 95000 Acres: And the
Governor, Bailiffs, and Conservators,
or any of them, may be removed by
the greater Number present at their
publick Meetings, and new ones chosen
in their Place. The said Governor,
Bailiffs, and Commonalty, shall stand
seized of all the Shares and Proport-
tions of the said 95000 Acres, which
in Pursuance of an Indenture bearing
Date the 27th of February, in the 7th
Year of King Charles I. And by Vir-
tue of a Law of Sewers, made at
King's-Lyn, in the 6th Year of the
Reign of the said King, do belong to
Samuel Sandys, Sir William Terringham,
Sir Richard Onslow, and other the Af-
signs and Trustees of Henry late Earl
of Arundel and Surrey, Arthur Earl of
Angeles, Tho. Lord Culpeper, Robert
Philips, Robert Scawen, and other the
Participants of Francis Earl of Bed-
ford, Parties to the above Indenture,
and which are now enjoyed by divers
Persons claiming under a pretended
Act of Parliament of the 29th of May
1649.
1649. (In which certain Persons were mentioned to have Authority to sell the Shares of such Adventurers and Participants of the said Francis, as should refuse to pay the Taxes by Colour of the said Act imposed, in Trust, nevertheless, for the said Samuel Sandys, Sir William Teringham, &c.) And the said Corporation are empowered to execute the respective Estates of the said Shares, subject to all Taxes to be imposed by Virtue of this Act. The Chief Justices of the King's Bench and Common Pleas; the Chief Baron of the Exchequer, and the Justices of the Common Pleas, or any two of them, are constituted Commissioners, to Decree on Bill and Answer, &c. like unto the High Court of Chancery, between the Persons in Possession of the said Shares, and the said Samuel Sandys, Sir William Teringham, &c. and Order and Decree upon what Persons and Lands Sums in Arrears for Taxes, &c. shall be charged. If the said Earl of Bedford, or the said Corporation, shall do any Act to the Prejudice of Navigation, or whereby Drove Ways, Bridges, &c. made and maintained by the Adventurers, shall be obstructed; the Commissioners ap-

N 3 pointed
pointed by this Act, for the Purposes therein mentioned, or any seven of them, whereof the Vice-Chancellor of Cambridge, Mayor of Cambridge, and Mayor of King's Lynn, to be three, on Notice given them, may be present, and decree the same to be amended at the Charge of the Corporation; or in Default thereof, may tax the 95000 Acres for the Preservation of Navigation, and order the Tax to be levied by Distress and Sale of Goods, &c. And if the Goods of any one Person shall be distrainted, or his Lands, or he shall pay any Tax, &c. where the Corporation ought to pay it; the Governor, Bailiffs, &c. shall assess the whole Number of Acres, to make the same good to such Person; or the same may be recovered by Action of Debt, six Months after demanded. In case the Quantity of 8000 Acres, lying together, or near together, shall continue drowned the Space of twelve Months, the said Commissioners, or any seven of them, may assess Sums on the said 95000 Acres, for draining the same, with a Penalty for Non-payment, not exceeding a third Part of the Tax; and the Share of such Persons as shall be in Arrear for the said Tax or Penalty,
nalty, by two Months Space, shall be sequestred for Payment thereof, by Writing under the Hands and Seals of the Commissioners. The Commissioners are to sit from the 29th Day of September, to the 25th of March, in every Year, at Huntington, and from the 25th of March to the 25th of September, at Ely, unless they shall appoint some other Place, and make a publick Declaration thereof in Writing. They may make Satisfaction out of the 95000 Acres, to such whose Lands shall be made worse by any new Works of the Corporation: They have Power to examine Witnesses upon Oath; and all their Judgments and Decrees, done by them, or seven of them, pursuivant to this Act, shall be final. But no Person having any Interest in Lands within the Level, shall be a Commissioner: And none of the Commissioners are to Vote in any Matter which concerns the Bounds of the County for which he is a Commissioner. These Commissioners shall take this Oath, viz.

I. A. B. shall and will, without Favour or Affection, Hatred or Malice, truly and impartially, according to the best of my Skill and Knowledge, execute and perform
perform all and every the Powers and Authorities established by this Act of Parliament.

So help me God.

Lords of Manors, and all that have Right of Common in Wastes within the said Level, and other Places to which the Works aforesaid extend, may enclose the same; and all Differences concerning the Boundaries thereof, shall be determined by the said Commissioners, upon their View or Examination of Witnesses. Archbishops, Bishops, Colleges, &c. and all Bodies Politick, having such Right of Common, may demise by Indenture, their respective Proportions, which have not been formerly demised, for any Term not exceeding Twenty One Years, so as the fourth Part of the yearly Value ascertained by the Commissioners, be reserved thereon. The Commissioners, upon Complaint by the Owners of Lands near adjoining to the said Level, That their Lands have been cut through without making Satisfaction, may decree them such Recompence as they shall judge reasonable, to be made within six Months; in Default whereof, the Commissioners may tax
tax the 95,000 Acres. No Tax exceeding 3s. per Acre in any Year, shall be laid upon the 10,000 Acres by this Act vested in the King; or upon 20,000 Acres vested in the Assigns of the Earl of Portland: And in case the Taxes to be assessed on the other Acres, amount not to so much in Proportion, a proportionable Abatement shall be made out of the said 3s. per Acre; but this shall not be construed to extend to compel the Corporation to levy any Tax on the other 83,000 Acres, by Way of an Acre Tax. No other Charge shall be laid upon the said Corporation in respect of Breaches by inevitable Accidents, than to repair the same: Nor shall the said Corporation be enforced to give any Recompence for any Loss sustained by Reason of their making necessary and sufficient Banks for defending the said Level, &c. But if any Person shall break down or hinder, or lay open any Enclosures, being convicted by two Witnesses, before two Justices of Peace, he shall forfeit 20l. one Moiety to the Informer, and the other to the Person against whom the Offence is committed, to be levied by Distress and Sale of Goods; and for want of a Distress, the Offender
Offender to be committed to the House of Correction or common Goal, for three Months.

If the Judicature by this Act established, shall not within twelve Months determine the Matters to them referred, the Barons of the Exchequer shall determine the same. And in Suits commenced against the Corporation, or others, for any Thing done in Pursuance of this Act, they may plead the general Issue, and give the special Matter in Evidence.

By Stat. 20. Car. 2. c. 8. Surveyors are to be appointed to digest the 83000 Acres into Sorts and Degrees of Lands, for the more equally rating them by an Acre Tax. All Taxes imposed for the Maintenance of the Level, shall be taxed by the Governor, Bailiffs, and Conservators, or five of them, whereof the Governor and Bailiffs, or any of them, to be two, by a gradual Acre Tax, according to the different Kinds and Values of Lands. And so often as a Tax of Six thousand one hundred and ten Pounds seven Shillings and one Penny half Penny, shall be assessed upon the 95000 Acres, then the 12000 Acres shall be rated at 15d. per Acre, and so proportionably, for raising
raising greater or lessor Sums. Taxes by Virtue of this Act, are to be assessed upon Wednesday, Thursday and Friday next after the first Sunday in April, or some one of them yearly: And Sales for Non-payment of Taxes, are to be made at Ely, upon Wednesday, Thursday or Friday after the first Sunday in April yearly: And Possession shall be delivered to Purchasers by the Serjeant at Mace of the great Level, by Precept under the Corporation Seal.

The 1 Jac. 2. c. 21. repeals the Clause in the Act of 15 Car. 2. For enclosing Commons in Waftes; but Inclosures made and certified into the Petty-Bag Office, to continue.

Laws of Deeping Fens, &c. in Lincolnshire.

By 16 & 17 Car. 2. c. 11. It is ordained, That the several Decrees made at a Session of Sewers held at Bourn in Lincolnshire, the 20th of August, Ann. 41 El., and at Market Deeping on the 20th of September in the same Year, &c. And an Act of Parliament 1 Jac. For Relief of Thomas Lovel Esq; and every Clause therein, shall
shall be repealed. And Edward Earl of Manchester, William Earl of Devonshire, John Lord Berkeley, &c. and their Heirs and Assigns, are declared Undertakers, for Draining Deeping, Pinchbeck, Thurlby, Bourne, and Croyland Fens, in Trust for such Persons, and to such Intents and Purposes as are mentioned and limited: They are within seven Years, &c. to recover and make dry the said Fens, except certain Parts to be left for Lakes and Drains; and shall for ever, at their own Costs, repair the Banks of the said Fens, and keep the Rivers thereof with sufficient Dyking, Scouring, &c. without diverting the Courses thereof, as they now pass into the Sea. And they the said Trustees, &c. are to erect and maintain convenient Bridges with Gates, in Wideness not exceeding twelve Foot, railed or walled against the Sides, for Passage into the Fens, in such Places as shall be ordered by any six Commissioners of Sewers for the County of Lincoln, in their open Sessions. The Trustees may at their Pleasure lay down, continue, or enlarge Drains, or make new ones; awarding Satisfaction to such as suffer by the same, as ordered by the said Commissioners of Sewers;
and the Inhabitants of Spalding and Pinchbeck, have Liberty to set down and stop such Sluices and Locks of Water, as shall be upon the Rivers and Drains, at such Times as two Commissioners of Sewers for the Part of Holland shall judge necessary, not exceeding two Months in a Year, except Wel-land, &c. And if any of the Banks break down, or be overflowed, whereby the Waters fall into any Lands in the Wapentake of Ellock, the Dyke-Reeves, Officers, or other Inhabitants there, may set down the Slough of such Drains, or otherwise stop the same 'till the Banks are repaired. If any Breach or Overflowing shall happen, over or through any of the said Banks, and be not amended within ten Days, the Dyke-Reeves, or Surveyors of Sewers, in Spalding or Pinchbeck, &c. may repair the same, at the Costs of the Trustees; And the Money expended shall be repaid, upon a Note delivered in Writing to them, their Tenants, Servants, &c. under the Hands of two Commissioners of Sewers; and if the said Trustees shall refuse to pay the same, the said Officers may enter into a third Part of the said Fens, or the 5000 Acres, additional Recompence herein
herein given, and distress upon them, their Tenants, &c. and after four Days fell the Distresses, rendering the Overplus to the Owner. The Dyke-Reeves or Surveyors of Sewers in Pinchbeck and Spalding, &c. may repair at the Costs of the said Trustees, to be levied as aforesaid, all Breaches of Banks, &c. either within or without the said Fens, made or to be made, in order to the draining of them. And the said Trustees, shall make Satisfaction for Damages sustained by their own Negligence, in not sufficiently maintaining or cleansing any Rivers, Banks or Drains, &c. as six Commissioners of Sewers for the Part of Holland, shall appoint, if the same be not satisfied by the Lords Adventurers; and if the Trustees neglect to pay the same by the Space of twenty Days, after demanded of them or their Tenants, &c. the Persons receiving Damage may enter and distress as aforesaid. The Trustees have Power, for the Enlargement of any old Drains or Banks, or making new ones, to cut or cover the Soil of any Person, agreeing with the Owner, or paying or tendering the Value determined by six of the Commissioners of Sewers: They may
may pull down any Bridge over any River or Drain that may hinder the Passage of the Water, and all Wears, &c. Provided they build other Bridges of the same Materials. And the ancient Bridges are to be maintained for ever at the Charge of the Trustees, &c. on whose Default of performing the same, the Commissioners of Sewers may decree what Sums of Money will be necessary for effecting the same, and levy them by Distress, if not paid in thirty Days, on any Lands vested in the said Trustees. The Trustees, &c. may take Ground and Earth lying between the outring Banks and the said Rivers, for repairing the Banks, as Need shall require, not above Sixscore Feet distant from the Banks; and may erect Bars in such Places as they think fit, to take off the Surplusage of Water, and hinder the Drifts of Cattle over the Banks: And no Person shall, between Michaelmas-Day, and the first of May, in any Year, drive any Cattle upon the said Banks, without paying to the Trustees for every Score of Sheep 4d. And the like Payment of 4d. for every other Beast. But the Lords, Owners, and Commoners in the Fens, shall pay nothing, except
except they Trade that Way to London with Cattle not of their own Feeding, a Month before. No Swine shall be put upon the Fens, but where other Cattle are put in, and shall be Ringed, on Pain to forfeit for every Hog 2 d. to the Trustees, &c. to be levied by Distress. No Water (otherwise than for necessary Household Uses, as by some Law of Sewers is settled) shall be let out of any of the Drains, without Licence of the Trustees, &c. or by Order of six Commissioners of Sewers, and the Charge of making up the same again being paid by those for whose Benefit done; And if any Abuse happen to be therein, the Trustees, may stop the same. The Trustees, their Tenants, &c. shall not use or claim any Common of Pasture in any Part of the Remainder of the Fens, not settled on them, by Reason of their Residence there; nor shall the Inhabitants of the third Part of the said Fens, or of any Part of the 5000 Acres that are Poor, become chargeable to the Parishes wherein they dwell; but shall be maintained by the said Trustees.

The said Trustees shall enjoy to them, their Heirs and Assigns, the third Part of the Fens formerly assigned to

Tho.
Tho. Lovel, and 3500 Acres, allotted by a Decree of Sewers made at Spalding, and 1000 Acres out of that Part of the Fens formerly taken in for the King's Improvement, and 500 Acres more to be taken proportionably out of the Residue of the Fens in Kesteven and Holland, next adjoining to the 3500 Acres; and these 5000 Acres are to be measured by Statute Measure, at the Charge of the Trustees, by two Artists, one whereof to be chosen by the Commissioners of Sewers, and one by the Undertakers. But upon Trust, That they grant out of the said Fens a large Quantity of Acres thereof, to such Persons, and for such Estates, and in such Manner, as Tho. Earl of Berks, the Lord Andover, John Lord Berkley, &c. shall appoint; And as to the Residue of the said Fens allotted for Recompence for Draining, in Trust for the said Earl of Berks, and such others to whom Estates are limited under William late Earl of Exeter, and Elizabeth his Wife, or either of them. The Trustees are sufficiently to fence and inclose all the Lands by this Act granted to them; and they shall not distress any Cattle entering on the same for Default of such Inclosure. If the
Trustees, &c. shall not finish the Draining of the said Fens within seven Years; or shall not afterwards keep and maintain the same, but shall suffer them, or most Part thereof to be overflowed five Years, found to be through their Default, by the greater Number of Twelve Commissioners of Sewers, upon their own View, or Presentment of Jury; the same being certified into Chancery, the Trusts aforesaid, and all Estates by them executed, shall from thenceforth be void: And the said Trustees, in such case, shall stand seized of the said third Part of the said Fens, and additional Allotments, in Trust for the Commissioners of Sewers of Kesteven and Holland, who shall receive the Rents and Profits, to be expended in draining or regaining of the said Fens, and doing such Works as the Trustees ought to have done, &c. But this Act shall not charge the Persons of the Trustees, nor their Estates real or personal, other than their Estates of and in the Fens. The Assessees of the Lands held by the Adventurers under the Trustees, may hold Assemblies of themselves, their Agents and Workmen, for making By-Laws for the Management of the Works.
Works of Draining; and they, or any three of them, may charge the Owners of the said Lands, by an Acre-Tax, &c. And on Default of Payment by the Space of three Months, sell the Defaulters Lands, &c. by Deed inrolled in Chancery within six Months after the making. And the Owners of the Soil of the said Fens, or Commoners there, may enclose and sever such Quantities of the same (not being Parts allotted to the Undertakers) as shall be proportionable to their Interests, and hold the same in Severalty; Subject to the Powers given by this Act to the Trustees: The Boundaries of the Waste so to be enclosed, to be set and appointed, on Request of the Persons concerned, by Thomas Lord Beaumont, and others, or any seven of them, upon their View or Examination of Witnesses on Oath, or other Proof; which being certified into the Petty-Bag Office in Chancery, shall conclude all Parties: But Persons aggrieved may within six Months appeal to any thirteen of the said Judicature, whose Determination shall be final.

And the said Commissioners, before they execute the Powers hereby given, shall take the Oath following:

O 2  I A.B.
I A. B. am not Interested in Possession, Reversion or Remainder, of, or in the said Fens, or any Part thereof; and I shall and will, without Favour or Affection, Hatred or Malice, truly and impartially, according to the best of my Skill and Knowledge, execute and perform all and every the Powers and Authorities in me Established by this Act of Parliament.

So help me God.

The Commissioners are to sit at Stamford, Market-Deeping, or Spalding; they or seven of them, shall declare the Places and Times of their Meeting, by Warrant openly published in the said Towns, Twenty one Days before the said Meetings; and by Warrant from three of them, may summon Parties and Witnesses to appear. And if any Difference arise concerning the Exposition of this Act, the two Chief Justices, and Chief Baron, or two of them, are to determine the same.

And their Judgment, together with the Determinations of the Commissioners, must be certified into the Petty-Bag Office.


Of Havering and Dagenham Breach.

The 12 Ann. c. 17. Grants a Duty of 3 d. per Ton, &c. on Shipping, coming into the Port of London, for amending and stopping of the Breach in the Levels of Havering and Dagenham, and making good the Walls, Banks, &c. thereof: And the Persons in the Act named, or any Nine or more of them, are appointed Trustees for the ordering and directing of the same, and collecting the Duty; and if any die, or refuse to act in the Trust, the surviving Trustees, or the rest of them, may elect others, who shall have the like Powers. The Trustees are to appoint Collectors of the Duty; who once a Month shall return the Sums received, to such Person as they shall direct, as Treasurer to the said Trustees: And all Money raised by the Duties, shall be applied to the stopping of the Breach, &c. necessary Charges first deducted; the Accounts whereof are to be quarterly delivered to the Trustees, and they shall deliver them, with Copies of all Contracts, to each House.
House of Parliament, once in every Year, within twenty Days after opening of the Session. The Collector of this Duty may enter any Ship, to demand and receive the same; and distress the Ship, or any Part thereof, for Non-payment, and detain the same till Satisfaction is made; or on Neglect of Payment ten Days after the Distress taken, the Collector shall sell it to satisfy the Duty, and reasonable Charges, rendering the Overplus to the Master. The Trustees may borrow Money on this Act; and convey the Duties by Indenture, as a Security for any Sum borrowed for the Purposes aforesaid. And the Trustees shall give Notice in the Gazette fourteen Days before their Meeting, in order to receive Proposals for stopping the Breach, &c. which Proposals are to be delivered to the Trustees, sealed up; and then the said Trustees are to proceed in Discharge of their Trust, in amending the said Breach. Provided, if sufficient Money be raised for the Uses aforesaid within ten Years, and it shall be so adjudged by the Trustees; then after such Adjudication, and the Repayment of the Money borrowed, and the Interest thereof, the Duties shall cease.

This
This Act shall be deemed a publick Act, and any Person sued for what he shall do in Pursuance thereof, may plead the general Issue, and give the Act and any special Matter in Evidence.

All Lands sold by Decree of Commissioners of Sewers, might be redeemed by this Statute, at a Time limited, paying the Purchase-Money, with Interest and Taxes.
Of Locks and Wears, &c. on the River Thames.

By the 3 Geo. 2. c. 11. Commissioners are appointed to prevent executions of Occupiers of Locks, Wears, &c. upon the Thames Westward from London to Cricklade in Wiltshire; who have Power to regulate Rates and Prices to be taken for Passage of all Barges by Owners of Locks, &c. on the said River, and inspect the Use of Towing-Paths by Men or Horses; and also to ascertain the Rates of Water-Carriage taken by Bargemen: The Commissioners may make Orders and Constitutions to be observed under Penalties; and examine Matters on Oath, &c. subject to appeal to the Justices of Assize.

Any five of the Commissioners may order Owners of Piles placed too near the Stream to remove them; and if they shall not do it in 21 Days after Notice, the Commissioners are to cause them to be taken up. Any three Commissioners living nearest to the Place, on Complaint and Oath by the Occupiers of the Meadows
dows above, that the Waters run over the Water-Mark, and their Grounds are in Danger of being overflowed, may send their Warrant to the Constable of the Parish, authorizing him to give Notice of the Complaint to the Occupiers of the Locks, &c. And on their Refusal to open them, to compel them as Occasion shall require, till the Water is sunk; and if any Damage shall be sustained by the Occupiers of the Meadows, by the Neglect of the Owners of any Locks, after Notice and Proof of the Damage, any seven of the Commissioners shall at their next Meeting order Satisfaction; and if the Owners of Locks, &c. do not pay the Sums so ordered, they shall forfeit further the Sum of 5l. to be recovered with Costs by the Party grieved. And any seven of the Commissioners may cause the Rivers to be cleansed, &c. And to defray the Charges may set a Price to be paid by the Bargemasters, and appoint a Receiver thereof; and if the Bargemasters shall not pay the said Price so set, the Commissioners may levy the same on their Goods and Chattels, and deduct thereout the Price to be paid with the Charges, rendering the Overplus to the Party, &c.

The
The Act 6 and 7 W. 3. is revived by this Statute; and these Acts shall be esteemed in all Courts of Justice and elsewhere to be publick Acts; and if any Action shall be commenced for any Thing done in Pursuance of the Acts, it shall be brought within six Months, and in the County where the Cause of Suit doth arise; and the Defendant may plead the general Issue, &c. and on a Verdict recover double Costs.

This Act is to continue in Force for nine Years, from 1 May, 1730, and thence to the End of the next Session of Parliament.
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