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AN ASSAULT ON THE ROYAL JUSTICES AT ASH AND THE MAKING OF THE SANDWICH CUSTUMAL¹

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On the 14th August, 1300, Ralph Sandwich, Roger de Hegham and John Abel, itinerant justices of the King, were making their way towards the port of Sandwich when they were met, in the neighbouring village of Ash, by a group of men from Sandwich including the mayor, John of Hoo, the town clerk, Adam Champneys, and at least twenty-five others. The men of Sandwich proceeded to 'assault the aforesaid justices of the king with force and arms ... and ill-treat them, not permitting them to enter the king's town of Sandwich or to do the duty that was enjoined upon them by the king, and cut open the pouch with the king's rolls and break the bows and arrows of the men of the aforesaid justices and inflict other outrages upon them, in contempt of the king and the obvious hurt of the royal crown and dignity.'²

The record of this extraordinary event is found amongst the rolls of the Court of the King's Bench for the Easter term, at which court, John of Hoo, Nicholas the Ironmonger, Robert Monyn, Michael Jeune, Walter the Draper, Thomas Gilote, Salecok Large, Adam Champneys, Jordan Peny, Stephen the Falconer, Stephen Scorthals, John atte Hole, Adam Wyberd junior, Thomas Edward, John of London, Adam Charles senior, and Stephen Wyberd, who had been involved in the assault, were attached to answer to the king.³ These

¹ I am grateful to Andrew Butcher for his invaluable comments on earlier drafts of this paper, and for his assistance in the production of the appendix. I would also like to acknowledge the helpful remarks and comments made by staff and graduate students at the University of Kent, where an earlier version of this paper was read to a Medieval and Tudor Studies graduate seminar.

² PRO Coram Rege Roll no. 164 (Easter Term 1301), m. 61*d.*; transcribed in (Ed.) G. O. Sayles, *Select Cases in the Court of the King's Bench under Edward I*, iii, *Publications of the Selden Society*, lviii (1939), 111-12.

³ The Easter term of the King's Bench of 1301 probably sat between 17 April and 12 May.

men were by no means a mere rabble. They represented the leading families of Sandwich, and at least some of them held office within that town. The fact that the mayor, the town clerk and probably several jurats were amongst them suggests that the encounter at Ash was officially sanctioned and made in the interest of the community of Sandwich. The appearance of Adam Champneys is of particular interest, not least because his subsequent writings as town clerk allow us to examine contemporary perceptions of the town, its administration, and its relationship with the Crown. The object of this discussion is, in part, to explain why such a substantial group of individuals, with apparently so much to lose should come to be involved in such a violent incident, which caused them to be brought before the King's Bench. It is also intended to examine the sequence of activities which followed this event, including, it is suggested, the writing-up of the custumal of Sandwich. The far-reaching consequences of the attack are considered as also a manifestation of much more extensive processes of conflict and dispute between the Crown and localities at the turn of the thirteenth and fourteenth centuries.

It is important to recognise from the outset that despite the rhetoric of the King's Bench proceedings, the attack at Ash does not constitute mindless violence, but seems to have had very specific intentions. The men of Sandwich must have set out for the village of Ash (situated just outside the Sandwich liberty) on that Sunday of the Assumption of the Blessed Virgin Mary with the intention of intercepting the king's justices and of preventing them from entering the bounds of the liberty of Sandwich. The records suggest a degree of planning and foresight, determining the time, place and people to be involved. The careful description of the facts of the event tell us that the bag containing the king's rolls was cut open, and that the bows and arrows of the justices' retinue were broken, and that 'other outrages' were committed. This again suggests that the attackers knew what they wanted to achieve: to *disarm* the justices in order to prevent them from doing their office. The record also appears to show a keen awareness of the symbolic significance of their actions. The bows and arrows, and the documents in the bag both appear to have been considered potential weapons against the inhabitants of Sandwich. The fact that the bag containing the king's rolls was cut open suggests that the contents were removed and perhaps carried away. A second record of the event, which names a further participant, John, son of Giles the Paviour, also mentions the king's rolls as an object of the attack and tells us that they were seized by the attackers.⁴

⁴ PRO, C.260, 18, no. 23.

The fact that both of the extant records of the event mention the documents carried by the justices as a focus of the attack suggests that the men of Sandwich were also doing something rather more than simply disarming the justices. Exactly what documents the justices were carrying in their bag, which made them the target of this attack is a tantalising question which we can go some way towards answering in the examination of the background to this incident and of the subsequent chain of events which was apparently set in motion.

It is difficult to establish what 'inquisitions' the justices were intending to make in Sandwich, since their commission does not survive, although we do know that they had also attempted to hold other inquisitions in Dover at this time, but were resisted also by the inhabitants of that town.⁵ It is likely that they were involved in the examination of franchises or their abuse within the Cinque Ports. The Cinque Ports, of which Sandwich was a 'head port', had developed a high degree of administrative and judicial autonomy ('franchises') from an early period, in recognition of the military service which they had rendered to the king. Thus, the examination of franchises by agents of the crown was by no means new, and had become a particular feature of the later thirteenth century. Since at least the early thirteenth century inhabitants of the ports had increasingly (although not always successfully) claimed exemption from the jurisdiction of itinerant royal justices, including those associated with the general Eyre.⁶ It was claimed that freemen of the ports were only subject to their own town courts, and to the Warden's Court of Shepway, which had by this period developed a procedure and function similar to the Eyre. What is important here, is that the inhabitants of Sandwich saw the appearance of royal justices on the bounds of their liberty as a threat to be countered with a carefully focused act of violence, which would require them to defend their actions in the king's courts. It may also be that these justices were particularly intolerable, carrying before them certain reputations. Ralph Sandwich, as his name attests was actually a local man, but one who had become prominent in the service of the Crown. In 1285, he had been installed by the king as keeper of the city of London in an unprecedented royal intrusion into long established urban franchises, issuing new ordinances and carrying out a complete overhaul of the city's customs and courts.⁷ This history would almost certainly have been common knowledge amongst the inhabitants of Sandwich, particularly those involved in its administra-

⁵ K. M. E. Murray, *The Constitutional History of the Cinque Ports* (Manchester, 1935), 68-9.

⁶ Murray, *op. cit.*, 69-70.

⁷ Gwyn A. Williams, *Medieval London: from Commune to Capital* (1963), 243-63.

tion, and cannot have failed to influence their reaction to him as an itinerant justice.

Less than a month after the incident at Ash, on the ninth of September, John of Hoo (still mayor of Sandwich), Adam Steffan, Thomas Schelvyng, Walter Draper, William Mor, Michael of Romney, Walter Taverner, Adam Charles and others put their names to a document appointing a certain Robert of Sturry as attorney and adviser to the community of Sandwich, for a period of ten years.⁸ He was to come on horseback when needed and, when necessary, was to give advice in the king's courts. For this he was to be given an annuity of four pounds and an additional fee of eighteen pence for every day he laboured on behalf of the town. Robert of Sturry was probably a trained lawyer, and Adam Champneys, the Sandwich town clerk, was later to describe him as 'wise and circumspect' ('virum sapientum et circumspectum').⁹ This appointment suggests that the mayor and jurats of Sandwich perceived the need for professional legal advice, probably in part because they expected to have to appear in the king's courts to defend their actions of the previous month. The ten-year period of the appointment suggests also that the government expected to make a much more extensive use of Richard's legal expertise in the administration of the town. Knowledge of the law, or access to those with such knowledge, appears to have been seen as a crucial element of urban government at this time.

That Robert of Sturry appears to have begun his work for the community of Sandwich immediately is suggested by the fact that when the King's Bench sat in April 1301 the town had drawn up an enormously complex and wide-ranging document (presented in a book) setting out its claimed liberties, franchises, customs and usages along with an array of anecdotal and historical material relating to these. Through Adam Champneys, and with the probable assistance of Robert of Sturry, the mayor and jurats of Sandwich had produced a description of all of the officers of the town (the mayor, the jurats, the sergeant and others) and the mode of their election; they wrote down the ordinances which had been made for the governance of the town by the mayor and jurats; the particular possessions, rights and

⁸ Sandwich Custumal, CKS Sa/LC 1, ff. 3-4; printed in Boys, *Collections for an History of Sandwich in Kent* (Canterbury 1892 [1792]), 432 (the appointment of Robert of Sturry). Sa/LC 1 is a small manuscript book made c. 1373, and is the earliest known version of the Sandwich Custumal. It is possible to deduce the likely contents of Adam Champneys version made in 1300-1301 by extracting from the later text all those documents which can be dated to before 1301, through the appearance of actual dates or through consideration of the incidence of names and events.

⁹ Sa/LC 1, ff. 3-4, and Boys, *op. cit.*, 432.

duties which these officers held within the town; the charter granted to the town by Edward I when he was awaiting passage at Sandwich in 1298, stating that they should be exempt from the jurisdiction of his household officials; the manner in which the holding and transferring of property, housing and land was regulated by the mayor and jurats; the operation of the various town courts and the division of rights and duties between the town officials and the king's bailiff; the naval service which the Cinque Ports were to render to the crown yearly; the service which the barons of the ports rendered at a coronation; the exact boundaries of the liberty of Sandwich as perambulated by Stephen Pencester in the 1290s; and a rehearsal of the 'general charter' granted to the ports in 1278. In short, they had produced a 'custumal'.

The extensive range of material found in this custumal is testimony to what must have been a lengthy process of collecting, copying, composing and editing on the part of its writers. Some of the material (including the charters and the 'perambulation' of the liberty) were probably copied from documents already kept by the government of Sandwich. Much of the material, however, may never have been written up before and so required composition from scratch. A particularly good example of this new composition is the description of the government of Sandwich, which is very clearly structured in terms of the civic ceremony which surrounded its annual election. The mayor is to be chosen by the community in St. Clement's church on the Monday following the feast of St. Andrew (30th November). This is preceded by the sounding of the common horn at the fourteen customary places around the town, with the Wardman proclaiming: 'Ech man of twelf yer other more guo to seint Clemantis Cherche, ther oure commune haith niede, an haste, an haste.' The election ceremony is described in detail: with the old mayor making an address, with the staff, the common horn and the keys to the common chest beside him. The election is made following the withdrawal of the old mayor and the other candidates; and the newly-chosen mayor makes his oath, along with the jurats. The keys of the common chest are handed to him and to two jurats appointed keepers, and a procession is made to the house of the new mayor. The performance continues on the following Thursday, and the text runs on to describe the appointments and oaths of the other civic officials: the sergeants, jurats appointed as wardens for orphans, jurats appointed to divide inheritances between heirs, the common weigher, the public brokers and the porters. Oaths are made, and details are entered in the common rolls. Following this, a set of fourteen ordinances is proclaimed to the assembly. The form and ordering of this portion of the custumal is of great interest, in that it closely follows the chronological sequence of

a yearly ritual event. Although its function is to describe the nature of the government of Sandwich, it does so in a manner which suggests the non-literate origins of custom. The authority of the text is situated in the performance of the ritual itself, as is indicated by the careful description of the spaces to be used in the ceremony, the actions to be performed, words to be spoken and symbolic objects to be used. The knowledge expressed in this text is based on practice rather than abstract principle, which suggests that it had not formerly been passed on as a text, but as a ritual, enduring in a collective memory, through its yearly performance by the inhabitants of Sandwich. It is likely that the ritual was first committed to writing in Adam Champneys' custumal.

The nature of this part of the custumal text has been emphasised because it contrasts in character with another portion of the same text, which describes the holding of courts in the town and the relative rights and duties of the mayor (on behalf of the community) and the bailiff (on behalf of the king).¹⁰ This portion, whilst containing a certain amount of anecdotal and ritual material is conspicuous for its more abstract legal character. Not only does it describe courts and their functions, but it goes into some detail on matters of legal principle which would have been familiar to a trained lawyer. Much of this portion of the text would seem to have its origins not so much in the collective memory of inhabitants of Sandwich as in the discourse of the common law and its text books. It is perhaps in this section that we can most clearly identify the work and advice of Robert of Sturry, who was not an inhabitant of the town but a lawyer well versed in the legal principles of the written law being developed at a national level. The contrast drawn here suggests that the Sandwich custumal written up by Champneys represents a variety of influences, and can be seen as an interface between local knowledge and a more centralised knowledge based around the king's courts, in some way represented by oral and written knowledge, respectively.

In April 1301, Adam Champneys wrote the following text as a preamble to this custumal:

'Whereas many doubtful points have been met with in the liberties of Sandwich, when nothing concerning them has been written down, and human memory is apt to fail, I, Adam Champneys, realising the great uncertainty and danger resulting from uncertainty, shall put in writing what the lord has suffered me to perceive and to understand and to have heard from my predecessors and my relations, because the written word remains

¹⁰ Sa/LC 1, ff. 49-69; Boys, *op. cit.*, 443-62.

for counsel of those who in times to come shall govern this town, begging that such things as perhaps by negligence or ignorance or presumption are not set out in this little book in proper manner, neither clearly nor fully enough, may be supplemented by the industry of a discreet editor, because according to our poets, who repeat such sayings 'well begun is half done', 'may better fortune follow on this poor beginning' and 'it is something to make a history up to a certain point, even if it is not permitted one to go further. If it is indeed an easier matter to conclude an unfinished work than to start it and continue it on to its end.' Completed in the month of April, in the year of grace 1301, 29th of the reign of King Edward I.¹¹

This preamble is expressed with a sense of rhetoric and historical moment, with its implicit emphasis on the error of the recent past. It also shows a preoccupation with the need to commit previously unwritten knowledge to writing. It is likely, however, that it is not entirely original, since it seems to have close affinities with the prologues which had come habitually to be attached to legal and customary collections of the thirteenth century. The consideration of the fallibility of human memory and the relative permanence of the written record is a motif which is found in a number of such collections from the early thirteenth century, and the request that the task begun might be completed by writers of the future also has parallels, particularly with the later thirteenth-century London and royal law books. The unknown late-thirteenth century compiler of the law book which has come to be known as *Fleta* introduced his work with a preamble explaining that he has resolved to set down as many as possible of the laws of the realm, but acknowledges that to complete such a task by himself would be impossible.¹² He also requests that his work might be amended in the future where it is found to be in error. Adam Champneys' preamble clearly has important resonances with this earlier text. It is likely that such preambles were in fact variations of a widespread textual form, the knowledge of which appears to have been shared by clerks and other administrators both in England and further afield. In northern France, around the year 1280, Philippe de Beaumanoir had made a collection of *Coutumes de Beauvaisis*, for which he composed a preamble which is thematically remarkably similar to Champneys' text.¹³ De Beaumanoir wrote of

¹¹ Sa/LC 1, f.1; Boys, *op. cit.* 495. This translation from the original Latin of the manuscript is based on that produced by Dorothy Gardiner, *Historic Haven: the story of Sandwich* (Derby, 1954), 56.

¹² cf. (Eds.) H.G. Richardson and G.O. Sayles, *Fleta*, ii, *Publications of the Selden Society*, lxxii (1955), 1-3.

¹³ A transcription and translation of portions of the *Coutumes de Beauvaisis*, including the preamble, are to be found in D. Herlihy, *The History of Feudalism* (1970), 187-96.

the fallibility of human memory, of the transience of things not committed to writing, and of his resolve to make a record of customs so that his work might be continued or amended by those to come. It is of great significance that both of these earlier collections appear to have been made in the spirit of petitions, presented by their makers in the hope that ancient laws might be respected by those with responsibility for government. The compiler of *Fleta* claimed to have made his collection in the Fleet prison of London, where he had been imprisoned through some miscarriage of justice.¹⁴ De Beaumanoir's collection has a more immediately feudal character, being addressed to the overlord of the Beauvais region, the Count of Clermont. The resonances of these texts in Adam Champneys' preamble might suggest that the Sandwich custumal was also drawn up in defence of anciently established custom. Champneys' knowledge of this culture of legal and customary writing raises very interesting questions as to his professional contacts as a town clerk, and to his education. The few biographical details of him which are known indicate that at the time of his production of the custumal he was both town clerk and rector of St. Peter's church in Sandwich. Some years after this production he was granted several leaves of absence from his tenure in order that he might take up studies at a university, suggesting that at the time of the writing of the custumal he had not yet participated in formal university education.¹⁵ This may indicate that he gained his manifest learning through practical administrative experience and through contacts with other clerks and administrators.¹⁶ His later career appears to confirm the impression of an individual with extensive clerical contacts, as he was to go on to serve as a king's clerk and finally to be appointed as archdeacon of the diocese of Worcester.¹⁷ This biography has important implications for the interpretation of urban custumals produced by town clerks, since it is likely that through the personal and professional connections of these people ideas and texts relating to urban government were passed on from one clerk to another. This suggests the possibility that a single custumal may have been produced from a wide variety of sources. The experience of Adam Champneys also suggests that a high level of literate ability existed at this period outside the universities and other formal educational establishments.

¹⁴ Richardson and Sayles, *op. cit.*, 1-3.

¹⁵ I. J. Churchill, *Canterbury Administration* (SPCK., nd) 116n.-117.

¹⁶ A further parallel with the career of Philippe de Beaumanoir is here apparent, since he, too, appears to have had no formal legal training before the compilation of his custumal, cf. Herlihy, *op. cit.*, 188.

¹⁷ J. Le Neve, *Fasti Ecclesiae Anglicanae 1330-1541*, iv (1963), 62.

It is the date which Champneys adds to the end of his preamble which is of paramount interest in the discussion of the circumstances surrounding the production of the custumal.¹⁸ It connects the production of the custumal with the session of the King's Bench at which he and his peers were required to make their defence for their attack on the king's justices, preventing them from entering the liberty of Sandwich to carry out an inquisition. It further suggests that the attempted incursion of the justices had prompted the government of Sandwich to draw up a systematic account of their liberties in order that they might be defended in the future. This connection is the particular value of the Sandwich evidence, since amongst all the custumals of the Cinque Ports and the similar collections for other English boroughs, it is rare to be able to attach both a firm date to their production and to be able to reconstruct the political environment of their composition. Indeed, it seems to be a feature of borough custumals that particular events are sidelined in order to emphasise the timeless nature of urban customs in the inventing of tradition.¹⁹ The Sandwich evidence suggests that if town custumals are to be meaningfully interpreted, we need to look beneath the deliberately constructed notion of 'time out of mind' to the precise events which surrounded their production.

In order to understand exactly why the attempted making of a royal inquisition in the liberty of Sandwich should have such far reaching results, the experience that the mayors and jurats of Sandwich had of such inquisitions needs to be examined in more detail. The attempted inquisition of August 1300 must be seen in its context as just one of the many attempts made by the Crown in the preceding century to define, and in many cases, to limit, the extent of franchises held by communities. The thirteenth century (especially the latter part of it) had witnessed repeated negotiation between the Crown and members of the Cinque Ports, concerning the nature of granted or assumed liberties and franchises.²⁰ This was largely dictated by the Crown's constant vigilance over its sources of revenue (especially in times of special financial need) in order to prevent encroachment. This vigilance resulted in a number of nation-wide enquiries, which were to develop in the *quo warranto* proceedings of the last quarter of the century.²¹

¹⁸ It may be significant that Champneys gives both the full date: 'anno graciae millesimo CCCmo primo' as well as the more usual regnal year: 'regni regis Edwardi vicesimo nono'. This may suggest that he himself attached considerable importance to this date.

¹⁹ cf. (Eds.) E. Hobsbawm and T. Ranger, *The Invention of Tradition* (Cambridge, 1983), in particular Hobsbawm's introduction 'Inventing Traditions', 1-14.

²⁰ cf. Murray, *op. cit.* 63-70.

²¹ A detailed examination of the *quo warranto* proceedings is found in D.W. Sutherland, *Quo Warranto Proceedings in the reign of Edward I 1279-94* (Oxford, 1963).

Although it is known, from the records of the crown, that the Cinque Ports witnessed a number of enquiries at this time, direct references to them amongst the records of the ports themselves are conspicuously lacking. This may, in part, be the result of poor survival of material of this period, but it may also suggest that the ports had not yet developed a sophisticated manner of dealing with these enquiries or of recording their proceedings. It has been suggested that the king and his justices showed little respect for old-established judicial procedures in the thirteenth-century *quo warranto* proceedings, and developed a series of new processes in order to deal with the multiplicity of claims of liberties and franchises in communities. Furthermore, the Crown lawyers were continually articulating new ways in which claims might be disallowed.²² Thus, when a community brought its claims of liberties to the eyre courts through which the business of *quo warranto* was transacted, it may have had little idea of how these claims might successfully be defended. It is likely that repeated threats to the liberties of a community may have eventually stimulated the need for the production of new records such as customals for their defence, but this does not seem to have occurred in Sandwich (nor in any of the other Cinque Ports) until at least the turn of the thirteenth and fourteenth centuries. As a result, it is to the Close and Patent rolls, and more particularly, to the records of the Exchequer that we need to turn for evidence of the relationship between the community of Sandwich and the Crown in the thirteenth century.

It appears that, as early as 1218, the liberties of the Cinque Ports were intended to be scrutinised in the Kent and Sussex eyres, but that in 1227 a separate eyre for the ports was summoned to be held at Shepway, probably because the ports had claimed immunity from the general eyres. However, this eyre was postponed until the next year and thereafter was indefinitely postponed. The last set of summons (30 July, 1228) set the 23 August as the day for the enquiry, since by then, the men of the ports would have returned from their trading journeys and it was before the grape harvest on the Continent and the coastal fishing season.²³ After this last deferral, it seems that no systematic enquiries were attempted until later in the century. A second major period of enquiry began in the 1270s, and as has been convincingly argued, represented a widely recognised 'campaign' by the Crown to safeguard and to extend its income in a period of financial crisis.²⁴ It is the intensity of this campaign which may best

²² cf. Sutherland, *op. cit.*, 13-15.

²³ David Crook, *Records of the General Eyre* (H.M.S.O., 1982), 78-9.

²⁴ Sutherland, *op. cit.*, 2-23.

explain the sensitivity of members of a community such as Sandwich to the activities of the royal justices, as demonstrated by their actions in 1300. The enquiry was intended to cover the whole country and developed specific procedures, in which franchise holders were to come to court with details of what they thought their liberties consisted of, and by what warrant they claimed them. This process, it has been suggested was particularly aggressive in its summary procedure and its virtual reversal of the usual legal position of plaintiff and defendant. The plaintiff was usually the party who had to issue allegations to which the defendant answered to in court. In the *quo warranto* proceedings, however, the plaintiff (in this case the Crown) issued no allegations, and the onus was on the defendant (the franchise holder) to present a case when summoned. It may be that this legal innovation may have encouraged franchise holders to gather together evidence before appearing in court. This is significant, since the particular strength of will thus demonstrated on the Crown's behalf may have been responsible for the rather extraordinary long-term results of the campaign, which can be traced in the case of Sandwich.

It has been seen how the Cinque Ports had previously claimed exemption from general eyres, and it is of great significance that in the *quo warranto* campaigns of the later thirteenth century, they were nonetheless summoned to appear before the eyres. Once again, this demonstrates a particularly forceful approach to the proceedings on the part of the Crown. The earliest mention of a member of the Cinque Ports in this campaign relates to Fordwich (a limb of Sandwich) which was given respite from inquisition in 1275/6 '...because the king cannot at this time attend to the judging of the charters'.²⁵ Around Easter 1276, seven parties claiming liberties under these proceedings had their case adjourned to Michaelmas 1276, including the port of Romney and the Abbot of Battle (lord of the port of Lydd) so that charters might be inspected and considered.²⁶ It appears that the revolt in Wales diverted attention away from the examination of the franchises and it is recorded that the cases of the men of Sandwich, Fordwich, Romney, Hastings and Faversham were adjourned until the end of the next Parliament, which would have been Easter of 1277. Postponement was again made until Easter 1278, because of war, when a decision was made to adjourn all cases for the time being and to allow all franchise holders to remain in possession of their liberties for the time being whilst a new strategy was developed.²⁷ The decision is recorded in the Statute of Gloucester:

²⁵ Sutherland, *op. cit.*, 21n.

²⁶ Sutherland, *op. cit.*, 21-22.

²⁷ Sutherland, *op. cit.*, 22-23.

'In our last parliament at Westminster [Easter 1278] we and our council decided and proclaimed that prelates, earls, barons, and others of our kingdom who claim to have those various liberties for the examination and judgement of which ["ad quas examinandas et judicandas"] we had assigned them a day in that parliament, should use those liberties: so that they should not increase them by usurpation of encroachment and so that they should not encroach on our rights.'²⁸

It was in 1278, presumably as a result of this charter scrutiny and of the desire to produce some form of definition, that the Cinque Ports were granted their 'general Charter', in which the privileges previously granted to individual towns of the confederation were amalgamated and granted to all of the Cinque Ports in general.²⁹ It has been suggested that this charter is a confused document, with liberties 'thrown somewhat indiscriminately in the charter, so that each port received not only the privileges already granted to it, but all the liberties which had been granted to each of the other ports, causing some confusion and repetition.'³⁰ This may be the result of summary treatment of an unprecedented amount of documentary material. We know that postponement had been made for the examination of charters, and we must envisage a period in which towns sought out (or perhaps even wrote up) their charters from their own records or from elsewhere, as well as a period of collation, cross-referencing and editing which must have taken place in a royal department.

The Statute of Gloucester effectively set up the huge machinery of the *quo warranto* campaign proper, which relied on circuits of the eyre hearing all the liberties and franchises as it made its way around the country. The eyres apparently visited Kent and Sussex in 1279, but no business relating to the Cinque Ports survives.³¹ A second circuit visited Sussex nearly ten years later, in 1288, and Kent in 1293, but once again there is no systematic record surviving of urban pleas, a point which remains something of a mystery.³² However, the 1293 Kent circuit appears to have represented a general survey of franchises held in the county. It is particularly significant that this circuit appears to have been the stimulus for the codification of the *Customs of Kent*.³³ This demonstrates the close connection between pressure

²⁸ Sutherland, *op. cit.*, 23, 190-3.

²⁹ L.F. Salzman, *The Victoria County History of Kent*, ix (1937), 37-8.

³⁰ Salzman, *op. cit.*, *loc. cit.*

³¹ *cf.* Sutherland, *op. cit.*, 28; Crook, *op. cit.*, 159.

³² Sutherland, *op. cit.*, 28-9.

³³ Felix Hull, 'John de Berwyk and the Consuetudines Kancie', *Arch. Cant.*, xcvi (1980), 1-15. C.L. Sinclair-Williams, 'The Codification of the Customs of Kent', *Arch. Cant.*, xcv (1979), 65-79.

exerted by the Crown on a particular community and the production of written codes of previously unwritten custom, apparently carried out in order that these customs might be better defended in the future. It is also probable that the justices responsible for this circuit, under John de Berwick, attempted to take enquiries within the liberty of the Cinque Ports, since a writ survives directing that justice to allow the barons of Faversham to enjoy all the liberties which had been granted to them by charter.³⁴ It is also very likely that the circuit took an inquisition into the liberties of Sandwich. A small vellum roll surviving in the public records, written in a late-thirteenth century hand, relates to liberties claimed by the mayor and community of Sandwich in the form of a *quo warranto* enquiry taken some time after 1290, which suggests that it may form a record of the enquiries of 1293. The text of this roll is of great importance to the understanding of Adam Champneys' custumal, and is, accordingly, presented here as an appendix.³⁵

The enquiry text opens with two clauses which outline the history of the lordship of Sandwich.³⁶ They mention the original grant of the lordship to the monks of Christchurch Priory by King Cnut in 1023 and the expulsion of the Priory by King John (as a result of the disputed elections of the successor to Archbishop Hubert Walter). It is stated that, at the time of the expulsion, before the institution of the office of mayor at Sandwich, the community had usurped certain rights and liberties. In 1290, the prior of Christchurch had made an exchange of the lordship of Sandwich, relinquishing all its rights in the town to the king. Thus, the enquiry seeks to restore the rights now held by the king in the town to the form of the charter originally granted by Cnut, and to disqualify all those liberties claimed by the mayor and community of Sandwich which cannot be substantiated by sufficient warrant.

Following the two introductory clauses, there appear 23 clauses representing claims made by the mayor, or the mayor and community (beginning 'The mayor claimed....' ['maior asserit']; 'The mayor and the whole community...' ['Mayor et Tota communitas'] or 'The mayor by assent of the community' ['maior de assensu communitas'] to a variety of liberties and franchises in the government and administration of the town. The fact that the document is the result of an enquiry is underlined by the way in which the clauses are terminated. The first five claims receive the response characteristic of the *quo warranto* proceedings 'It is not known by what warrant [the franchise

³⁴ Hull, *op. cit.*, 3.

³⁵ PRO MS E163/2/26. See below, Appendix.

³⁶ See appendix, clauses [1] and [2].

is held]’ (*‘Nescitur quo waranto’*), whilst others are not directly refuted, but receive comment such as ‘to the prejudice and loss [of the crown’s possessions or dignity]’ (*‘In prejudiciam et exheredicionem &c.’*), which is the commonly found abbreviation for those things which run contrary to the king’s interest.³⁷ Some others are directly contradicted: such as that clause which describes the mayor, without the bailiff (*‘per se absque ballivus’*) overseeing the taking of distrains on the goods of foreign merchants and which receives the comment that in this town this is the right of the bailiff, the servant of the Crown (*‘Ita quod quilibet de villa predicta in hoc casu est ballivus’*).³⁸ Other clauses still seem to receive no comment at all.³⁹

Although the Exchequer document is undoubtedly a royal production, it does represent something of a prototype for the much more extensive *custumal* compiled by Adam Champneys in 1300-1301. When Champneys wrote up his *custumal*, he may well have been elaborating the claims made by his predecessors in the thirteenth century. He tells us in his preamble that amongst his sources is the wisdom of his predecessors, which must suggest that he was able to consult already existing documents. It is possible that he used a text of the thirteenth century enquiry, since there do seem to be connections between it and his own *custumal* text. This possibility is worth considering in some detail, since if it can be substantiated it would seem to be an important clue to the sources used by an urban government in the production of a *custumal* text.

Several of the clauses of the enquiry document (at least 9 of them) do seem to be directly addressed in Champneys’ *custumal*. This is suggested by both the similarity of subject matter in both versions, and also the style of the relevant part of Champneys’ text. Two of the enquiry’s clauses, ([9] and [22], relating to distrains and to *deodand* exactions)⁴⁰ are addressed in clauses which begin with the emphatic *‘Sciendum est...’*, which is an occasional form in *custumal* texts and represents a degree of insistence, suggesting that in the past some doubt had been cast on the claim. Three of the enquiry’s clauses are addressed and the claims strengthened by recourse to custom, usage or other historical justification. It is significant that two of these clauses ([5] and [6]) are amongst those terminated *‘It is not known by what warrant’* (*‘Nescitur quo waranto’*) in the enquiry.

³⁷ See appendix, clause [9].

³⁸ See appendix, clause [8].

³⁹ See appendix, clauses [14], [15] and [16].

⁴⁰ An exaction made following the death of an inhabitant. Originally, the exaction was in the form of the object (or weapon) which caused the death. By this time, however, it would have been a money fine.

The first of these clauses [5], relates to the assize of bread and punishments for its breaking, and receives a very interesting treatment in Champneys' custumal. In the enquiry, the mayor had claimed that no common baker suffer punishment at the pillory in the town ('quod nullus pistorem commorans in villa predicat judicium pilorii debet subire'), but no warrant could be produced for this liberty. When we find the issue raised in the custumal, this is the wording:

'And this is the custom of the liberty, because none here ever suffer the pillory or whipping-post, or other such like punishments as are inflicted in the foreign (i.e. *outside* the liberty). At that time when the custom was in the hands of the prior and convent of Christchurch Canterbury, we had no officer here under the name of bailiff but a "*prepositus*", or in English, "portreve".⁴¹

Champneys thus asserts that this is the usage of the liberty, and it is on this custom that the authority of his assertion rests. It is apparently strengthened by going on to refer to the period before the overlordship of the crown, to the time when Christchurch had held the town of Sandwich, by referring to the reeve whose office predated that of the king's bailiff. In this way, he seems to be using the history of the town and its offices to confer authority on a claimed liberty.

The issue raised in the second of these two clauses [6] relating to the custody of weights and measures in the town, which is stated to have been claimed without knowledge of by what warrant, receives attention in Champneys' custumal thus: 'and the bailiff shall in no way interfere, since the community have the custody of this of old' ('et ballivus nichil se debet interponere, quia communitas habuit ipsam custodiam ab antiquo'), which directly denies any right in this matter of the bailiff, through recourse to anciently established practice.

In addition to this sort of customary justification, Champneys makes repeated references to royal grants and charters in order to strengthen and justify his claims. One particular reference is applicable here, since it refers to a clause terminated 'It is not known by what warrant' in the enquiry [7]. The clause in the enquiry text states that the mayor 'in the service of the community' ('ad opera communitatis')

⁴¹ 'Et iste est usus libertatis. Quia non debent pati collistrigium necusque solent, nec castigarium, vel huiusmodi tormenta, que sunt in forinseco ordinata. Et tunc temporibus, in dicta villa non nominatur ballivus, set prepositus, anglice, portreve; quando, videlicet, custuma ipsius ville erat prioris et conventus ecclesie Christi Cantuariensis'; cf. Boys, *op. cit.*, 542 and 544.

has appropriated the escheats of tenements in cases of failed heirs, of bastards, and of felons. The custumal addresses the same issue:

'Also the mayor and community hold the area of their liberty and all their privileges of the king by a certain service rendered to him in his war, as is mentioned before; in consideration of which they have all escheats of lands and tenements happening within the town; also the lands and tenements of felons and fugitives after a year and a day, during which time they are taken for the king's use by his bailiff.'⁴²

The 'as is mentioned before' seems to relate to the citation of a letter patent of 1289 earlier in the custumal text, which specifically grants this franchise to the community of Sandwich. It, therefore, seems extraordinary that when the assertion was made in the enquiry of this franchise, the community was not able to produce sufficient warrant to prove the claim, even though the franchise had been confirmed only a few years earlier. This is surprising, but may in fact be a genuine reflection of the inability of defendants to counter the Crown's strength of will in *quo warranto* proceedings. It also demonstrates the emerging need for franchise holders to be able to have in their possession written copies of grants and confirmations, in order that they may be presented as proof when required. This goes some way to explaining the desire to collect and codify such grants in written custumals.

A further strategy which appears in the custumal, and which apparently connects it with the claims made in the enquiry, is that of turning around implicit accusations made in that enquiry. This is demonstrated in clause [8]. This states that the mayor, without the bailiff, has encouraged the freemen of the town to make distrains on foreign traders, and this right is to be disallowed. Furthermore, the text states that only the bailiff has the right to make such distrains ('Ita quod quilibet de villa predicta in hoc casu est ballivus'). The mayor is thus denied the right to profit from these distrains. Champneys, in the custumal, addresses the same issue (the distraint of foreign merchants) as though to suggest that the bailiff had in fact been abusing his power, and that the mayor and jurats claim in this instance to represent the best interests of the king's borough:

⁴² 'Item maior et communitas tenent aream illam a domino rege, una cum alii libertatibus suis per quoddam certum servicium ei reddendum in guerra sua, prout dictum est, et propter hoc habent ipsi omnes escaetas terrarum et tenementorum in eadem villa accidentes. Habent eciam terras et tenementa feloniorum et fugitorum ultra unum annum et unum diem, quod domino regi pertinet per ballivum suum'. Boys, *op. cit.*, 534 and 537.

'The mayor and jurats should endeavour to protect from injury all merchant strangers resorting to the town, and all honest men whether foreigners or subjects; and if the bailiff should exact from them higher duties for their goods than he ought, or in any other respects oppress them, the mayor and jurats should remonstrate against his proceedings as prejudicial to the king's borough.'⁴³

Having drawn a comparison between the contents of the enquiry document of the 1290s and the custumal written up in the winter of 1300/1301, it is necessary to give some further consideration as to whether it is possible that Adam Champneys consulted a version of that enquiry text in the making of his collection. As a document produced by a royal court the enquiry would have been enrolled amongst the records of the Chancery or the Exchequer. As has been noted, the surviving version exists amongst the 'Miscellanea' of the Exchequer, and as such may represent a copy made from the rolls of the justices who had originally taken the enquiry. It is not at all certain that the town of Sandwich had in its own archives a version of the claims which they had made in the thirteenth century enquiry, and it is possible that those claims had been made orally by the mayor in that court. The defensive tone of parts of the custumal outlined above, however, does suggest that Champneys was working in reaction to some other document, perhaps the enquiry text itself. It is here that we should look again at the violent encounter at Ash in 1300, in which the king's rolls were carried away. If the king's justices were making enquiry into the liberties of Sandwich as has been suggested, then the documents which they carried with them almost certainly included memoranda of the liberties of Sandwich which had been previously claimed and disallowed in the thirteenth century enquiries. It is probably this which explains the obvious care which the mayor and citizens of Sandwich took in forcibly taking the rolls of the justices. It may be that portions of the royal documents carried by the king's justices in 1300 actually found their way into the Sandwich custumal through the agency of Adam Champneys working on appropriated documents. In this way, not only did the inhabitants of Sandwich hinder the justices in making their enquiry, but also armed themselves with vital documents in order that they might better defend

⁴³ 'Debent eciam maior et jurati sequare et custodire mercatores extraneos ad villam venientes, pro posse suo, et eciam tam peregrinos quam omnes bonos et fideles homines. Ita quod, si ballivus domini regis accipere velit de ipsius vel eorum mercimoniis custumam nimis amplam, vel forte aliam duriciam eis facere coluerit, ibunt ad ballivum et rogabunt eum ut huiusmodi mala non faciat ad ville regis detrimentum'. Boys, *op. cit.*, 434-5.

their liberties and franchises in the future. It may be that the custumal actually contains traces of responses to a whole series of documents which had been in the possession of the justices.

The fortunate survival of evidence which allows us to connect the making of the Sandwich custumal to a specific event, or series of events, may be of great value for our wider understanding of the relationship between written codes of urban customs and the communities which produced them in medieval Kent and in England as a whole. It has long been recognised that borough custumals in some way reflect the preoccupations of the members of the towns which produced them. However, there has been little clear consideration of the circumstances of their production, which is essential if we are meaningfully to interpret the specific preoccupations of such texts, and this has severely disabled their use as sources. A large part of the problem has been the difficulty of attaching firm dates to their production, which can only usually be ascertained (if at all) through patient consideration and cross-referencing of internal and external evidence. This problem has been compounded by the longevity of the custumal form in successive texts produced over several centuries in many towns. It is often the case that the only surviving version of a town custumal is a very late copy or translation of a document which may have begun its life several centuries before, and this makes for enormous problems in interpreting material within it which is manifestly archaic. In these cases, the processes outlined in the custumal may not directly reflect actual practice at the time when a later custumal is copied up. The value of the Sandwich material is that it clearly connects the first writing of the custumal with a period of particular crisis. The evidence suggests that the late thirteenth century witnessed a series of particularly acute political crises in the relationship between the Crown and the localities and their respective jurisdictional rights. It is no coincidence that this period was one of intense pressure on available resources, the population of England having reached a peak at this time. The demands of warfare compounded this pressure by placing heavy burdens on communities (particularly in the south and east) in formal and informal exactions by the Crown. The pressure exerted by the Crown may have been particularly resented in Sandwich, partly because it was a relatively new possession of the king, and more importantly because it was a primary port for the gathering of troops, ships and provisions for foreign campaigns at this time. Coercion in the form of purveyance appears to have been a particular feature of the preparations for war in the region. Furthermore, there is persuasive evidence to suggest that the prosperity of Sandwich and its leading citizens may have been waning throughout the latter part of the thirteenth century, and

this situation can only have been exacerbated by the exactions of the Crown.⁴⁴

If town customals are to be used as evidence in the reconstruction of medieval urban experience it is essential to be aware of the specific circumstances under which they were produced. The Sandwich customal certainly does tell us a great deal about the way in which certain inhabitants thought about their town, and it does so at a time when those inhabitants were subject to a series of very specific pressures. The perceived incursion by the Royal Justices into the physical boundaries of the community of Sandwich in 1300 seems to have provoked a much more comprehensive assertion of boundaries on the part of the community than the merely geographical, suggesting that their presence was seen as only one manifestation of a deeply felt threat. Whilst Adam Champneys and his associates were preparing to defend their act of resistance in the king's courts, they produced a document which asserted a whole range of boundaries which marked out this particular community. On the one hand, there are delineations of the rights of officials: those representing the community (the mayor, jurats, common clerk, sergeants) and those representing external powers, in particular, the king's bailiff, whose rights are delineated with particular care.⁴⁵ On the other, there are also delineations of physical boundaries: most notably the rehearsal of the perambulation of the liberty made by Stephen Pencester in the 1290s, with its careful description of topographical features which marked what lay within and without the liberty. Other examples of definition of the boundaries to be observed in certain places include: the designation of the customary places for the holding of courts (the mayor's court in St. Peter's church and the hundred or bailiff's court in St. Clement's) and the special sanctuary of the house of a freeman, which may not be entered by the bailiff without the accompaniment of one of the jurats.⁴⁶ The community tolerated the presence of the king's bailiff, but the spaces in which his authority held sway were carefully marked out in the customal.

This manifold assertion of the community and its boundaries has great significance in the light of anthropological work which has considered the symbolic construction of community.⁴⁷ This has suggested that the self-conscious assertion of community, such as we find in the Sandwich customal, is a typical response to perceived

⁴⁴ A.F. Butcher, 'Sandwich in the Thirteenth century', *Arch. Cant.*, xciii (1977), 25-31.

⁴⁵ *cf.* Boys, *op. cit.* 502-508 and 534-5; 434-42; Sa/LC I ff. 1-12, 39-49 and elsewhere *passim*.

⁴⁶ *cf.* Boys, *op. cit.* 457-9, 443.

⁴⁷ *e.g.* Anthony P. Cohen, *The symbolic construction of community* (1985).

threats to the very existence of those communities. Where a group of people experiences external political pressure or rapid social change which threatens an established order, the symbolism of 'community' is often invoked by those under threat in their defence. This notion is furthermore frequently accompanied by the use of historical or quasi-historical material, and this is especially applicable to the custumal of Sandwich, which relies for its authority on the notion of 'time out of mind'. When the mayor of Sandwich and his peers set out for Ash on the 14th August, 1300, they were presenting themselves as a community to the Royal Justices, who represented the political threat to the existence of the liberty of Sandwich. They used the occasion of this official visitation to express their notion of the boundaries of their community, by preventing the justices from entering the town to do their office. This symbolic construction of the community seems to have been extended in the activities which followed upon this event and which culminated in the production of the Sandwich custumal. As Adam Champneys prepared to defend himself and his peers in the King's Bench of April 1301, he was also putting the finishing touches to a document which expressed the boundaries both within and around the community of Sandwich, for the benefit 'of those who in time to come shall govern this town.'⁴⁸

⁴⁸ From the preamble to the Sandwich custumal cited above.

APPENDIX

A late-thirteenth century enquiry into the liberties of Sandwich

Sandwyche¹

[1] *Ista subtract()² fuerunt Priori Ecclesie christi Cantuarie tempore Regis Johannis per Communitatem de Sandwyco eo quod eo tempore nullus fuit ibi maior /³ et dominus Rex deberet habere statum illum quem Knutus Rex Anglorum suo tempore habuit qui villam de Sandwyco dedit ecclesie predictae. Et nunc dominus Rex excluditur / de subscriptis nescitur quo waranto.*

[2] *Comunitas⁴ de Sandwyco propria auctoritate tempore Regis Johannis quando Prior et Conuentus ecclesie christi Cantuarie eiectione fuerunt a Prioratu illo per preceptum ipsius domini Regis / fecerunt sibi ex ipsis maiorem / et appropriauerunt / et vsurpauerunt sibi omnia subscripta / eodem tempore / et super hoc quando Conuentus reconciliatus fuerat / predicta communitas super hoc coram domino Rege per Priores eiusdem Ecclesie implacitata fuit per diuersas vices / set nunquam deueniebatur ad Iudamentum / occasionibus diuersis impediens interuenientibus etcetera. Et memorandum quod nisi omnia subscripta suo debito rectificentur / status domini Regis non erit talis qualis status Knuti Regis fuerat / quia villam de Sandwyco dedit ecclesie predictae / et talem statum dominus Rex⁵ nunc habere debet / nisi communitas ville predictae sciat ostendere uel dicere quid habeat per se / quod dominus Rex talem statum habere non debet.*

[3] *Tronagium de Sandwyco maior ville de Sandwyco habet / et exitus ad valenciam / x / librarium et amplius per annum percipit. Nescitur quo waranto.*

[4] *Maior asserit quod balliuus domini Regis non potest capere nec ponderare panem Pistorum in villa de Sandwyco sine assensu suo / nec Curias / nec Hundred⁷ tenere / et cum contigerit balliuum ponderare panem Pistorum*

¹ PRO MS E163/2/26 measures c. 14.7 cm in width. It is ruled with a margin on both sides (left c. 1.5 cm., right c. 2 cm.) though only the left-hand margin is observed. The word 'Sandwyche' appears as a heading c. 3.9 cm. from the left-hand edge of the ms and c. 1.8 cm. above the first line of the first clause. For ease of reference the clauses have been allocated numbers. All of these clauses, with the exception of the first [1], are preceded by a *paragraphus*.

² Illegible.

³ In punctuation the scribe uses variations on the *punctus*, *punctus elevatus*, comma and *paragraphus*, throughout. At the end of sentences the *punctus* [.] has been retained. All other punctuation marks have been rendered with an oblique line [/]. For discussion of medieval punctuation, see M. B. Parkes, *Pause and effect: an introduction to the history of punctuation in the West* (Scolar Press, Aldershot, 1992). Capitalisation follows the scribe's practice.

⁴ *Sic: recte* 'communitas'.

⁵ 'Rex' inserted above line with caret.

in uilla predicta / maior percipit medietatem emendarum et medietatem panis forisfacti. Nescitur quo waranto.

[5] Maior asserit quod pro emenda assise panis fracte tantummodo capi debent / xxj / denarios / nec plus nec minus cum amissione tocius furnagij pistorum illorum / quorum panis falsus inuenietur. Asserit etiam quod nullus Pistor commorans in uilla predicta Judicium Pillorii debet subire. Immo tantummodo amerciari sicut predictum est. Nescitur quo waranto.

[6] Maior capit mensuras galon' / potell' / et quarter' / Bussellorum / vlnarum / et aliarum mensurarum et inde capit emendas / non permittens quod ballivus se inde intromittat. Nescitur quo waranto.

[7] Maior ad opus communitatis appropriat escaetas tenementorum pro defectu heredum / uel de bastard / uel post feloniam commissam / et huiusmodi cum accederint. Nescitur quo waranto.

[8] Maior per se absque ballivo dat licenciam hominibus ville predicte / et excitat liberos homines ville predicte ad distringend' extraneos venientes in villa cum mercandis suis / et huiusmodi districtiones retinere facit donec discuciat inde lis inter partes super huiusmodi debito. Ita quod quilibet de villa predicta in hoc casu est ballivus.

[9] Maior et tota communitas asserunt quod nullus liber homo ville predicte in tenemento suo debet distringi per ballivos domini Regis / nisi seruiens maioris interfuerit / neque pro amerciamentis / neque pro aliquibus execucionibus faciendis / in preiudiciam et exheredacionem etcetera.

[10] Item cum contingat Hundredum uel Curia ville predicte teneri per ballivum domini Regis / licet communitas intersit et maior absens fuerit liberi homines uille predicte placitare nolunt neque respondere nisi maior personaliter intersit.

[11] Maior asserit quod nulla proclamacio fieri debet in villa predicta / neque per breuem Regis neque per aliud mandatum per ballivum domini Regis. Immo per seruientem maioris. Et si proclametur per ballivum domini Regis / illam proclamacionem pro nulla habent.

[12] Item quando Custos quinque Portuum mandat ballivis et Baronibus ville predicte breuem suum quod sint ad Curiam de Schipweye ad certum diem per tot et tales etcetera / ne pro defectu eorum Judicia remaneant / maior non permittit ballivum domini Regis quod intersit electionem huiusmodi homini qui ad Curiam predictam venire debent in preiudicium etcetera.

[13] Maior asserit quod licet duo uel tres uel quatuor inter se pro medleta alter alterum uulnerauerit / nisi querimonia de hoc fiat ballivo domini Regis per aliquem ipsorum / ballivus non habet inde cognoscere in preiudicium etcetera / cum pax domini Regis non obseruaretur si hoc permitteretur / nec

Idem maior permittit quod⁶ si transgrediatur seruianti balliui domini Regis / quod dominus Rex habeat inde sectam per ballivum suum.

[14] De assisa vini maior se intromittit / et inde capit emendas et assisam inde facit per consideracionem suam absque ballivo domini Regis.

[15] Maior asserit quod quando quis non est pres' querelam suam / petens uel querens tantummodo debet ameriari / et non pleg' sui de pres'.

[16] Maior asserit quod nullus debet ameriari pro pluribus defaultis / licet quis Centum defaultas fecerit / in Curia uel Hundredo.

[17] Item quando quis recuperauerit debitum suum uersus aliquem / ille qui recuperauerit nunquam reportabit dampna aliqua / nisi tantum debitum suum / ad grauē dampnum omnium mercatorum.

[18] Maior de assensu communitatis facit statuta sua et ea facit proclamari et teneri absque ballivo domini Regis sub certa forisfactura / et predictus maior huiusmodi forisfacturam ad opus suum percipit in preiudicium / etcetera.

[19] Maior asserit quod si quis non venerit ex recogn' assise coram ballivo domini Regis / Ita quod assisa per eorum defaultum tardatur non permittit maior quod ameriantur.

[20] Item tempore allecium videlicet inter festum sancti michaelis et festum sancti Andree si contencio sit inter ementes et vendentes huiusmodi mercandisam de alleciis maior non permittit quod ballivus domini Regis se inde intromittat / set de huiusmodi contencione eo tempore maior facit inde Iusticiam absque ballivo. Et idem maior et tota communitas asserunt quod durante tempore illo possunt pistores⁷ de Sandwyco licite facere panem adeo modici ponderatis sicut voluerint / nec licet ballivo nec maiori infra terminum illum panem pistorum ponderare nec inde iusticiam facere / quia pistores illo tempore asisam panis seruare non debent / nisi voluerint / et hoc contra iusticiam.

[21] Item maior asserit quod illi qui per infortunium siue per submersionem subito moriuntur / non debent videri ab aliquo ballivo / nec inquisicio inde fieri sicut consuetum est coram Coronatoribus ante quam sepeliatur.

[22] Item asserit quod nullum est deodandum in villa de Sandwyco.

[23] Maior clamat habere totum illud quod quis dederit ut possit tueri sub libertate ville Sandwyco / et quod possit esse⁸ liber homo eiusdem ville.

⁶ 'quod' inserted above line with caret.

⁷ 's' of 'pistores' written above the 'e'.

⁸ 'esse' inserted above line with caret.

[24] Les abbokurs de Sandwyco videlicet illi per quorum testimonium mercatoris extranei tradunt mercimonia sua diuersis in eadem villa. Ita quod illi abbokurs inde respondeant secundum legem mercatoriam / prouidentur per maiorem et communitatem eiusdem ville absque hoc quod ballivus ad hoc non intersit / et Jurati sunt / set non ballivo ad feriarum interempcionem / quia illi de villa capiunt quos sibi viderint comodiferos sibi ipsis et non extraneis in casu isto / etcetera.

[25]⁹ Item memorandum quod quidam cursus aque peruenientis de mari quod circuit insulam de Taneto iam viginti annis elapsis currere solebat per quemdam cursum qui dicitur Flet usque in villam de menstre. Ita quod nascelli et batelli applicare solebant in villa de menstre / et in menstre de de¹⁰ huiusmodi nascellis et batellis que cotidie ancorari solebant Prior solebat percipere Custumam adeo plenarie sicut et in Sandwyco ante tempus predictum / a tempore quo non exstat memoria. Et ille cursus et ingressus usque in villam de menstre qui dicitur Flet / obstruitur per Abbatem Sancti Augustini in Cantuarie et predecessores suos. Ita quod predictus Abbas per obstructionem illam / non permittit ballivos domini Regis capere Custumam in villa sua de menstre / sicut ante tempus predictum capi solebat / ad exheredacionem / etcetera.

⁹ 'Loquendum' written in the left-hand margin beside the *paraphus* of this clause.

¹⁰ *Sic.*