



**Law
Commission**
Reforming the law

Statute Law Repeals: Consultation Paper City of Dublin Repeal Proposals

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BACKGROUND NOTES ON STATUTE LAW REPEALS (SLR)

What is it?

1. Our SLR work involves repealing statutes that are no longer of practical utility. The purpose is to modernise and simplify the statute book, thereby reducing its size and thus saving the time of lawyers and others who use it. This in turn helps to avoid unnecessary costs. It also stops people being misled by obsolete laws that masquerade as live law. If an Act features still in the statute book and is referred to in text-books, people reasonably enough assume that it must mean something.

Who does it?

2. Our SLR work is carried out by the Law Commission and the Scottish Law Commission pursuant to section 3(1) of the Law Commissions Act 1965. Section 3(1) imposes a duty on both Commissions to keep the law under review “with a view to its systematic development and reform, including in particular ... the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law”.

Statute Law (Repeals) Bill

3. Implementation of the Commissions’ SLR proposals is by means of special Statute Law (Repeals) Bills. 18 such Bills have been enacted since 1965 repealing more than 2000 whole Acts and achieving partial repeals in thousands of others. Broadly speaking the remit of a Statute Law (Repeals) Bill extends to any enactment passed at Westminster. Accordingly it is capable of repealing obsolete statutory text throughout the United Kingdom (i.e. England, Wales, Scotland and Northern Ireland) as well as extending where appropriate to the Isle of Man.

Consultation

4. The Law Commission consults widely before finalising its repeal proposals. The purpose of consulting is to secure as wide a range of views on the proposals as is practicable from all categories of persons who may be affected by the proposals. So the consultation may be with central or local government, organisations, trade bodies, individuals or anyone else who appears to have an interest in a proposal.
5. So far as consulting central government is concerned, any Department or agency with an interest in the subject matter of the repeal proposal will be invited to comment. Because obsolete legislation often extends throughout the United Kingdom it may be necessary to invite comments from several different Departments. So the following will routinely be consulted-
 - ◆ The English Department or Departments with policy responsibility for the subject matter of the proposed repeal (this responsibility will extend to Scotland in appropriate cases)
 - ◆ The Welsh Assembly Government and the Wales Office (unless the proposed repeal relates only to England)
 - ◆ SLR colleagues at the Scottish Law Commission (if the proposed repeal extends to Scotland)
 - ◆ Northern Ireland officials (if the proposed repeal extends to Northern Ireland).

Selection of repeal candidates

6. Candidates for repeal are selected on the basis that they are no longer of practical utility. Usually this is because they no longer have any legal effect on technical grounds - because they are spent, unnecessary or obsolete. But sometimes they are selected because, although they strictly speaking do continue to have legal effect, the purposes for which they were enacted either no longer exist or are nowadays being met by some other means.
7. Provisions commonly repealed by Statute Law (Repeals) Acts include the following-
 - (a) references to bodies, organisations, etc. that have been dissolved or wound up or which have otherwise ceased to serve any purpose;
 - (b) references to issues that are no longer relevant as a result of changes in social or economic conditions (e.g. legislation about tithes or tin mines);
 - (c) references to Acts that have been superseded by more modern (or EU) legislation or by international Convention;
 - (d) references to statutory provisions (i.e. sections, schedules, orders, etc.) that have been repealed;
 - (e) repealing provisions e.g. "Section 33 is repealed/shall cease to have effect";
 - (f) commencement provisions once the whole of an Act is in force;
 - (g) transitional or savings provisions that are spent;
 - (h) provisions that are self-evidently spent - e.g. a one-off statutory obligation to do something becomes spent once the required act has duly been done;
 - (i) powers that have never been exercised over a period of many years or where any previous exercise is now spent.

General savings

8. Much SLR work is possible because of the general savings provisions of section 16(1) of the Interpretation Act 1978. This provides that where an Act repeals an enactment, the repeal does not (unless the contrary intention appears) -
 - “(a) revive anything not in force or existing at the time at which the repeal takes effect;
 - (b) affect the previous operation of the enactment repealed or anything duly done or suffered under that enactment;
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under that enactment;
 - (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against that enactment;

- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed”.

Gradual obsolescence

- 9. The obsolescence of statutes tends to be a gradual process. Usually there is no single identifiable event that makes a statute obsolete. The Statute Law (Repeals) Act 2004 contained several examples of legislation being overtaken by social and economic changes. A scheme to provide farming work for ex-servicemen after the First World War had long fallen into disuse. The policy of maximising cheap food production after the Second World War had been overtaken by new farming methods and the influence of the Common Agricultural Policy. Victorian powers for the Metropolitan Police to license shoeblacks and commissionaires had become as irrelevant as the offence of fraudulently impersonating a shoeblack or commissionaire. And an 1840s Act to sanction lotteries to help struggling artists sell their work had become superseded by the modern law on lotteries.
- 10. Even within individual statutes, the obsolescence tends to be gradual. Some provisions fade away more quickly than others. These include commencement and transitory provisions and ‘pump-priming’ provisions (e.g. initial funding and initial appointments to a Committee) to implement the new legislation. Next to go may be order-making powers that are no longer needed. Then the Committee established by the Act no longer meets and can be abolished. However, other provisions may be unrepealable for generations, particularly if they confer pensions rights or confer security of tenure or employment rights. Other provisions may be virtually unrepealable ever. Much of English property law relies on medieval statutes such as Quia Emptores (1290) which is regarded as one of the pillars of the law of real property. This last example usefully shows that just because a statute is ancient it is not necessarily obsolete.

Help from consultees

- 11. Sometimes it is impossible to tell whether a provision is repealable without factual information that is not readily ascertainable without ‘inside’ knowledge of a Department or other organisation. Examples of this include savings or transitional provisions which are there to preserve the status quo until an office-holder ceases to hold office or until repayment of a loan has been made. In cases like these the repeal notes drafted by the Law Commissions often invite the organisation being consulted to supply the necessary information. Any help that can be given to fill in the gaps is much appreciated.

CITY OF DUBLIN REPEAL PROPOSALS

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INTRODUCTION

City of Dublin repeal proposals

Acts (various) 1807 to 1920

1. This repeal note deals with legislation promoted in the United Kingdom parliament over much of the 19th century and part of the 20th. The legislation deals with various commercial and public functions which centred on the city of Dublin in Ireland.
2. Dublin today is the capital city of the Republic of Ireland. It is vibrant and rich in history, and has been - and continues to be - a significant centre for trade and commerce, both domestic and international.
3. Between 1801 and 1922 Ireland was undivided, and the country formed part of the United Kingdom of Great Britain and Ireland. From 1922 onwards, Ireland had (at first) semi-autonomous 'dominion' status in English law - as The Irish Free State - within the British Commonwealth of Nations.¹
4. The Act of Union of 1800 (as passed by the parliament of Great Britain)² provided that, from 1801, the two kingdoms would be united into a single kingdom on agreed terms (the principal of which was that a single representative parliament would govern the United Kingdom).³ All existing laws were to remain in force, in so far as they did not run counter to post-1800 legislation of the new parliament.⁴ From 1801 to 1922 the UK parliament was the sole legislature for Ireland.⁵

¹ From 1922 until 1931 (the date of the UK's Statute of Westminster) the parliament of the Irish Free State was not permitted - in English law - to enact legislation which was repugnant to Acts of the Imperial parliament. From 1931 until 1937 (the year when the country adopted its new Constitution) it could do so in English law, but in Irish law it was still prevented from so doing [see *The State (Ryan) v Lennon* 1935 IR 170 (Sup Ct)]. Ireland became a republic (and left the Commonwealth) in 1949. The Ireland Act 1949 (c.41) (UK) formally recognised the ceasing of Eire (as it had been known since 1937) as a dominion from 18 April 1949. This did not affect the status of Northern Ireland.

² Union with Ireland Act 1800 (39 & 40 Geo.3 c.67) ("the Union Act"), much of which is still in force in the United Kingdom because it legitimises the continued incorporation of Northern Ireland within the UK. The Irish parliament enacted the Act of Union (Ireland) Act 1800 (40 Geo.3 c.38) in similar terms. That parliament had had legislative independence from Great Britain from 1782 onwards (when "Poyning's Law" of 1495 was repealed).

³ See the Union Act, s 1 art 3.

⁴ Union Act, s 1 art 8.

⁵ The Irish Free State (Agreement) Act 1922 (c.4), the Irish Free State Constitution Act 1922 (Session 2) (c.1) and the Irish Free State (Consequential Provisions) Act 1922 (Session 2) (c.2) provided new constitutional arrangements for the Irish Free State from 6 December 1922. Northern Ireland became a separate province within the UK from 7 December 1922. Provision was made for the continuation of all existing laws in Ireland, first, by the Government of Ireland Act 1920 (c.67), s61 and, secondly, by the Irish Free State Constitution Act 1922 (Session 2) (above), s 1 and Sch, which gave effect to the Constitution of The Irish Free State (and, more particularly, art 73) as set out in the Constitution of The

5. During the period 1801 to 1922 the UK parliament passed various enactments which related to the governance of Ireland in general (and to the city of Dublin in particular), both regulatory and facilitatory. In this note we review - with a mind to recommending repeal - a raft of Acts which run from 1807 to 1920. The Acts cover the following ground:

- Dublin Steam Packet Company Acts 1833 to 1920
- Dublin Hospitals Acts 1810 to 1897
- Dublin Police and Justice Acts 1824 to 1867
- Dublin General Post Office Acts 1807 to 1826
and Record Office
- Dublin Corporation Acts 1850 to 1900
- Dublin Carriages Acts 1853 to 1855

These 40 statutes were designed to provide various powers to the city corporation, the local justices and other bodies which were responsible for delivering services to the public.

6. So far as the United Kingdom is concerned, none of these statutes now has practical utility within the UK. They all refer to matters which fall entirely within the remit of the Irish Republic, and for which the UK no longer has responsibility. Many of the statutes (as reflected in the individual repeal notes) will also be obsolete within the Irish state, although not all have been repealed within that jurisdiction.

7. The repeals proposed in these notes do not affect the status of the various Acts in the Republic of Ireland. Accordingly, the repeal proposals will not undermine the operation of any Acts that continue to serve a useful purpose within the Republic. Within the UK, however, the Acts can all safely be removed from the statute book.

15 August 2008

Irish Free State (Saorstát Éireann) Act 1922 (Ire). In Ireland the Adaptation of Enactments Act 1922 (No.2/1922) (Ire) made such adaptations as were necessary to fulfil art 73 of the Constitution: see No.2/1922, preamble.

DUBLIN

GROUP 1 – STEAM PACKET COMPANY

<i>Reference</i>	<i>Extent of repeal or revocation</i>
3 & 4 Will.4 c.cxv (1833) (City of Dublin Steam Packet Company Act)	The whole Act.
6 & 7 Will.4 c.c (1836) (Dublin Steam Packet Act)	The whole Act.
City of Dublin Steam Packet Company's Act 1860 (23 & 24 Vict. c.xcviii)	The whole Act.
City of Dublin Steam Packet Company's (Consolidation of Shares) Act 1861 (24 & 25 Vict. c.iii)	The whole Act.
City of Dublin Steam Packet Company's Act 1868 (31 & 32 Vict. c.xxx)	The whole Act.
City of Dublin Steam Packet Company's Act 1876 (39 & 40 Vict. c.xi)	The whole Act.
City of Dublin Steam Packet Company's Act 1884 (47 & 48 Vict. c.cxxx)	The whole Act.
City of Dublin Steam Packet Company's Act 1895 (58 & 59 Vict. c.cxxiii)	The whole Act.
City of Dublin Steam Packet Company's Act 1910 (10 Edw.7 & 1 Geo.5 c.vii)	The whole Act.
City of Dublin Steam Packet Company's Act 1916 (6 & 7 Geo.5 c.viii)	The whole Act.
City of Dublin Steam Packet Company's Act 1920 (10 & 11 Geo.5 c.i)	The whole Act.

Background to the legislation

1. The City of Dublin Steam Packet Company was founded by Charles Wye Williams in 1822.⁶ From 24 January 1839, the Post Office contracted the company to run the mail service from Dublin to Holyhead. This service was later extended such that the company ran both the day and night service.⁷
2. During the First World War the company suffered heavy losses, including the sinking of its ship the R.M.S. Leinster by a German submarine on 10 October 1918, resulting in a loss of over 500 lives.⁸ A further two ships were sunk during this period. The company never fully recovered from its wartime losses and, in 1924, an order for the winding-up of the City of Dublin Steam Packet Company was petitioned for and granted by the High Court at Dublin Castle.⁹

City of Dublin Steam Packet Company Acts

Purpose

3. Early in 1828 the City of Dublin Steam Packet Company had become a legal entity with several partners.¹⁰ In that year an Act was passed¹¹ which was designed to facilitate the transportation by steam vessel of various agricultural products from Dublin to Liverpool.¹² The 1828 Act was shortly superseded by the *City of Dublin Steam Packet Company Act* of 1833.¹³ The purpose of the 1833 Act was to increase the capital (and the geographic reach) of the joint stock

⁶ <http://rmsleinster.com/sinking/sinking5.htm>. A "steam packet" is a steam-powered vessel which carries mail, cargo and passengers, and plies a fixed route.

⁷ <http://rmsleinster.com/sinking/sinking5.htm>. Copies of these contracts between the Royal Mail Group plc (as it is today) and the City of Dublin Steam Packet Company are available from the Royal Mail Archive.

⁸ *The Irish Times*, November 19, 1924. For more information on the sinking of the R.M.S. Leinster, see P. Lecane, *Torpedoed! The R.M.S. Leinster Disaster* (2005) and R. Stokes, *Death in the Irish Sea: The Sinking of the R.M.S. Leinster* (1998).

⁹ *The Irish Times*, 19 November 1924.

¹⁰ The City of Dublin Steam Packet Company was formed as a trading co-partnership under deed of settlement on 1st January 1828. The deed was subsequently enrolled in the Chancery Court in Ireland: see 3 & 4 Will.4 c.cvx (1833), below.

¹¹ 9 Geo.4 c.lxvi (1828) ("the 1828 Act"), being "An Act for regulating and enabling the City of Dublin Steam Packet Company to sue and be sued, and thereby to encourage the Use of Vessels propelled by Steam in the Trade of Ireland". The 1828 Act converted the co-partnership into a joint stock company with capital.

¹² This speedier, more regular and cheaper form of conveyance was designed, in part, to improve prospects for "the employment of the labouring classes" in Ireland: see preamble to 3 & 4 Will.4 c.cvx (1833), below.

¹³ 3 & 4 Will.4 c.cvx (1833) ("the 1833 Act"), being "An Act to amend an Act passed in the Ninth Year of the Reign of His late Majesty [Geo.4], for regulating and enabling the City of Dublin Steam Packet Company to sue and be sued". The 1833 Act, s 1 repealed the whole of the 1828 Act, subject to savings for matters already transacted under it. The 1833 Act was not assigned a short title (the title used above derives from the entry in the *Chronological Table of Local Legislation 1797-1994*).

company, thereby enhancing economic development and prosperity within the Dublin, Athlone and Limerick counties.

4. The 1833 Act had a number of specific functions (in broad terms):
 - (a) to form (but not incorporate) the packet company, and to endow it with various powers relating to steam navigation and shipping operations;¹⁴
 - (b) to authorise the raising of further capital by the company, by share issue, for the purpose of navigating the river Shannon;¹⁵
 - (c) to regulate the conduct of the company's affairs¹⁶, its general meetings,¹⁷ and the conduct of its directors;¹⁸
 - (d) to authorise the acquisition, and disposal, of land in Ireland;¹⁹ and
 - (e) to undertake various miscellaneous matters.²⁰

The 1833 Act was specifically time-limited on its face; it ceased to be in force in 1932 (although it was not later repealed).²¹

5. By 1836 the packet company had needed to place urgent orders for six additional steam vessels to ply the (now improved) river Shannon, using subscribed capital to fund the expansion operation. However, the share subscription required retrospective authorisation. The *Dublin Steam Packet Act* of 1836²² provided that authorisation, and subsumed within it the provisions of the 1833 Act.²³

¹⁴ The 1833 Act, ss 2, 3 and 61. The company was deemed to be based in Ireland, with its principal office in Dublin: *ibid.*, ss 19, 32. The company was empowered to register vessels which it owned: *ibid.*, s 44.

¹⁵ The 1833 Act, ss 4-10. The company had previously been authorised to raise capital to a ceiling of £225,200. It was now raised to £300,000. The transfer and handling of shares (including the making of calls on shares) was governed by the 1833 Act, ss 24-30. Statutory notices had to be advertised in the *Dublin Gazette*, and in newspapers published in Dublin and in Liverpool. By the 1833 Act, s 39, dividends on paid-up shares could be made from half-yearly profits.

¹⁶ The 1833 Act, ss 11-23. A contingency fund was established from the company's profits.

¹⁷ The 1833 Act, ss 32-38. Meetings were to be held within the city of Dublin.

¹⁸ The 1833 Act, ss 40-43.

¹⁹ The 1833 Act, ss 31, 45 to 47. Land was to be purchased only to facilitate navigation, wharfage and warehousing activities (to a maximum holding of "ten acres in any one barony"): the 1833 Act, s 31.

²⁰ The 1833 Act, ss 48 to 60. These matters included the conduct of litigation and the enforcement of judgments within the United Kingdom.

²¹ The 1833 Act, s 63. The Act was to continue in force for 99 years from its passing in July 1833, "and for no longer or further term or space": the 1833 Act, s 63.

²² 6 & 7 Will.4 c.c (1836) ("the 1836 Act"), being "An Act to authorise the City of Dublin Steam Packet Company to apply a Portion of certain Monies already subscribed in fulfilment of their Contracts for building Six additional Steam Vessels, and to legalize such Subscription". The 1836 Act did not carry a short title (that used above derives from the *Chronological Table of Local Legislation*).

²³ The 1836 Act, ss 1-3. The company's combined capital was now £450,000. The 1836 Act also laid down various ancillary requirements relating to director-holdings, shareholding enrolment in the High Court of Chancery in Ireland, enforcement of judgments and limitation of actions: the 1836 Act, ss 4-9,

6. The *City of Dublin Steam Packet Company's Act 1860*²⁴ retrospectively incorporated the packet company from July 1833.²⁵ By 1860 the company had contracted with two railway companies in England and Wales to provide a further four steam vessels to carry mail and passengers across the Irish Sea, but this required the raising of further capital moneys.²⁶ The 1860 Act empowered the company to raise additional capital by share issue so that it could repay loans to one of the railway companies, and repay capital raised by a ship-building company,²⁷ and provided savings for the rights of both the packet company (in respect of acts undertaken, and contracts made, under previous legislation) and the two railway companies.²⁸

7. The *City of Dublin Steam Packet Company's (Consolidation of Shares) Act 1861*²⁹ was promoted to allow the consolidation of all (or part of) the company's paid-up shares into "one general capital stock".³⁰

8. By November 1867 the packet company had, in accordance with the requirements of the 1860 Act, accrued a full contingency fund for replacement vessels, but had not had cause to draw upon it. The *City of Dublin Steam Packet*

and precluded the packet company from becoming "general merchants" or land-based passenger carriers: the 1836 Act, s 10.

²⁴ 23 & 24 Vict. c.xcviii (1860) ("the 1860 Act"), being "An Act for incorporating 'The City of Dublin Steam Packet Company,' and for authorizing them to raise additional Capital; and for other Purposes".

²⁵ The 1860 Act, s 2. The incorporation date of 24th July 1833 was the date on which the 1833 Act (above) had received royal assent. The company was deemed to be based in Ireland: the 1860 Act, s 12. All shareholders in the reconfigured company were deemed to have acquired limited liability under the 1833 Act, s 19 provisions: the 1860 Act, s 12.

²⁶ The 1860 Act, preamble. The new steam vessels were designed to provide a service with "a very high rate of speed" of transmission. The arrangement was facilitated by the Improved Postal and Passenger Communication between England and Ireland Act 1855 (18 & 19 Vict. c.clxxii) (unrepealed). This 1855 Act had already provided power to the packet company and two railway companies (the London and North-western, and the Chester and Holyhead) to build and use additional steam boats for conveying the mails, although the power to "purchase, hire, use, and own" vessels (which was slightly narrower) was time-limited to 31st December 1871: the 1855 Act, ss 2, 9. The packet company and the LNWR had entered into a contract with HM Postmaster General in January 1859 to carry the England-Ireland (via Wales) mails.

²⁷ The 1860 Act, ss 5-7. The companies were the LNWR and the Dublin and Liverpool Steam Ship Building Company (both pursuant to the 1855 Act). The Ship Building Company had been formed as a joint stock company in 1840 with the purpose of building vessels for the use of the packet company.

²⁸ The 1860 Act, ss 3, 4 and 13. The 1860 Act also made provision (in sections 8-11) relating to various accounting matters, including the creation of a contingency fund of up to £75,000 to finance replacement ships (section 10).

²⁹ 24 & 25 Vict. c.iii (1861) ("the 1861 Act"), being "An Act to consolidate the Capital Stock or Shares of 'The City of Dublin Steam Packet Company,' and for other Purposes".

³⁰ The 1861 Act, preamble and s 2. After consolidation, transfers of stock were only to be in multiples of £50. Existing statutory rights were preserved for stockholders: the 1861 Act, ss 3, 4.

*Company's Act 1868*³¹ authorised the packet company to reinvest the fund in redeemable shares of the ship building company.³²

9. By 1875 the packet company needed to widen its investment base. The *City of Dublin Steam Packet Company's Act 1876*³³ empowered the company to invest the contingency fund in debenture stock of any UK railway company.³⁴

10. In 1883, notwithstanding the expiry of the 1855 Postal Communication Act powers in 1871,³⁵ the steam packet company had entered into a further contract with the Postmaster-General to carry the mails by sea.³⁶ The *City of Dublin Steam Packet Company's Act 1884*³⁷ was passed to extend the provisions of the Railway and Canal Traffic Acts³⁸ to the steam vessels of the packet company (and to the passengers and parcels it carried).³⁹

11. By 1895 the 1883 mails contract was about to expire. The packet company was in the course of renewing it for a further term (which necessitated the provision of new vessels "of great speed and capacity").⁴⁰ The *City of Dublin Steam Packet Company's Act 1895*⁴¹ continued the application of the Traffic Acts⁴² to the

³¹ 31 & 32 Vict. c.xxx (1868) ("the 1868 Act"), being "An Act to authorize 'the City of Dublin Steam Packet Company' to make further Arrangements for the Investment of their Contingency Fund; and for other Purposes".

³² The 1868 Act, preamble and s 2. The packet company was given limited power to sell the shares purely to facilitate performance of the mails contract, but the contingency fund was then to be replenished by stages: the 1868 Act, s 3. The company could also reduce the number of its directors to a predetermined lower figure: the 1868 Act, s 4.

³³ 39 & 40 Vict. c.xi (1876) ("the 1876 Act") being "An Act to authorise the City of Dublin Steam Packet Company to make further Arrangements for the Investment of their Reserve Fund, and for other purposes".

³⁴ The 1876 Act, preamble and s 2. It was a pre-condition of investment that the selected railway company had paid dividends on its ordinary share capital over the preceding 3 years.

³⁵ 18 & 19 Vict. c. clxxii (1855) (Improved Postal and Passenger Service between England and Ireland Act), s 9.

³⁶ Preamble to 47 & 48 Vict. c.cxxx (1884) below. The contract was to run for 12 years from October 1883 until 1895.

³⁷ 47 & 48 Vict. c.cxxx (1884) ("the 1884 Act"), being "An Act for making the Railway and Canal Traffic Acts applicable to the City of Dublin Steam Packet Company in relation to their Holyhead and Kingstown Mail Contract Service; and for other purposes".

³⁸ The Railway and Canal Traffic Act 1854, s 2 as amended by the Regulation of Railways Act 1873, s 11 (referred to in the 1884 Act, s 2 as "the Traffic Acts"). The 1854 Act has now been repealed (by the Transport Act 1962 (10 & 11 Eliz 2 c. 46), s. 95 (1), sch 12 pt I), as has section 11 of the 1873 Act (by the Railway and Canal Traffic Act 1888 (51 & 52 Vict. c. 25), s. 59 sch). In 1884 the extent of the Acts was in doubt.

³⁹ The 1884 Act, preamble and s 3. The packet company was deemed by the 1884 Act to be a railway or canal company. It was also authorised to set a tariff of charges for passenger and luggage carriage (and railway companies were to be indemnified for loss or damage suffered by customers on through-bookings): the 1884 Act, ss 3-5.

⁴⁰ Preamble to 58 & 59 Vict. c.cxxiii (1895) below. The further term was for 20 years from 1895. In fact the contract had been renewed before the passing of the 1895 Act: see preamble to the 1916 Act (discussed below).

⁴¹ 58 & 59 Vict. c.cxxiii (1895) ("the 1895 Act"), being "An Act for making the Railway and Canal Traffic Acts applicable to the Steamers of the City of Dublin Steam Packet Company between Holyhead and

extended mails contract,⁴³ extended the packet company's borrowing power,⁴⁴ and provided for the creation of a sinking fund.⁴⁵ The 1895 Act was later amended by the 1916 Act (see below).

12. In February 1909 the packet company and the ship-building company (who had been in dispute over non-payment relating to chartering) settled litigation by a compromise agreement. The *City of Dublin Steam Packet Company's Act 1910*⁴⁶ was passed in order that the various terms could be honoured. In particular, the agreement and the Act provided for the dissolution of the ship-building company and the allotment of packet company preference stock to the former ship-building company shareholders.⁴⁷ The 1910 Act also specifically adopted and applied the 1833 Act provisions relating to shareholder liability and to company meetings,⁴⁸ and provided savings (notwithstanding contrary provisions subsisting in the 1833 Act) for arrangements relating to transfer of stock, member voting and director qualification.⁴⁹

13. In accordance with the 1895 Act, the packet company had borrowed additional moneys secured by mortgage on the company's undertaking and assets.⁵⁰ However, because of the First World War, the company's invested sinking fund (set up under the 1895 Act) had greatly depreciated in value. That meant that the company needed both an extension of time for repayment of the mortgage debt and further borrowing powers. The *City of Dublin Steam Packet Company's Act 1916*⁵¹ sought to remedy the situation by extending the repayment period,⁵² by

Kingstown during any Mail Contract to authorise that Company to borrow money and for other purposes".

⁴² Which expression now included the Railway and Canal Traffic Act 1888 (and any later amending legislation). This Act is still in force today.

⁴³ The 1895 Act, preamble and s 3. Sections 4 and 5 also continued the earlier provisions relating to the carriage charging rates and to railway company indemnification.

⁴⁴ The 1895 Act, preamble and ss 7-9. The borrowing (on mortgage) was to be repaid within 20 years to tie-in with the life of the mails contract. The cut-off date was March 1917.

⁴⁵ The 1895 Act, ss 10, 11. The sinking fund was designed to accumulate sufficient moneys to pay off the principal sum borrowed on mortgage.

⁴⁶ 10 Edw.7 & 1 Geo.5 c.vii (1910) ("the 1910 Act"), being "An Act to dissolve the Dublin and Liverpool Steamship Building Company and to enable the City of Dublin Steam Packet Company to issue preference stock and for other purposes".

⁴⁷ The 1910 Act, preamble and ss 3, 7-11, 14-16. Notice of the winding-up was to be given in the *Dublin Gazette*, and in November 1910 all ship-building company property and assets were to pass to the packet company: the 1910 Act, s 6. Additionally, provision was made for reduction in the capital of the packet company: the 1910 Act, preamble and s 19.

⁴⁸ The 1910 Act, ss 11,12.

⁴⁹ The 1910 Act, ss 20, 21. The transfer of stock provision also overrode the 1861 Act, s 3 (see above).

⁵⁰ See preamble to the *City of Dublin Steam Packet Company's Act 1916* (6 & 7 Geo. 5 c.viii), below. The mortgage indenture had been executed in December 1895, and the principal sum borrowed was to be repaid by June 1916.

⁵¹ 6 & 7 Geo. 5 c.viii (1916) ("the 1916 Act"), being "An Act to extend the time limited for the repayment of money borrowed under the authority of the City of Dublin Steam Packet Company's Act 1895 and to

capping the annual contribution to the sinking fund,⁵³ and by increasing the company's powers to borrow on mortgage (subject, during the war years, to prior Treasury consent).⁵⁴ The 1916 Act specifically applied to borrowed moneys certain provisions of the 1895 Act.⁵⁵

14. Finally, by 1920, the packet company had sold - at a profit - all its steamers employed on the Dublin-Liverpool service (and its associated land and plant). The company's assets now exceeded the company's authorised nominal capital. The *City of Dublin Steam Packet Company's Act 1920*⁵⁶ did two things. First, it sanctioned the almost doubling in nominal value of the company's ordinary stock (subject to a shareholders' resolution).⁵⁷ Secondly, it repealed part of the 1910 Act, and - rather unusually - reinstated sections in the 1833 and 1861 Acts which previously had been "varied or repealed" by the 1910 Act.⁵⁸

Status of the 1833 to 1920 Acts

15. The series of eleven Acts discussed in this note was designed to put the City of Dublin Steam Packet Company on a formal footing, and to ensure that it was properly resourced so that it could operate an effective sea carriage service, principally for the mails.
16. As indicated earlier, a number of the Acts were interlinked and, by 1920, they represented a governing body of statute law and were to be cited collectively. Although various minor repeals had been made down the years, in the main the body of law remained intact.⁵⁹

make other provisions in relation thereto to enable the City of Dublin Steam Packet Company to borrow further moneys and for other purposes".

⁵² By five years, until June 1921: the 1916 Act, s 3.

⁵³ The 1916 Act, s 4.

⁵⁴ The 1916 Act, ss 5, 9. Repayment was to be within 20 years of the loan date. Various ancillary provisions were included to protect existing mortgagees: the 1916 Act, ss 7, 8.

⁵⁵ The 1916 Act, s 6, applying the 1895 Act, ss 8-11.

⁵⁶ 10 & 11 Geo.5 c.i (1920) ("the 1920 Act"), being "An Act to enable the City of Dublin Steam Packet Company to increase the nominal amount of the ordinary stock of the Company". The short title to the Act was assigned by section 1, and the Acts collectively could be cited as the 1833 to 1920 Acts.

⁵⁷ The 1920 Act, s 3. The total nominal value of ordinary stock was to increase from £295,975 (as reduced by the 1910 Act, s 19) to £585,950.

⁵⁸ The 1920 Act, s 4. The sections in the 1910 Act which were now repealed (sections 20 and 21) were those relating to transfer of stock, voting and existing directors. The repeals were contingent upon the section 3 resolution being passed. At the same time, the 1833 Act, ss 37, 40 and the 1861 Act, s 3 - which had previously been "varied or repealed" by the 1910 Act - were specifically reinstated by the 1920 Act (although without prejudice to any steps already taken).

⁵⁹ The original Dublin Steam Packet Company Act of 1828 (9 Geo.4 c.lxvi) had been repealed in 1833.

17. Today, the eleven Acts (1833 to 1920) have no effect beyond the Republic of Ireland, and that fact - linked with the demise of the packet company in 1924 (following expiry of the mails contract and sale of the fleet), and the consequential expiry of the Acts' purpose in the United Kingdom - means that they may now be repealed in whole.

Extent

18. The 1833 to 1920 Acts impliedly extended across the United Kingdom, which then included that part of Ireland which lies today within the separate Republic of Ireland.

Consultation

19. HM Treasury, the Foreign and Commonwealth Office, the Department for Transport, the Department for Business, Enterprise and Regulatory Reform, the Office of the Attorney General for the Republic of Ireland, the Department of Trade, Enterprise and Employment for the Republic of Ireland, and the relevant authorities in Scotland, Wales and Northern Ireland have been consulted about the repeal proposals set out in this note.

32-195-155
LAW/005/017/06
15 August 2008

GROUP 2 – HOSPITALS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
50 Geo.3 c.cxcii (1810) (Dublin Foundling Hospital Act)	The whole Act.
54 Geo.3 c.128 (1814) (Dublin Foundling Hospital Act)	The whole Act.
55 Geo.3 c.lxxxii (1815) (Meath Hospital and County of Dublin Infirmary Act)	The whole Act.
59 Geo.3 c.lxi (1819) (Meath Hospital and County of Dublin Infirmary Act)	The whole Act.
1 Geo.4 c.29 (1820) (Dublin Foundling Hospital Act)	The whole Act.
1 Geo.4 c.49 (1820) (Dublin House of Industry Act)	The whole Act.
3 Geo.4 c.35 (1822) (Dublin Foundling Hospital Act)	The whole Act.
Dublin Hospitals Regulation Act 1856 (19 & 20 Vict. c.110)	The whole Act.
Dublin Eye and Ear Hospital Act 1897 (60 & 61 Vict. c.cvi)	The whole Act.

Background to the legislation

1. The Dublin Foundling Hospital began life as a workhouse in 1703.⁶⁰ In 1727, part of the workhouse was reserved for the foundling hospital. Admissions for the hospital averaged 200 infants per month.⁶¹ The mortality rate remained high throughout the hospital's existence. During the period 1775-96, it reached 99.6%, although this had been reduced to 25% by 1815.⁶²

⁶⁰ The foundation stone was laid by Mary, Duchess of Ormonde, <http://www.stjames.ie/AbouttheHospital/History/>.

⁶¹ I Jeffries, MB, "The National Children's Hospital of Dublin, Ireland" (1999) *International Pediatrics*, Volume 14, No 1, p 54.

⁶² I Jeffries, MB, "The National Children's Hospital of Dublin, Ireland" (1999) *International Paediatrics*, Volume 14, No 1, p 54.

2. The foundling hospital was closed in 1829, becoming South Dublin Union Workhouse and later St. James's Hospital (which hospital operates on the site today).⁶³

Dublin Foundling Hospital Acts

Purpose

3. From 1771 to 1800 a series of pre-Union Acts of the Irish parliament made provision for the regulation and financial support of a foundling hospital and workhouse in the city of Dublin. The various Acts appeared to have a limited life-span.⁶⁴
4. In 1801 a post-Union Act relating to the *Foundling Hospital, Dublin*⁶⁵ was passed by the United Kingdom parliament. That 1801 Act permitted the sovereign to defray the cost of maintaining the workhouse and hospital for the calendar year only, and continued in force an Irish Act of 1798.
5. By 1810, the earlier Irish Acts were about to expire, and the 1801 Act had become unnecessary. The *Dublin Foundling Hospital Act* of 1810⁶⁶ continued in force the Irish Acts of 1771 to 1800, and repealed the 1801 Act.⁶⁷ It also made provision for (put broadly):
 - (a) the incorporation of the hospital's governing body, and the appointment of governors;⁶⁸

⁶³ <http://www.stjames.ie/AbouttheHospital/History/>.

⁶⁴ It is known that the first of these Irish Acts, 11 & 12 Geo.3 c.11 (1771-72) relating to the *Foundling Hospital and Workhouse, Dublin*, was later repealed by the Statute Law Revision (Pre-Union Irish Statutes) Act 1962 (No 29 of 1962), s 1 and Sch (Ire). The last Irish Act, passed in 1800 (40 Geo.3, chapter number unknown), was designed to keep alive a previous Irish Act of 1798 (38 Geo.3 c.35) until 1811. By 1810 it had become necessary to seek the UK parliament's authority for continuation of the earlier Irish legislation.

⁶⁵ 41 Geo.3 c.50 (1801) ("the 1801 Act"), now repealed (see below).

⁶⁶ 50 Geo.3 c.cxcii (1810) ("the 1810 Act"), being "An Act for the better Management of the Foundling Hospital in Dublin, and for amending and further continuing an Act passed in the Parliament of Ireland, in the Fortieth Year of His present Majesty [1800], for the better Management, Support, and Maintenance of the Foundling Hospital in Dublin; and for amending and further continuing an Act, passed in the Thirty-eighth Year of His Majesty [1798], for the better Management of the Workhouse and Foundling Hospital in Dublin".

⁶⁷ The 1810 Act, ss 1, 2. The Acts continued in force also included all other Irish Acts "which solely or in any manner relate to the said Foundling Hospital and Workhouse": the 1810 Act, s 1. The period of continuation of all these Acts was for some eleven years until January 1821, "and from thence until the end of the then next session of Parliament": the 1810 Act, s 23.

⁶⁸ The 1810 Act, ss 3, 4. The Act also provided for the replacement of governors when vacancies occurred.

- (b) the continuation in office, and the replacement, of the corporation's employees;⁶⁹ and the holding to account of employees for their handling of funds and their care of children;⁷⁰
 - (c) changing the rating and taxation year for the hospital to accord with audit practice;⁷¹ and
 - (d) the valuation of properties, the making of rating assessments, and the collection (and enforcement) of rates.⁷²
6. By 1814 the foundling hospital was being overwhelmed with young children presenting at its door for admission, notwithstanding the reduction in the upper age limit to one year back in 1776.⁷³ Concern turned on two issues. First, it appeared that some children came from parents whose means were "sufficient to enable them to maintain them"; and, secondly, there had been a considerable rise in the mortality rate for children sent to the hospital. The *Dublin Foundling Hospital Act* of 1814⁷⁴ addressed these issues by empowering the hospital governors to suspend admissions generally for up to six months, and to refuse admission to an individual child without there first being produced certification of the absence of the child's parents or of the inability of the parents to provide for the child's upkeep.⁷⁵
7. The powers in the 1814 Act needed, by 1820, to be extended. The *Dublin Foundling Hospital Act* of 1820⁷⁶ provided greater flexibility in the making of

⁶⁹ The 1810 Act, ss 6, 7. The employees included nurses to serve in the hospital, and masters and mistresses to provide tuition to children residing there. The governors were authorised specifically (with the prior sanction of the lord lieutenant or the chief governor of Ireland) to provide life annuities to those "meritorious" employees who had to be retired from service through age, accident or infirmity.

⁷⁰ The 1810 Act, ss 8 to 10. The examination of employees was to be conducted on oath, which for convenience could be administered by a hospital governor rather than a magistrate. The care of children included their transportation from "distant parts to the capital", *ie.* to Dublin: the 1810 Act, s 9.

⁷¹ The 1810 Act, ss 11 to 16. The earlier Acts provided power to levy rates in order to produce revenue to support the hospital. The levy included a liquor duty imposed on licensed premises.

⁷² The 1810 Act, ss 17 to 20. All properties within a two-mile radius of Dublin castle were to be assessed. This included the parishes within the city of Dublin, and the liberties of St. Sepulchre, Thomas Court, Donore, Christ Church and St. Patrick's.

⁷³ The upper age limit (and complete bar on admission) had been reduced from six years to one year by 15 & 16 Geo.3 c.25 (1775-76) (Ire): see preamble to 54 Geo.3 c.128 (1814) below.

⁷⁴ 54 Geo.3 c.128 (1814) ("the 1814 Act"), being "An Act to amend the several Acts for regulating the Foundling Hospital in Dublin".

⁷⁵ The 1814 Act, preamble and s 1. The obligation to provide the certificate (after making "diligent inquiry") rested with the minister and churchwardens of the parish from which the child was to be sent: the 1814 Act, s 1. Forgery of a certificate was made an imprisonable offence: the 1814 Act, s 3. Where general admission was to be suspended, the governors were required to give public notice of the coming into effect of the order. Advertisements and handbills were to be displayed conspicuously around the hospital, and circulated to parish clergy and churchwardens and to county magistrates across Ireland: the 1814 Act, s 2.

⁷⁶ 1 Geo.4 c.29 (1820) ("the 1820 Foundling Act"), being "An Act to enlarge the Powers of the Governors of the Foundling Hospital in Dublin".

suspension of admission orders, and in the refusing of individual admission, subject to the safeguard that such orders were to be approved - before becoming operational - by the lord lieutenant or other chief governors of Ireland.⁷⁷

8. The 1810 Act had extended the life of various Foundling Hospital Acts until 1822. That period was further extended by the *Foundling Hospital, Dublin Act* of 1821 (until 1824).⁷⁸ By 1822 it had become clear that the extension needed to be made indefinite, and that other adjustments were required. The *Dublin Foundling Hospital Act* of 1822⁷⁹ continued the earlier Acts on a “perpetual” basis,⁸⁰ and made the following provision (in broad terms):

- (a) that no child should be admitted to the hospital unless payment were first made (in the sum of Ir£5) by the relevant parish overseers;⁸¹
- (b) that before admission a certificate be produced from the minister and churchwardens of the parish concerned stating that the child “has been exposed or deserted, and [is] in danger of perishing”, that the child is under 12 months of age, and that the parents cannot be traced;⁸²
- (c) that certain previous Irish Acts relating to the relief of poor infants within parishes be extended to the city of Dublin,⁸³ and that from January 1823 taxes in support of the hospital cease to be levied on houses within the city and its suburbs;⁸⁴ and
- (d) that no child was to be discharged from the hospital to any person claiming to be related to the child without an order of the governors.⁸⁵

⁷⁷ The 1820 Foundling Act, ss 1, 2. The refusal of admission could apply to an individual infant or to a class of infants, and admissions could be made subject to condition (in each instance, where the governors thought proper).

⁷⁸ See 1 & 2 Geo.4 c.117 (1821), repealed in 1873. The extension was to January 1823 and thereafter until close of the next parliamentary session.

⁷⁹ 3 Geo.4 c.35 (1822) (“the 1822 Act”), being “An Act to make perpetual, and to amend, several Acts made in the Thirty eighth, Fortieth and Fiftieth Years of the Reign of His late Majesty King George the Third, for the Management, Support, Regulation and Maintenance of the Foundling Hospital in Dublin; and to make further Provision for the Regulation and Maintenance of the said Hospital”.

⁸⁰ The 1822 Act, preamble and s 1.

⁸¹ The 1822 Act, s 2. By 1822 the number of children requiring support significantly outweighed the resources available to the hospital, and the hospital was concerned both to focus its assistance on “orphans and deserted children whose parents are unknown” and to secure additional income. The charge of £5 was designed to draw on moneys already raised by parishes in Ireland where children had been “deserted and exposed”. The alternative would have been to increase the rate of tax on the city of Dublin, and that did not seem equitable. Instead, the parishes within Dublin were to be treated in the same manner as those outside: the 1822 Act, preamble and s 2.

⁸² The 1822 Act, s 3. It was specifically provided that no child was to be admitted to the hospital if he or she were older than 12 months: the 1822 Act, s 8. Forgery of any such certificate was made an imprisonable offence: the 1822 Act, s 7.

⁸³ The 1822 Act, s 4.

⁸⁴ The 1822 Act, s 5.

⁸⁵ The 1822 Act, s 6. The governors were also empowered to require payment on discharge of up to Ir£5.

Meath Hospital (or County of Dublin Infirmary) Acts

Purpose

9. The creation of a public infirmary in Meath (to serve the county of Dublin) was first authorised by an Irish Act in 1773.⁸⁶ This institution started life in 1753 as the Meath Hospital, established for the benefit of the poor in the Liberties (a once deprived area in the centre of Dublin).⁸⁷ The hospital governors, various donors and dignitaries were formed into a body corporate responsible for management of the institution in 1775.⁸⁸ In 1805 the *County Infirmarys (Ireland) Act*⁸⁹ authorised each grand jury for a county to raise a county rate which would be used for maintenance of its county infirmary.

10. By 1815 the Meath hospital was not fit for purpose. It lacked adequate accommodation for conducting surgical and medical procedures, and was in need of expansion, which could only be remedied by rebuilding the facility on another site.⁹⁰ The rebuilding and raising of funds were governed by the *Meath Hospital and County of Dublin Infirmary Act* of 1815.⁹¹ That legislation authorised both the rebuilding project (and the raising of moneys for it) and the reconfiguration of the hospital management arrangements. Put broadly the 1815 Act provided:
 - (a) that the governing body of the hospital was to be “a body politic and corporate in law” with perpetual succession, made up of governors who each subscribed moneys to the hospital;⁹²
 - (b) that the governors’ meetings should be placed on a formal footing, with powers (acting through a standing committee) to manage the hospital’s

⁸⁶ 13 & 14 Geo.3, chapter number unknown (1773-74) (Ire), cited in the preamble to 55 Geo.3 c.lxxxi (1815) (discussed below). It appears that The Meath Hospital and County of Dublin Infirmary was so-named in 1771: see <http://www.coombe.ie/annrp02/appendix1.html>

⁸⁷ See http://www.meathfoundation.com/about_us.html

⁸⁸ 15 & 16 Geo.3 c.31 (1775-76) (Ire), referred to in 55 Geo.3 c.lxxxi (1815), s 1.

⁸⁹ 45 Geo.3 c.111 (1805), repealed in full by 1948.

⁹⁰ Preamble to 55 Geo.3 c.lxxxi (1815) (discussed below). The new hospital building would need to cater for the population of the county of Dublin and, in particular, of the Earl of Meath’s liberty, where residents who worked in the factories were poorly paid and “whose occupations render them liable to various diseases, and frequently expose them to accidents, requiring prompt and skilful surgical assistance”.

⁹¹ 55 Geo.3 c.lxxxi (1815) (“the 1815 Act”), being “An Act to amend several Acts for the Management and Direction of the Meath Hospital, or County of Dublin Infirmary, and for the better regulating the same”. Parts of previous Acts of 1765, 1773, 1775 (Irish) and 1805 (UK) which related to the “management and direction” of the hospital (including election of the management committee, and appointment of physicians and surgeons) were repealed by the 1815 Act: the 1815 Act, s 1.

⁹² The 1815 Act, s 2. Lifetime governors who held their position by virtue of their office were to include the Archbishop of Armagh, the Lord Chancellor, the diocesan bishop and the parish rector: the 1815 Act, s 3. The incorporated body was to be entitled, under its common seal, to acquire lands with an annual value of up to £1,000, and to accept gifts “to any amount in personal property”, to be held in trust for “the sole use and benefit” of the hospital: the 1815 Act, s 2.

funding, to appoint and dismiss staff, to make byelaws, and to acquire land or houses to a fixed value;⁹³

- (c) that the physicians and surgeons at the hospital were to continue in post in an honorary capacity;⁹⁴
- (d) that patients were not to be admitted to the hospital unless specifically recommended by a governor, excepting instances of sudden accident;⁹⁵ and
- (e) that the County of Dublin grand jury should raise an additional annual sum not exceeding £500 for the hospital's maintenance by assessing and levying a rate on all houses within that part of "the district of the metropolis" which benefited from its services.⁹⁶

11. Four years after enactment of the 1815 Act, doubt had arisen as to the extent of the power conferred by previous legislation (which the 1815 Act purported to supplement) on the "term grand jury" for Dublin county to raise moneys by rate.⁹⁷ The governing body had already expended £4,000 on new buildings, but had inadequate funds to complete the project.⁹⁸ To this end, the *Meath Hospital and County of Dublin Infirmary Act* of 1819⁹⁹ authorised the following:

- (a) the repeal of the provisions in the 1815 Act which placed a £500 limit on the grand jury's raising of an annual rate, and the substitution of a power to raise sums by instalments which would produce up to £5,000,

⁹³ The 1815 Act, ss 4-6, 18. The standing committee was not permitted, however, to dispose of any landholding without the consent of the governing body in general meeting. General meetings were to be held only after public notice in two Dublin newspapers. Provision was made by the 1815 Act, ss 21-26 for the governing body to purchase land (up to 2 acres) from any person or body for the purposes of the hospital, and to pay over the purchase moneys irrespective of any legal disability on the part of the vendor (with Chancery Court sanction if necessary).

⁹⁴ The 1815 Act, s 7. The clinicians were "to continue to attend and serve . . . without fee, salary, or reward", and vacancies were only to be filled by peer election drawn from members of the King's and Queen's College of Physicians or the Royal College of Surgeons in Ireland.

⁹⁵ The 1815 Act, ss 19, 20. The privilege to nominate was extended to specific subscribers (as opposed to governors) until the following January. In the event of over-nomination generally, the attending physician was to prioritise patient admissions.

⁹⁶ The 1815 Act, ss 8, 9. The property valuation was to be that used for "maintenance of the watch establishment": the 1815 Act, s 9. Sections 10 to 17 provided the mechanisms for assessment and collection of the rate, and provided that the levying of the rate should not adversely affect continuation of a grant of £100 p.a. from HM Treasury towards maintenance of the hospital.

⁹⁷ See preamble to 59 Geo.3 c.lxi (1819). It appeared that the earlier legislation (an Irish statute of 1796) was confined to grand juries at assizes in other counties of Ireland.

⁹⁸ Over and above this sum the governing body still owed almost £1,450 to various tradesmen, and had spent over £1,820 on the site purchase.

⁹⁹ 59 Geo.3 c.lxi (1819) ("the 1819 Act"), being "An Act for raising further Sums of Money for building and supporting the Meath Hospital and County of Dublin Infirmary".

to be used to discharge the liability to the tradesmen and to complete the building works;¹⁰⁰

- (b) the empowering of the grand jury to authorise a further annual appropriation for the purpose of “the maintenance and support” of the hospital once constructed, subject to the £5,000 having already been raised (and expended) and the hospital’s treasurer presenting a report on income and expenditure and on patient numbers;¹⁰¹ and
- (c) the application by the governing body of the moneys so raised, together with the proceeds of sale of the old site, solely towards “the maintenance and support” of the new hospital.¹⁰²

12. In 1822 the hospital moved to its new location in Heytesbury Street in Dublin.¹⁰³ It remained there until 1998, when the institution was amalgamated with the Adelaide and National Children’s Hospital (at a site in Tallaght, county Dublin).¹⁰⁴

House of Industry Acts

Purpose

13. The House of Industry Hospitals consisted of the Whitworth, Hardwicke and Richmond hospitals.¹⁰⁵ The hospitals were opened to provide much needed care for the poor and destitute of inner city Dublin. The hospitals were all training hospitals until they closed their doors and amalgamated with the Jervis Street Hospital to become, in 1987, Beaumont Hospital.¹⁰⁶

14. The *Dublin House of Industry Act* of 1820¹⁰⁷ was a technical piece of legislation concerning the governance of the House of Industry and designed to amend an earlier Irish Act of 1800.¹⁰⁸ The 1820 Act authorised the lord lieutenant (or other chief governor) of Ireland to appoint a salaried single governor to be responsible

¹⁰⁰ The 1819 Act, ss 1, 2. As a condition precedent to paying over moneys for completion of the building, affidavits had to be lodged with the grand jury certifying the sum required for that purpose and that the sum was properly expended.

¹⁰¹ The 1819 Act, s 3.

¹⁰² The 1819 Act, s 4.

¹⁰³ See <http://www.coombe.ie/annrp02/appendix1.html> (cited above)

¹⁰⁴ See <http://www.amnch.ie/>. The acute hospital is today known as the Adelaide and Meath Hospital, Dublin.

¹⁰⁵ E. O’Brien (ed.), *The House of Industry Hospitals 1772-1987: the Richmond, Whitworth and Hardwicke (St. Laurence’s Hospital): a closing memoir* (1988).

¹⁰⁶ <http://www.beaumont.ie/about/>

¹⁰⁷ 1 Geo.4 c.49 (1820) (“the 1820 Act”), being “An Act to amend the Laws relating to the House of Industry in Dublin”.

¹⁰⁸ “An Act for the better Regulation and Management of the House of Industry, established for the Relief of the Poor in Dublin”, 40 Geo.3 c.40 (1800) (Ir).

for “the ordering, directing and managing” of the institution.¹⁰⁹ In order to provide a measure of external control and oversight, the lord lieutenant was also required to appoint up to seven visitors to carry out inspections of the institution, both to ascertain its state and to make orders and directions for its regulation.¹¹⁰

15. In 1838 the House of Industry was vested in the poor law commissioners, who then appropriated part of it to workhouse use for the North Dublin Union.¹¹¹ In 1856 the *Dublin Hospitals Regulation Act*¹¹² made provision for various aspects of the management of the hospitals attached to the House of Industry (and other hospitals in Dublin “supported wholly or in part by Parliamentary grants”).¹¹³ The principal provisions of the 1856 Act were designed:

- (a) to vest in the Commissioners of Public Works in Ireland (to be held in trust) the hospitals, and their lands, which were not required for workhouse purposes;¹¹⁴
- (b) to require the lord lieutenant to regulate the numbers and nature of staff to be employed in the various hospitals (and to make the necessary appointments);¹¹⁵
- (c) to authorise the lord lieutenant to establish a board of governors to manage the hospitals,¹¹⁶ with power to the board to make staff appointments and determine salaries;¹¹⁷

¹⁰⁹ The 1820 Act, s 1. The salaried governor was to operate in lieu of five governors who were provided for under the 1800 Irish Act. The salaried governor was to be assisted by a resident assistant governor: s 2.

¹¹⁰ The 1820 Act, s 3. The appointed visitors were to meet as a board (with a quorum of 3) for general or special meetings, and to report back to the lord lieutenant on their findings: the 1820 Act, ss 3, 4 & 6. The visitors were empowered to take disciplinary measures (suspension or fine) against the institution’s staff for “breach or neglect” of orders or of their duty generally: the 1820 Act, s 5.

¹¹¹ See 1 & 2 Vict. c.56 (1838), a poor relief measure for Ireland, recited in the preamble to 19 & 20 Vict.c.110 (1856) (below). Portions of this Act may still be operational within Northern Ireland: see entries relating to the 1838 Act in the *Chronological Table of the Statutes* (Part I 1235-1972) (2007, TSO) and the *Chronological Table of the Statutes: Northern Ireland* (1226-2001) (2002, TSO, Belfast).

¹¹² 19 & 20 Vict. c.110 (1856) (“the 1856 Act”), being “An Act for the better Regulation of the House of Industry Hospitals and other Hospitals in Dublin supported wholly or in part by Parliamentary Grants”. The short title of this Act (above) was assigned by section 1, although the *Chronological Table of the Statutes* (Part I 1235-1972) (2007, TSO) shows the title simply as *Dublin Hospitals**.

¹¹³ Preamble to the 1856 Act.

¹¹⁴ The 1856 Act, s 3. Elsewhere in the 1856 Act (in the marginal notes) the commissioners are called the Board of Public Works.

¹¹⁵ The 1856 Act, s 4. The lord lieutenant was also empowered to grant superannuation annuities to former staff who, through sickness, age or infirmity, had become unable to carry out their duties (subject to approval by the commissioners of HM Treasury): the 1856 Act, s 9.

¹¹⁶ The 1856 Act, s 5. The board was to comprise part nominees and part elected members (the latter drawn from the hospitals’ subscribers), and its size and make-up was to be determined by the lord lieutenant. By section 8 the lord lieutenant was empowered, by order, to alter the board’s constitution, and to limit or expand its powers as required.

¹¹⁷ The 1856 Act, s 6. The salaries were to be paid from “monies applicable to the expenses” of the hospitals: the 1856 Act, s 7.

- (d) to empower the Commissioners of Public Works to order necessary repairs and improvements to the House of Industry and the Westmoreland Lock hospitals “for the further or better accommodation of the patients who may be received therein”,¹¹⁸ and
- (e) to authorise the lord lieutenant to appoint a board of superintendence for all the Dublin hospitals, which body would be charged with monitoring the hospitals’ performance in terms of governance, building maintenance, care of the patients and staff conduct.¹¹⁹

Dublin Eye and Ear Hospital Act

Purpose

16. In 1814 the National Eye and Ear Infirmary Ireland was established in Dublin by surgeon Isaac Ryall.¹²⁰ Saint Mark’s Ophthalmic Hospital and Dispensary for Diseases of the Eye and Ear (also in Dublin) was established in 1844 by William (later Sir William) Robert Wilde.¹²¹ Both hospitals were established for the treatment of poor persons suffering from eye or ear disease.
17. The Dublin Eye and Ear Hospital was formed as a result of merger of the two hospitals in 1897. Each had outgrown its accommodation. The *Dublin Eye and Ear Hospital Act 1897*¹²² effected the amalgamation and led to the purchasing of a new site on Adelaide Road, Dublin in 1899.¹²³ In February 1904, patients from the two hospitals were transferred to the new site, and the reconstituted hospital came into physical existence.¹²⁴ The hospital stands on the same site today, caring annually for over 80,000 patients.¹²⁵

¹¹⁸ The 1856 Act, s 10.

¹¹⁹ The 1856 Act, ss 11-18. The board was empowered to make enquiry relating to the matters within its remit, and to report on instances of neglect or breach to the lord lieutenant. The Act set out the rubric and procedure for the board’s meetings (including the appointment of a salaried secretary to the board), and charged it with preparing general rules - for the lord lieutenant’s approval - both for itself and for the hospitals sustained by moneys “appropriated by parliament”. By section 18, the board was required to report annually to the lord lieutenant on the state of each hospital, its adequacy, and on the care of the patients generally (and the report was in due course to be laid before parliament).

¹²⁰ The hospital started life in Molesworth Street, Dublin, under a lease (held in trust) expiring in September 1901: see preamble to 60 & 61 Vict. c.cvi (1897), below.

¹²¹ Preamble to 60 & 61 Vict. c.cvi (1897) (see below). Sir William Wilde died in April 1876. St. Mark’s hospital was situate in Lincoln Place (formerly Park Street), Dublin. The hospital’s lease (also held in trust) expired in March 1896: preamble to the 1897 Act.

¹²² 60 & 61 Vict. c.cvi (1897) (“the 1897 Act”), being “An Act to make provision for the establishment management and maintenance of the Dublin Eye and Ear Hospital being the amalgamation of Saint Mark’s Ophthalmic Hospital and Dispensary and the National Eye and Ear Infirmary Ireland all in the City of Dublin and for other purposes”.

¹²³ According to the preamble to the 1897 Act, by that date some £10,000 had been raised for the purpose of erecting new hospital buildings once the amalgamation was complete.

¹²⁴ <http://www.rveeh.ie/rveeh/about/history.html>.

¹²⁵ <http://www.rveeh.ie/rveeh/about/history.html>. The hospital was later renamed the Royal Victoria Eye and Ear Hospital (the name it carries today).

18. The 1897 Act had several purposes (put broadly):

- (a) to amalgamate the two hospitals into a single institution (with corporate status) “for the reception treatment and cure of poor persons suffering from diseases of the eye and ear”;¹²⁶
- (b) to make arrangements for the governance of the institution via a council, which would act on behalf of the corporation;¹²⁷
- (c) to provide for the retention of senior and junior medical staff,¹²⁸ and to provide for the treatment of both inpatients and outpatients;¹²⁹
- (d) to provide for the transfer of property held by the two former hospitals to the new hospital corporation;¹³⁰
- (e) to empower the corporation to sell, lease or mortgage lands vested in them, and to apply the moneys raised for “the establishment improvement support and maintenance of the hospital”;¹³¹ and
- (f) to empower the council to acquire an appropriate site for the new hospital and to undertake the necessary building and construction works.¹³²

¹²⁶ The 1897 Act, s 3. The new hospital was specifically prohibited from treating “any infectious disease”. Corporate status was granted by section 8. The corporation was to comprise life and annual members (as defined in sections 5-7) and various *ex officio* members of the council.

¹²⁷ The 1897 Act, ss 4, 9. Section 4 provided for membership of the council (including serving medical members and “additional members”), and sections 13, 14 provided for the election of a president and vice-presidents of the hospital, the former to be an individual of eminence in the fields of government, learning, surgical or medical science, or charitable endeavour. By section 10, the council was given additional powers relating to the “superintendence management direction and regulation” of all hospital matters, including the making of regulations for the hospital’s “better government good order or management”, for the admission of patients, for the “maintenance and conduct of the inmates of the hospital”, and for the provision of medical treatment to out-patients. The Act specifically laid down hospital “management and direction” rules and regulations in its schedule: see the 1897 Act, s 38.

¹²⁸ The 1897 Act, ss 11, 12. Medical officers formerly employed by the two constituent hospitals were to continue in the capacity of remunerated staff within the new hospital organisation.

¹²⁹ The 1897 Act, ss 27-29. The purpose of the new hospital was to treat “poor persons” with eye or ear disease as inpatients, but the hospital was also empowered in medically recommended cases to give “extern assistance” (medical, surgical or nursing) making, in the latter instance, such charge as was proper. Sections 35 and 36 provided that, whilst building was in train, patient treatment might have to be suspended, but that when the building was complete existing patients would be transferred to it.

¹³⁰ The 1897 Act, s 18. On transfer the original trustees were released from their various liabilities, and the trusts were dissolved: sections 19-21. Transitional arrangements were made by section 22 (including the continuing in force of all regulations, contracts and the like executed prior to the transfer).

¹³¹ The 1897 Act, ss 23-26. Moneys held by the council could also be invested in authorised securities. Land transactions were first to be approved by the Commissioners of Charitable Donations and Bequests for Ireland.

¹³² The 1897 Act, ss 30, 31. In the event that the council decided to acquire one of the existing hospital sites on new terms, the building construction power was to extend to making structural or other alterations: section 32. The council was also empowered to acquire land up to 5 acres for the purposes of enlargement of the hospital premises and for “the accommodation of convalescent patients”, but they were not permitted under any of their acquisition powers to purchase ten or more houses occupied by “the labouring class as tenants or lodgers” (“labouring class” being defined fairly broadly in the Act): the 1897 Act, ss 33, 34. The land acquisition, building and equipping costs involved were to be defrayed by the council from the hospital funds and from donation and subscription receipts: the 1897 Act, s 37.

Status of the 1810 to 1897 Acts

19. The nine Acts described above dealt with four hospital institutions. The legislation provided for governing body reconfiguration, and granted to the respective hospital managers a range of powers for the effective delivery of medical services.

20. None of the Acts were the subject of amendment (with the exception of the 1815 Meath Hospital Act, which was the subject of partial repeal by the 1819 Act), and none have been repealed in whole within the United Kingdom. None of the Acts have effect today beyond the Republic of Ireland and, for that reason, they may now be repealed in whole.

Extent

21. The 1810 to 1897 Acts impliedly extended across the United Kingdom, which then included that part of Ireland which lies today within the separate Republic of Ireland.

Consultation

22. H.M Treasury, the Foreign and Commonwealth Office, the Department of Health, the relevant authorities for Scotland, Wales and Northern Ireland, the Office of the Attorney General for the Republic of Ireland, and the Department of Health and Children for the Republic of Ireland, have been consulted about these repeal proposals.

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GROUP 3 – POLICE AND JUSTICE

<i>Reference</i>	<i>Extent of repeal or revocation</i>
5 Geo.4 c.102 (1824) (Dublin Justices Act)	The whole Act.
6 & 7 Will.4 c.29 (1836) (Dublin Police Act)	The whole Act.
2 & 3 Vict. c.78 (1839) (Dublin Police Act)	The whole Act.
5 & 6 Vict. c.24 (1842) (Dublin Police Act)	The whole Act.
11 & 12 Vict. c.113 (1848) (Dublin Police Act)	The whole Act.
Four Courts (Dublin) Extension Act 1858 (21 & 22 Vict. c.84)	The whole Act.
Dublin Police Act 1859 (22 & 23 Vict. c.52)	The whole Act.
30 & 31 Vict. c.95 (1867) (Dublin Police Act)	The whole Act.

Background to the legislation on police

1. The *Dublin Police Act* of 1836 provided for a newly-constituted police force in Dublin, which was to be known as the “Dublin Metropolitan Police”.¹³³ Prior to 1836, the police force in Dublin consisted of untrained constables and night-watch-men.¹³⁴ The 1836 Act was introduced to replace the old system with a more efficient organisation.¹³⁵
2. The Dublin Police force served the city in an extremely turbulent period. In the early 1880s, over 500 policemen were injured in a period of land agitation and civil unrest known as “the Land War”, during which tenant farmers campaigned for better conditions and rights under the auspices of the Irish National Land

¹³³ 6 & 7 Will.4 c.29 (1836). As indicated below, this 1836 Act appears not to have been repealed.

¹³⁴ J Herlihy, *The Dublin Metropolitan Police* (2001), pp 11-20.

¹³⁵ 6 & 7 Will.4 c.29 (1836), s 1.

League.¹³⁶ The police force emerged from the Land War exhausted and dispirited, and this - combined with a general discontent in the ranks - led to a series of threatened strikes and protest meetings in 1882.¹³⁷

3. The Dublin Metropolitan Police's next great challenge came during the Dublin Lockout of 1913. A bitter dispute between the main trade union (the Irish Transport and General Workers' Union) and employers led to the Employers' Federation and the Coalowners' Association locking-out any employees who were members of the union leading, by the end of September 1913, to some 25,000 men falling out of work.¹³⁸ As the winter months drew closer, the situation became more bitter and violent. The police were involved in frequent collisions with union members. Vicious baton charges on the crowds led to retaliation by rioting and mob-like behaviour.¹³⁹ The result was the death of two men and the injuring of several hundred people, including two hundred members of the Dublin Metropolitan Police.¹⁴⁰ Ultimately the union was defeated. In the aftermath of the lockout an inquiry by a vice-regal commission exonerated the Dublin Metropolitan Police of improper behaviour, but their reputation was severely tarnished.¹⁴¹
4. The final episode of turmoil in the history of the Dublin Metropolitan Police came with the Easter Rising 1916 and the subsequent War of Independence. When the Easter Rising broke out in April 1916, the unarmed Dublin Metropolitan Police were confined to their barracks and a state of martial law was declared.¹⁴² Nonetheless, during the course of the Rising, the Dublin Metropolitan Police lost three of its members and seven were injured.¹⁴³
5. In 1919, the Irish War of Independence began in earnest.¹⁴⁴ In Dublin, Michael Collins, one of the leaders of the War of Independence, infiltrated the Dublin Metropolitan Police's intelligence wing ('G' division), and subsequently led the assassination of the most active members of the division throughout 1919 and

¹³⁶ J Herlihy, *The Dublin Metropolitan Police (2001)*, p 46.

¹³⁷ J Herlihy, *The Dublin Metropolitan Police (2001)*, pp 47, 48.

¹³⁸ F.S.L. Lyons, *Ireland Since the Famine (1971)*, p 280.

¹³⁹ F.S.L. Lyons, *Ireland Since the Famine (1971)*, p 280.

¹⁴⁰ F.S.L. Lyons, *Ireland Since the Famine (1971)*, p 280.

¹⁴¹ J. Herlihy, *The Dublin Metropolitan Police (2001)*, p 62.

¹⁴² J. Herlihy, *The Dublin Metropolitan Police (2001)*, p 175.

¹⁴³ J. Herlihy, *The Dublin Metropolitan Police (2001)*, p 175.

¹⁴⁴ On 21 January 1919, a group of men belonging to the Irish Volunteers attacked the barracks of the Royal Irish Constabulary in county Tipperary. Although this incident was not particularly different from those which took place both before and after, it has widely been regarded as the starting point for the War of Independence: see F.S.L. Lyons, *Ireland Since the Famine (1971)*, pp 406-7, and generally.

1920.¹⁴⁵ After independence, the Dublin Metropolitan Police were re-titled *Póilíní Atha Cliath*,¹⁴⁶ and eventually were amalgamated with the national police force, an *Garda Síochána*,¹⁴⁷ in April 1925.¹⁴⁸

Dublin Metropolitan Police Acts

Purpose

6. In 1808 the metropolitan district of Dublin had been recognised as the basis for administering a police presence to facilitate crime prevention.¹⁴⁹ Originally, the single police district had been administered through six divisions, each with a public office.¹⁵⁰ By 1824 the need had arisen to reduce the number of divisions to four, which reorganisation required statutory authority. To this end the *Dublin Justices Act of 1824*¹⁵¹ provided that:

- (a) the lord lieutenant be empowered to reorder the divisions, and to attach to each divisional office three divisional justices;¹⁵²
- (b) the lord lieutenant be authorised to make redundant (with compensation), or to redeploy in a supernumerary capacity, the justices, clerks and chief constables who would become surplus to requirements;¹⁵³
- (c) the arrangements relating to the enforcement of fines and penalties be revised;¹⁵⁴
- (d) the jurisdiction of the justices of the Castle division be extended both territorially¹⁵⁵ and substantively;¹⁵⁶

¹⁴⁵ J. Herlihy, *The Dublin Metropolitan Police (2001)*, p 179.

¹⁴⁶ Meaning in English, "Police of Dublin".

¹⁴⁷ Meaning in English, "The Guardians of the Peace".

¹⁴⁸ J. Herlihy, *The Dublin Metropolitan Police (2001)*, p 185.

¹⁴⁹ See 48 Geo.3 c.140 (1808) ("the 1808 Act"), now fully repealed. The police force (such as it then was) was administered through the office of a justice of the peace.

¹⁵⁰ The 1808 Act, s 3.

¹⁵¹ 5 Geo.4 c.102 (1824) ("the 1824 Act"), being "An Act to amend an Act of the Forty eighth Year of the Reign of His late Majesty for the more effectual Administration of the Office of a Justice of the Peace, and for the more effectual Prevention of Felonies within the District of Dublin Metropolis". Notwithstanding enactment of the 1824 Act, the provisions of the 1808 Act were to remain in full force and effect so far as the four new police divisions were concerned: the 1824 Act, s 5.

¹⁵² The 1824 Act, ss 1, 2. Each division was to have assigned to it one barrister justice, one alderman justice (from the Dublin city corporation) and one sheriff's peer justice (drawn from the common council of the city corporation), the latter two to be selected in a prescribed manner.

¹⁵³ The 1824 Act, s 3. Future judicial vacancies were to be filled first by the supernumerary magistrates. Those office-holders who were not to be retained in some capacity were to be paid an allowance charged against the police funds, so long as they were not employed in another public office: the 1824 Act, s 4.

¹⁵⁴ The 1824 Act, ss 6, 7. Henceforward, fines and penalties were to be recoverable summarily before a single divisional justice (and the earlier provision in the 1808 Act, s 29 stipulating two justices was repealed by section 6).

¹⁵⁵ The 1824 Act, ss 8-12. The justices of Castle division were given jurisdiction over the whole metropolitan police district and beyond (including the granting of rewards for the apprehension of traitors and felons), to include the immediately adjoining counties of Dublin, Wicklow, Kildare and Meath. [The

- (e) the divisional justices (acting in threes) be empowered to appoint unpaid special constables to supplement the regular force in its maintenance of the law and preservation of the public peace;¹⁵⁷
- (f) there be in place enhanced licensing and enforcement regimes for the control of premises selling liquor,¹⁵⁸ and for the control of carriages and horses plying for public hire;¹⁵⁹
- (g) there be power vested in the divisional justices to determine disputes with pawnbrokers, and to enforce their awards (by distress or imprisonment);¹⁶⁰
- (h) the nightly watch be rearranged, under the supervision of the divisional justices of the Castle division, and the nightly watch constables be authorised to take bail for petty offenders brought into custody during the watch period;¹⁶¹ and
- (i) various ancillary matters be addressed.¹⁶²

7. By 1836 a more efficient system of policing was required for the district. The *Dublin Police Act* of 1836¹⁶³ set out to create an organised police force for the city. The 1836 Act had several purposes:

side-note to section 11 of the 1824 Act refers to these as “the forty counties”, although this probably should have read “the four counties”. According to the National Archives in Ireland, in the 19th century there were only 32 counties across the whole country.] The metropolitan police officers were also empowered to execute justices’ warrants across these several counties: the 1824 Act, s 10.

¹⁵⁶ Single justices from all the Dublin divisions were empowered - in place of two justices - to issue search warrants: the 1824 Act, s 13.

¹⁵⁷ The 1824 Act, s 14. No upper limit was placed on the number of special constables to be appointed, although appointments were to be time-limited.

¹⁵⁸ The 1824 Act, ss 15-20. The Act provided for the repeal of like provisions in the 1808 Act, ss 54-56, 73 and 74 (the latter two sections relating to night entertainment licensing), and the replacement of those provisions by a regime which allowed for police entry on to premises with a liquor licence, for the arrest and conviction of non-resident persons found drinking or gaming out of hours, for the conviction of persons obstructing such entry, and for the forfeiture of licences on repeat conviction.

¹⁵⁹ The 1824 Act, s 21. The regulations were designed to cover both siting of stands and conduct of drivers of various vehicles including “chaises, jaunting carts, caravans, and other vehicles”

¹⁶⁰ The 1824 Act, s 22.

¹⁶¹ The 1824 Act, ss 23-26. The alleged offender would be bailed to appear the next morning before a divisional justice. In default of appearance the sureties would forfeit their recognisances. Provision was also made for summoning witnesses to attend to give evidence, and for penalties in default of appearance. Section 23 of the 1824 Act repealed part of the 1808 Act, s 99 which constrained the “dispositions” of night watchmen over successive nights.

¹⁶² The 1824 Act, ss 27-31. These matters included enhancing the recorder’s salary from police funds, remunerating police informers, and proving of office.

¹⁶³ 6 & 7 Will.4 c.29 (1836) (“the 1836 Act”), being “An Act for improving the Police in the District of Dublin Metropolis”. This Act repealed a small portion of the earlier Act of 1808, although it failed to specify the sections in question (except that they related to moneys raised by the county of Dublin for maintenance of the houses of correction within the police district, and the payment of such moneys to the police receiver): the 1836 Act, s 43. Similarly, and rather more tenuously linked, the Act repealed part of an Irish Act of 1791 relating to the holding of horse races within 9 miles of Dublin castle (and the causing of unlawful assemblies): the 1836 Act, s 45.

- (a) to authorise the chief governor of Ireland to establish a new police office in Dublin, supported by two salaried justices, to administer the police force, under the direction of the chief secretary of the lord lieutenant;¹⁶⁴
- (b) to require the recruitment and appointment of a police force comprising “a sufficient number of fit and able men” who were to preserve the peace, prevent robberies and felonies, and apprehend offenders;¹⁶⁵
- (c) to provide for the regulation and behaviour of the police force,¹⁶⁶ and to provide powers to members of the force to execute their duty;¹⁶⁷
- (d) to put in place arrangements for the receiving, handling and accounting for of moneys for the metropolitan police district,¹⁶⁸ (including the payment of salaries¹⁶⁹ and pensions¹⁷⁰);
- (e) to put in place arrangements for raising and collecting moneys by local taxation for the purposes of maintaining constables and watchmen, and providing “necessaries” such as watch-houses and arms;¹⁷¹ and

¹⁶⁴ The 1836 Act, ss 1, 3. The justices’ jurisdiction extended to Dublin (metropolis and county), and to Wicklow, Kildare and Meath counties and liberties. [In time these two justices came to be designated commissioners of police with defined powers and duties.]

¹⁶⁵ The 1836 Act, s 4. The constables were to be sworn in, and their remit extended to the same counties as fell within the justices’ jurisdiction. Provision was also made (by section 20) for handling the transition pending the new police force becoming fully operational.

¹⁶⁶ The 1836 Act, ss 5, 6. The power of the justices to discipline force members extended also to any publican who should “knowingly harbour or entertain” any policeman whilst on duty. No policeman was to act whilst employed as a “domestic or menial servant” for any person, or to engage in the activity of brewer, distiller, wine retailer, victualler or publican: the 1836 Act, ss 22, 23.

¹⁶⁷ The 1836 Act, ss 7-9. Policemen were given power to apprehend “loose, idle, and disorderly persons” disturbing the public peace, persons loitering without being to give “sufficient account” of themselves, and persons suspected of “evil designs”, and to take them to the watch-house to be held or bailed pending a court appearance. Night constables were authorised to take bail by forfeitable recognisance pending the alleged offender appearing for examination the following day. By section 36 all “chief constables, constables, patrols, watchmen, and [appointed] collectors” were to have the same powers as were assigned to them under the 1808 Act or any other legal provision then in force.

¹⁶⁸ The 1836 Act, ss 10-18. A salaried receiver was to be appointed with responsibility for receiving and accounting for all moneys due to the police district, for paying police salaries and remuneration (including compensation for injuries or disability sustained whilst on duty, and “extraordinary diligence” awards), for complying with audit regulations issued by the Treasury (he was required to make a six-monthly return to the Public Accounts Commissioners, and by section 33 the accounts were to be laid annually before parliament), and for acquiring and holding property on the police district’s behalf. The Act also made provision for the appointment of a successor and for transfer and consequential arrangements. Neither the receiver nor any justice was permitted (during their term of office) to be elected to the House of Commons as an MP (and neither they nor any policeman was entitled to vote for, or canvass for, a parliamentary candidate for the counties served by the police district): the 1836 Act, s 19.

¹⁶⁹ The receiver was authorised to pay salaries under section 12 of the 1836 Act.

¹⁷⁰ Pensions were payable to justices and staff on medical grounds (age, sickness or accident) where directed by the lord lieutenant or chief governor: the 1836 Act, s 34.

¹⁷¹ The 1836 Act, ss 24-31. The two appointed justices were authorised, as if they were divisional justices, to levy a rate on houses within the Dublin metropolis (known as the “watch tax”), and to appoint collectors who had to verify their accounts of moneys received and pay over the moneys to the receiver. The receiver was empowered to consolidate these moneys with receipts from other sources (such as carriage and licence duties), and apply them all for police purposes. The divisional justices were required to hand over to the appointed justices all requisite books and papers and, from the date of the Act (by section 32), divisional justices were themselves to be appointed by the lord lieutenant and not by the “assembly” of the city of Dublin corporation (previously drawn from the ranks of aldermen and common council members).

- (f) to provide for various ancillary aspects of criminal process.¹⁷²
8. In 1837 Parliament had authorised the levying of a police tax (through local rates) for the support of the Dublin force.¹⁷³ The *Dublin Police Act* of 1839¹⁷⁴ was enacted to improve the tax collection arrangements, and sought to do the following:
- (a) to authorise collectors of the tax (in cases of payment default, and on the issue of a justice's warrant) to enter rated properties and distrain on goods which could be sold to discharge the debt;¹⁷⁵
 - (b) to vary previous legislation relating to the rating of leased premises whereby the lessor rather than the occupier would be liable for payment;¹⁷⁶
 - (c) to make arrangements for property valuation and assessment;¹⁷⁷ and
 - (d) to address various ancillary matters.¹⁷⁸
9. In 1842 the need for a series of miscellaneous powers relating to the Dublin police, and the need to control various public nuisances and acts of anti-social behaviour committed within the police district, gave rise to a requirement for further legislation. The *Dublin Police Act* of 1842¹⁷⁹ was designed:

¹⁷² The 1836 Act, ss 37-42. These sections dealt with such matters as limitation periods, witness competence, and penalty enforcement.

¹⁷³ See 7 Will. 4 & 1 Vict. c.25 (1837) (now repealed), referred to in the preamble to 2 & 3 Vict. c.78 (1839) (below). The 1837 Act had also authorised the partitioning of the Dublin police district into four divisions (later reduced to three), each division operating from a public office with up to three divisional justices in attendance.

¹⁷⁴ 2 & 3 Vict. c.78 (1839) ("the 1839 Act"), being "An Act to make further Provisions relating to the Police in the District of Dublin Metropolis". Although the bulk of the 1839 Act concerned the raising of police funds by property rating, sections 12 and 15 contained curious little provisions which (a) extended the remit of the Dublin divisional justices to hackney carriage licensing and enforcement, and (b) dealt with the control of rabid dogs and animals.

¹⁷⁵ The 1839 Act, s 1. These arrangements did not detract from the ability of the police receiver to recover outstanding rates by civil action through quarter or petty sessions: the 1839 Act, s 4.

¹⁷⁶ The 1839 Act, ss 2, 3 and Sch. The Act made a partial repeal of (unspecified) provisions in the 1837 Act which set the value of the property to which this arrangement applied.

¹⁷⁷ The 1839 Act, ss 5-10. The justices were authorised to appoint "valuators" to ascertain the rateable values of each property, and then to assess such properties so as to levy a rate of up to 8d in the £ based on their respective values. They could also use the previous valuations made under the Poor Relief (Ireland) Act of 1838 (1 & 2 Vict. c.56), but they could not rely on previous general valuations under an Act of 1824 (5 Geo.4 c.cxviii) because they were "found to be erroneous to a great extent": the 1839 Act, ss 6, 8. This Act of 1824 appears still to be in force today. Charitable establishments were exempt from rating assessment: the 1839 Act, s 10.

¹⁷⁸ The 1839 Act, ss 11, 13, 14, 16-18. These matters included the use of fines (except revenue penalties) to defray police establishment expenses; the ability of the lord lieutenant of Ireland to extend the metropolitan police district boundaries within set limits drawn from Dublin castle, the river Anna Liffey and Dublin Bay; and the requirement to make account to the chief remembrancer of the court of exchequer in Ireland for all "fines, penalties, deodands, or amerciaments, recognizances, or issues" (the 1839 Act, s 17) imposed by the justices and lodged in the Bank of Ireland.

¹⁷⁹ 5 & 6 Vict. c.24 (1842) ("the 1842 Act"), being "An Act for improving the Dublin Police".

- (a) to extend the provisions of previous Acts (from 1808 to 1840) to the present Act;¹⁸⁰
- (b) to exempt police horses and vehicles from turnpike tolls;¹⁸¹
- (c) to prohibit unauthorised possession of police clothing or accoutrements, and to prevent false impersonation as a police constable;¹⁸²
- (d) to regulate a range of matters relating to criminal process and prohibition of nuisances;¹⁸³
- (e) to criminalise going equipped to steal from any vessel;¹⁸⁴
- (f) to provide powers to the police to prevent crime and apprehend offenders;¹⁸⁵
- (g) to empower justices to make compensation and costs orders,¹⁸⁶ and to deal with certain procedural issues¹⁸⁷ (including determining disputes between watermen and their employers),¹⁸⁸ and

¹⁸⁰ The 1842 Act, s 1. The previous Acts specified and the 1842 Act were to be construed as one.

¹⁸¹ The 1842 Act, s 2. This exemption would only apply when the rider or driver was uniformed.

¹⁸² The 1842 Act, ss 3, 4. Constables leaving the police service were required to return all police clothing and equipment.

¹⁸³ The 1842 Act, ss 5-18. These matters included: the concealing of evidence relating to a crime; the supply of alcohol to persons under 16 and the maintaining of disorderly premises; the use of premises for the baiting of animals (including "lions, bears, badgers, cocks, [and] dogs"); the keeping of a common gaming house; the diverting of carriages, carts and animal driving away from churches at times of divine service; the preventing of obstructions in streets at times of public procession; the prohibition of a range of nuisances in public places (such as exhibiting or shoeing of horses, unleashing ferocious dogs, failing to have control over driven carts or driving furiously, causing wilful obstruction, rolling casks on footways unnecessarily, flyposting or defacing buildings, soliciting, singing profane songs so as to cause annoyance, blowing horns, wantonly discharging firearms or fireworks, ringing doorbells without proper reason, and creating snow slides in streets); being drunk and disorderly in any street or violent in a police station; stealing ship's cables and tackle; and a wide variety of practices banned for reasons of public health and safety (including cork burning, lime sifting, carpet beating, discharging of offensive waste and emptying of privies, keeping of pigsties near streets, erecting shop awnings so as to cause inconvenience to passers-by, and leaving open vaults and cellars to the danger of pedestrians).

¹⁸⁴ The 1842 Act, ss 20-22.

¹⁸⁵ The 1842 Act, ss 23, 24, 26-35. Senior police officers (superintendent and inspectors) were empowered to board - and to direct constables to board - moored vessels to prevent accidents and the commission of crime, and to make arrests where felonies were suspected. In more general terms, constables were empowered to arrest wrong-doers without warrant where such individuals could not be identified, where "loose, idle, and disorderly" persons were causing a public disturbance, where persons committed "aggravated assault", and where property was believed stolen (in which last instance the power of arrest extended to "persons aggrieved"). Similarly, constables were empowered to stop and detain vehicles removing furniture from premises where it appeared that rent payment was being evaded, and to confiscate horses, carts and vessels in the possession of any person arrested pending their conviction. Constables could bail alleged offenders (with or without sureties) and, in the case of more serious allegations, could also bind over via a recognisance any person bringing a charge.

¹⁸⁶ The 1842 Act, ss 25, 59 and 60. An arrested miscreant could be required to make financial recompense to any person aggrieved by "any hurt or damage" which he or his property had suffered. Costs orders could be made on conviction. Fees for issue of various legal processes were fixed by the 1842 Act, s 69 and Sch A.

¹⁸⁷ The 1842 Act, ss 36, 38-40, 47-58, 61-64, 66-73. Divisional justices were to be appointed (as district judges today in England and Wales) with power to deal with matters ordinarily heard by two or more justices. The justices' powers covered such matters as trial of offences, committal, issue and execution of warrants (including entry and search warrants) and summonses, witness attendance and examination, production of stolen goods, sale of unclaimed stolen goods, mitigation of penalties, determination of certain residential landlord and tenant disputes, laying of informations, and enforcement of financial penalties.

(h) to deal with various ancillary matters.¹⁸⁹

10. Amendments to the tranche of police legislation were called for six years later.

The *Dublin Police Act* of 1848¹⁹⁰ contained miscellaneous provisions relating to the local administration of justice, and more particularly the regulation of hackney and stage carriages. In broad terms the Act provided for:

- (a) transferring from the divisional justices to the lord lieutenant's chief secretary or other chief governor of Ireland responsibility for administration of the Dublin hackney and other carriage licensing scheme;¹⁹¹
- (b) variation of the arrangements for the rating of occupied houses and for recovery of police tax;¹⁹² and
- (c) variation of the licensing regime relating to hackney and stage carriages operating within Dublin.¹⁹³

11. In 1859 further amendments were made by Parliament. The *Dublin Police Act* of 1859¹⁹⁴ was designed to reorganise the management structure of the Dublin police force. Up until then the force had operated with two commissioners at its head and, from 1854 onwards, they had been salaried from the annual Parliamentary estimates rather than the consolidated fund.

¹⁸⁸ The 1842 Act, s 65. Watermen in this context meant "any bargemen, lightermen, watermen, ballastmen, coal whippers, coal porters, sailors, lumpers, riggers, shipwrights, caulkers, or other labourers who work for hire" on the river Liffey or in Kingstown harbour.

¹⁸⁹ The 1842 Act, ss 74-80. These included setting down a limitation period for court proceedings, partially repealing - by section 76 - notice provisions in three Acts of 1833, 1836 and 1839 (all since repealed in whole), and making savings for acts done under customs, excise and stamp legislation.

¹⁹⁰ 11 & 12 Vict. c.113 (1848) ("the 1848 Act"), being "An Act for the further Amendment of the Acts relating to the Dublin Police".

¹⁹¹ The 1848 Act, s 1. This included the transfer or appointment of necessary clerks and officers.

¹⁹² The 1848 Act, ss 2, 3. "Immediate lessors" of tenanted property could be rated by designation rather than by name where the latter was not known. Powers to recover unpaid police tax for Dublin were extended in line with the wider powers available within other Irish counties; and the Dublin divisional justices were given enforcement powers equivalent to those of county justices elsewhere.

¹⁹³ The 1848 Act, ss 4-25. The bulk of the 1848 Act is directed towards amendment and enhancement of the licensing and enforcement regime. Powers were provided to justices or police commissioners to increase or decrease fines or rents due on carriage licences (thus varying provisions in an Irish Act of 1797), to alter hackney carriage stands and stations, to license metropolitan stage carriages and omnibuses to carry passengers within the Dublin district (and to fix the licence fees), to issue annual drivers' (and conductors') licences - with metal badges - to fit and proper persons in respect of hackney, stage and other carriages (and to revoke the same in appropriate circumstances), to provide for enforcement against unlicensed drivers and conductors, and to provide for a range of administrative matters connected with licensing. Driving wantonly or furiously, causing injury carelessly or wilfully, and being drunk or abusive whilst on duty, were made criminal offences: the 1848 Act, s 23.

¹⁹⁴ 22 & 23 Vict. c.52 (1859) ("the 1859 Act"), being "An Act to amend the Laws relating to the Police District of Dublin Metropolis". The short title of the Act (assigned by section 14) was the *Dublin Police Act 1859*.

12. The need had arisen for two specific changes. First, a single commissioner of police (supplemented by an assistant commissioner) was to be substituted for the existing arrangement and, secondly, the offices of receiver, secretary to the commissioners and supervisor of taxes were to be amalgamated.¹⁹⁵ Additionally, it was felt that the administration of justice was best served by one or more police courts sitting across the district (irrespective of divisions). To these ends the 1859 Act enabled the following:

- (a) that the lord lieutenant be permitted to appoint a salaried assistant commissioner in place of the second commissioner post (when the latter fell vacant), such assistant commissioner to be empowered to act in the stead of the commissioner in his absence;¹⁹⁶
- (b) that the Treasury commissioners (with the lord lieutenant) be permitted to consolidate the offices of receiver, secretary and supervisor of taxes, and to make a single appointment to the new office of accountant;¹⁹⁷ and
- (c) that the lord lieutenant be authorised to abolish the separate divisions within the Dublin police district, and to reduce the number of justices sitting in the police courts (making such ancillary adjustments as might be necessary).¹⁹⁸

13. Finally, by 1867, changes had to be made to the arrangements for police superannuation. The brief *Dublin Police Act* of 1867¹⁹⁹ was passed for the following purposes:

- (a) to remove the restriction on the percentage contribution to the superannuation fund required of serving police officers;²⁰⁰
- (b) to empower the lord lieutenant to establish a superannuation scheme for serving police officers (up to the rank of superintendent) and constables;²⁰¹ and

¹⁹⁵ Preamble to the 1859 Act.

¹⁹⁶ The 1859 Act, ss 2-4. Reference to the lord lieutenant included reference to any "other chief governor or governors of Ireland": the 1859 Act, s 1.

¹⁹⁷ The 1859 Act, ss 5-7. In the event that one or more of the original offices was not vacated voluntarily, the then holder or holders could be removed with compensation, payable by way of pension or annuity.

¹⁹⁸ The 1859 Act, ss 8-13. The lord lieutenant was authorised to increase the remaining justices' salaries, to give directions as to the number of justices to sit daily, to empower single justices to sign warrants, and to pay out compensation or allowances to persons within the police department who lost office through the reorganisation.

¹⁹⁹ 30 & 31 Vict. c.95 (1867) ("the 1867 Act"), being "An Act to amend the Laws regulating the Superannuation Allowances of the Dublin Metropolitan Police". Curiously this Act was not given a short title.

- (c) to provide for forfeiture of pension rights in event of misconduct.²⁰²

Background to the legislation on administration of justice

14. The Four Courts complex is the centre of the court service in Ireland. The Supreme Court, the highest court of appeal in the country, sits in the Four Courts, and the lower courts also frequently sit at this location.²⁰³
15. The establishment of the Four Courts on its current site began in 1776.²⁰⁴ The initial design plans were based on the work of Thomas Cooley. They were intended only to house the Office of Public Records and King's Inns.²⁰⁵ When Cooley died in 1784, James Gambon took over and added the building of the courts to the plans.²⁰⁶
16. During the War of Independence, the anti-Treaty forces captured the Four Courts. In June 1922, provisional government forces attacked the Four Courts with artillery.²⁰⁷ The building was ravaged and the adjoining public record office, containing priceless historical documents, was destroyed.²⁰⁸ Although the latter damage was irreparable, the damage to the courts building was made good in the wake of the Civil War.²⁰⁹

Four Courts (Dublin) Act

Purpose

17. The underlying requirement for legislation in the 1850s stemmed from the need on the part of the commissioners of public works in Ireland to create more court and ancillary office accommodation in close proximity to the existing Four Courts complex in Dublin.

²⁰⁰ The 1867 Act, s 1. This provision repealed "so much of" the previous Act 10 & 11 Vict. c.100 (1847) as provided for a 2% fixed-rate salary contribution, but did not specify exactly the sections in the 1847 Act which were being repealed. The 1847 Act has since been repealed in whole.

²⁰¹ The 1867 Act, s 2. Section 2 set down a scale of pension payments which were dependant upon the recipient being either 60 years of age or certified medically as unfit for duty through "mental or bodily incapacity". The retiring allowances for existing members of the police force under the previous legislation were unaffected by these changes: the 1867 Act, s 3.

²⁰² The 1867 Act, s 4. Misconduct included the committing or abetting of crime and the misusing of position for gain.

²⁰³ <http://www.courts.ie/courts.ie/library3.nsf/PageCurrentWebLookUpTopNav/Launchpage>

²⁰⁴ <http://www.courts.ie/courts.ie/library3.nsf/PageCurrentWebLookUpTopNav/Launchpage>

²⁰⁵ <http://www.courts.ie/courts.ie/library3.nsf/PageCurrentWebLookUpTopNav/Launchpage>

²⁰⁶ <http://www.courts.ie/courts.ie/library3.nsf/PageCurrentWebLookUpTopNav/Launchpage>

²⁰⁷ F.S.L. Lyons, *Ireland Since the Famine (1971)*, p 459.

²⁰⁸ <http://www.courts.ie/courts.ie/library3.nsf/PageCurrentWebLookUpTopNav/Launchpage>

²⁰⁹ <http://www.courts.ie/courts.ie/library3.nsf/PageCurrentWebLookUpTopNav/Launchpage>

18. Having identified a suitable site for acquisition and development, the commissioners lacked adequate statutory power to effect compulsory purchase of the necessary land and houses. To this end the *Four Courts (Dublin) Extension Act 1858*²¹⁰ was obtained. The Act authorised the following:

- (a) that the commissioners be empowered to purchase “compulsorily or by agreement”, and enter upon, various parcels of land, to demolish existing buildings, and to build the new courts and offices.²¹¹ The compulsory purchase powers were specifically time-limited;²¹²
- (b) that the commissioners be empowered to construct new streets in accordance with the deposited plans, and that the authorities responsible for street repairs thereafter maintain them;²¹³
- (c) that the commissioners be empowered to stop-up and divert streets and passageways for the purpose of the development, to alter the profile of such highways to facilitate linkages with the new buildings, and to stop-up and re-lay sewers and drains;²¹⁴
- (d) that arrangements be put in place for the valuation of properties to be acquired, and the assessment of compensation to be paid by the acquiring body,²¹⁵ and

²¹⁰ 21 & 22 Vict. c.84 (1858) (“the 1858 Act”), being “An Act for enabling the Commissioners of Public Works in Ireland to acquire certain Lands and Houses for the Site of a new Court or Courts, and other Offices and Buildings required for the Public Service, in Extension of the Four Courts in the City of Dublin; and for other Purposes”. The short title to the 1858 Act was assigned by section 2.

²¹¹ The 1858 Act, ss 3-5 and Sch. For the purposes of the Act (and as “promoters of the [authorised] undertaking”) the commissioners were formed into a corporate body, and were empowered to acquire and hold the land “in trust for Her Majesty, Her Heirs and Successors”. The provisions of the Lands Clauses Consolidation Act 1845 (excepting the land compensation arrangements) were to form part of the 1858 Act regime. If any property to be acquired had been misdescribed in the Act’s Schedule, application could be made to two justices to correct the mistake: the 1858 Act, s 6. The commissioners were empowered also to sell off building materials salvaged from the demolitions, to apply the proceeds to the development project, and to sell off any surplus lands: the 1858 Act, ss 13, 15.

²¹² The powers expired after 5 years (in August 1863): the 1858 Act, s 16. The commissioners were required, as the project progressed, to lodge plans with the lord lieutenant’s office showing properties still pending acquisition: the 1858 Act, s 17.

²¹³ The 1858 Act, ss 7-9. The commissioners were permitted to deviate from the plans to the extent that the new streets remained within the boundaries of the acquired parcels of land. All the new streets were to be situate within the St. Michan parish in Dublin city.

²¹⁴ The 1858 Act, ss 10-12.

²¹⁵ The 1858 Act, ss 18-25, 29. A suitable “valuator” was to be appointed by the lord lieutenant on application by the commissioners (and remunerated by the commissioners), which official would then inquire into, and adjudicate upon, such claims for compensation as were lodged within the prescribed period. In the first instance a “draft award” would be formulated by the valuator (and its existence publicised in the *Dublin Gazette* and in a local newspaper within the city), followed by the holding of a meeting or meetings to hear and determine objections relating to value or to “the justice and propriety” of other matters within the award, at which point the award would be amended (if necessary) and finalised: the 1858 Act, s 22. Where a claimant was dissatisfied with an award, provision was made for compensation to be settled by formal arbitration: the 1858 Act, s 29. The clerk of the peace was to hold all deposited documentation available for public inspection: the 1858 Act, s 23.

- (e) that miscellaneous arrangements be in place for the deducing and transferring of good title to the commissioners.²¹⁶

Status of the 1824 to 1867 Acts

19. Of the eight Acts described above, seven related in the main to the Dublin police service and the administration of criminal justice. The 1858 Act was designed to facilitate the extension of court premises in Dublin.
20. None of the Acts have been the subject either of amendment or of repeal within the United Kingdom. None of the Acts have effect today beyond the Republic of Ireland and, for that reason, they may now be repealed in whole.

Extent

21. The 1824 to 1867 Acts impliedly extended across the United Kingdom, which then included that part of Ireland which today forms the separate Republic of Ireland.

Consultation

22. HM Treasury, the Foreign and Commonwealth Office, the Home Office, the Ministry of Justice, the relevant authorities for Scotland, Wales and Northern Ireland, the Office of the Attorney General for the Republic of Ireland, and the Department of Justice, Equality and Law Reform for the Republic of Ireland, have been consulted about these repeal proposals.

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²¹⁶ For example, where a vendor of land was under a legal disability or had a limited interest: the 1858 Act, ss 27, 28. In these circumstances, the relevant provisions of the Lands Clauses Consolidation Act 1845 would come into play.

GROUP 4 – GENERAL POST OFFICE AND RECORD OFFICE

<i>Reference</i>	<i>Extent of repeal or revocation</i>
48 Geo.3 c.48 (1807) (Dublin General Post Office Act)	The whole Act.
49 Geo.3 c.70 (1809) (Dublin General Post Office Act)	The whole Act.
54 Geo.3 c.63 (1814) (Dublin Record Office Act)	The whole Act.
54 Geo.3 c.113 (1814) (Dublin site of Record Office Act)	The whole Act.
7 Geo.4 c.13 (1826) (Site for Record Office (Ireland) Act)	The whole Act.

Background to the legislation on the Dublin General Post Office

1. In 1783, by an Act of the Irish parliament (passed prior to the Act of Union with Great Britain), a General Letter Office and Post Office was established in Dublin (with sub-offices elsewhere in Ireland) so that letter and packets could more efficiently be despatched and received both within the country and “beyond [the] seas”.²¹⁷ In that same year, the parliament of Great Britain authorised HM Postmaster General of Great Britain to transfer to his counterpart in Ireland the general post office buildings in Dublin, as a consequence of which business there increased significantly and necessitated enlargement of the premises.²¹⁸
2. Lord Whitworth laid the foundation stone of the new post office on O’Connell Street in August 1814.²¹⁹ The building was completed and opened for business in January 1818.²²⁰

²¹⁷ Irish Act 23 & 24 Geo.3 (chapter number unknown) (1783), referred to in the preamble to 48 Geo.3 c.48 (1807), for which see below.

²¹⁸ See 24 Geo.3 Sess.1 c.6 (1783) - repealed in 1837 - and also referred to in the preamble to 48 Geo.3 c.48 (1807).

²¹⁹ <http://www.anpost.ie/AnPost/MainContent/About+An+Post/History+and+Heritage/GPO.htm>.

²²⁰ <http://www.anpost.ie/AnPost/MainContent/About+An+Post/History+and+Heritage/GPO.htm>.

3. The general post office building is an extremely important symbol in Irish history: it was the headquarters of the men and women of the Easter Rising of 1916, the most significant Irish uprising against British rule. It was on the steps of the general post office building that the leader of the Rising, Padraig Pearse, read the Proclamation of the Republic,²²¹ and put in motion the events that would become the catalyst for the birth of the Irish Republic. After the bombardment of the building in the Rising, the structure was rebuilt and extended on its existing site, and formally re-opened in 1929, where it remains today as the headquarters of An Post (the Irish Post Office).²²²

Dublin General Post Office Acts

Purpose

4. In 1807, so that the existing general post office could be enlarged, an Act was passed enabling HM Postmaster General of Ireland to acquire the necessary adjoining land. The *Dublin General Post Office Act of 1807*²²³ authorised the following:
 - (a) that HM Postmaster General of Ireland be enabled to contract with adjoining landowners to purchase their holdings,²²⁴
 - (b) that, in the event of dispute as to the valuation of a property or properties to be acquired, the Postmaster General be empowered to require the city sheriffs to summon a jury to hear evidence and to ascertain the appropriate value;²²⁵
 - (c) that landowners whose property had been valued, and who had received payment of the awarded sum, be required to convey the

²²¹ <http://www.ireland.com/focus/easterirising/monday/>

²²² <http://www.anpost.ie/AnPost/MainContent/About+An+Post/History+and+Heritage/GPO.htm>.

²²³ 48 Geo.3 c.48 (1807) ("the 1807 Act"), being "An Act to enable His Majesty's Postmaster General of Ireland to purchase Premises for the Enlargement of the General Post Office in the City of Dublin". The *Chronological Table of the Statutes*, Part I (1235-1972) shows the year of this Act as 1808, although the King's Printer version shows that it was given royal assent in May 1807. The *Chronological Table* also shows the Act as having been repealed by the Statute Law Revision Act 1872 (No.2) (c.97), but that entry is in error. Although the 1872 Act did repeal various contiguous chapters from the year 48 Geo.3, chapters 47 and 48 were not repealed by it. This typographic error may have come about through a transposition of entries during the compilation of the 1989 edition of the *Table*. For this reason, the 1807 Act is treated as still being live, and is included within the present schedule of repeals.

²²⁴ The 1807 Act, s 1. Provision was also made for the purchase of interests held by infants (who lacked legal ability to transfer title).

²²⁵ The 1807 Act, s 2. The section set out a mechanism for empanelling a jury of "twelve indifferent persons" who were drawn by ballot from a larger pool of "substantial and disinterested persons" who were inhabitants of the city of Dublin. Notice was to be given to all interested persons of the prospective proceedings by advertisement in "some Dublin newspaper". Penalties were prescribed for potential jurors who failed to attend on the appointed day (which penalties were to be recoverable by civil bill at the county quarter sessions): the 1807 Act, ss 2, 7.

landholding to the Postmaster General (to be held “in trust for His Majesty and His successors”);²²⁶ and

- (d) that, where a landowner failed to execute a conveyance or to give possession of the property, the Court of Chancery in Ireland be permitted to effect compulsory conveyance of the interest or grant an order for possession (as required).²²⁷

5. After a lapse of just two years, it became clear that additional powers were required: in particular, to permit the Postmaster General to acquire ownership of the land on which the existing post office building already stood.²²⁸ To this end the *Dublin General Post Office Act* of 1809²²⁹ permitted the following:

- (a) the purchase and conveyance of the property interests in the existing post office building on the same terms and conditions as were laid down previously (in the 1807 Act) for the enlargement acquisition;²³⁰
- (b) the making of provision for the transfer of title where the transferor-owner was under a legal disability;²³¹ and
- (c) the authorisation of the use, for the Act’s purposes, of duty receipts from letter postage.²³²

6. The operation of the 1809 Act was wholly dependant upon the existence and functioning of the 1807 Act, in that it drew upon - and extended - the earlier Act’s powers.²³³

²²⁶ The 1807 Act, ss 3, 5. Provision was made for tender of moneys as well as for direct payment (which was to have the same effect), and for payment of moneys into the Court of Chancery in Ireland where the landowner was under a legal disability. Once land was conveyed it was then held by the Postmaster General free of any legal encumbrance. Similarly, by section 4, persons holding land with a life interest only were empowered to convey good title, subject to the purchase value being paid into court for the benefit of other persons who may have an entitlement.

²²⁷ The 1807 Act, s 6.

²²⁸ The existing general post office appears to have been sited at College Green in Dublin: see 54 Geo.3 c.63 (1814), s 2 (discussed below).

²²⁹ 49 Geo.3 c.70 (1809) (“the 1809 Act”), being “An Act to amend an Act passed in the Forty-eighth Year of His present Majesty, to enable His Majesty’s Postmaster General of Ireland to purchase Premises for the Enlargement of the General Post Office in the City of Dublin”.

²³⁰ The 1809 Act, s 1. Once acquired, the land was to be held “to and for the use of His Majesty and His successors”.

²³¹ The 1809 Act, ss 1, 2. The Act enabled the Postmaster General to contract with the guardians and protection committees who were acting for any owner who was an infant, or was mentally incapacitated (“idiot or lunatic”), or was bankrupt.

²³² The 1809 Act, s 3.

²³³ Section 1 of the 1809 Act spoke of the powers operating “as fully and effectually as if such clauses, powers [etc.] were repeated and re-enacted in this Act”.

7. By 1814 need had arisen for the construction of “a new and more convenient post office” to replace the original building.²³⁴ To this end, therefore, the *Dublin Record Office Act* of 1814²³⁵ was obtained to authorise the following:
- (a) that the Postmaster General be empowered to contract with owners of parcels of land within the city of Dublin to purchase their interests in order to construct the replacement post office building on the assembled site;²³⁶
 - (b) that the original post office building (and allied buildings) at College Green be disposed of by sale;²³⁷ and
 - (c) that provision be made for effecting transfer of title in circumstances where guardians, trustees, and the like, were “absent out of the United Kingdom, in foreign parts beyond the seas”.²³⁸
8. The operation of the 1814 Act was wholly dependant upon the existence and functioning of the two earlier Acts, and all three were to be construed as one.²³⁹

Background to the legislation on the Dublin Record Office

9. The Honorable Society of King’s Inns, Dublin was - from its formation in 1541 - a learned society for barristers at the Irish Bar. The Society first occupied a site (a former Dominican monastery) at Inns Quay, granted to it by King Henry VIII, but it

²³⁴ See 54 Geo.3 c.63 (1814), preamble and s 1, below.

²³⁵ 54 Geo.3 c.63 (1814) (“the 1814 Act”), being “An Act to amend several Acts for enabling His Majesty’s Postmaster General of Ireland to purchase Premises for the Enlargement of the General Post Office in the City of Dublin”. In the *Chronological Table of the Statutes* (see above) the entry for this 1814 Act speaks (strangely) of the Dublin Record Office - which short title has been utilised in the heading to this note - although in fact the Act deals wholly with the Dublin General Post Office and not the (separate) Record Office. Section 5 of the 1814 Act extends to itself all the conditions, provisos and powers contained within the 1807 and 1809 Acts as if those provisions “were repeated and re-enacted in this [1814] Act”, and the three Acts were to be “construed together as one Act”.

²³⁶ The 1814 Act, s 1. Land in this context included houses and other buildings (which would almost certainly have to be demolished before the new-build), and owner included lessees, trustees and persons having responsibility for the affairs of infants, bankrupts and the mentally incapacitated who were beneficially entitled. This acquisition power was made subject specifically to the powers and restrictions contained in the 1807 and 1809 Acts (see above), “except only so far as the same are altered by this [1814] Act”, and its exercise was to have the same effect as under those Acts: the 1814 Act, s 1.

²³⁷ The 1814 Act, s 2. The sale proceeds were to be applied as if they were “the revenues arising from the duties on the postage of letters” within the Postmaster General’s remit. By section 6 these moneys could, in turn, be used to finance any aspect of the present project.

²³⁸ The 1814 Act, s 3. In this circumstance such other trustee or representative still within the jurisdiction could be ordered by the Court of Chancery to make the conveyance to the Postmaster General, utilising and extending powers already contained in the 1807 Act. Under a court order the absent trustee or representative would then be deemed a signatory. By section 4, the Postmaster General was empowered to summon any witness who could give “necessary” evidence in any court proceeding under the 1807 to 1814 Acts, and to levy a fine for default of appearance.

²³⁹ The 1814 Act, s 5.

moved in the 1790s when the land was developed for the Four Courts.²⁴⁰ The Society's primary function today is to train students in preparation for the Bar.²⁴¹

10. The Dublin Record Office, which was the subject of the Acts detailed below, appears to have been the forerunner to the Public Record Office. The Public Record Office of Ireland was established under the Public Records (Ireland) Act 1867, and housed administrative, court and probate records. The office was located within the Four Courts complex,²⁴² but the repository building was destroyed by fire in June 1922 (during the Irish civil war),²⁴³ and the pre-independence records were lost. Today, public records are housed within The National Archives of Ireland, which body was formed in 1988.

Dublin Record Office Acts

Purpose

11. In 1814 the Repository for the Public Records of Ireland needed space to expand for reasons of "security and convenient use".²⁴⁴ At that time the Society of King's Inns occupied land, adjoining Constitution Hill, known as the Plover Field and Redmond's Farm (near Glasmaenoge in Dublin), and had commenced an "extensive" building project which was only part-complete. Proposed buildings to the south of the dining hall remained unfinished, principally through lack of funds.
12. It was to the mutual benefit of the Society and of the Dublin Record Office that the semi-developed land be transferred to the Crown so that it could be used in part for a new public records repository, offices and ancillary court accommodation, and partly for the completion of the Society's complex in accordance with the original plans (and so as "considerably [to] ornament and improve the property of the said Society").²⁴⁵ The *Dublin site of Record Office Act of 1814*²⁴⁶ was promoted to this effect. The 1814 site Act provided for:

²⁴⁰ <http://www.kingsinns.ie/website/heritage/heritage.htm> (site accessed on 15.4.08).

²⁴¹ <http://www.kingsinns.ie/website/index.htm>

²⁴² See Public Records (Ireland) Act 1867 (c.70), preamble ("whereas a large and commodious building has been erected in the neighbourhood of the Four Courts in Dublin for the purpose of serving as a Public Record Office") and section 6 ("The Commissioners of Public Works in Ireland shall . . . deliver up to the Master of the Rolls the said building in the neighbourhood of the Four Courts in Dublin; and thereupon a Public Record Office shall be there established . . . to be styled the 'Public Record Office of Ireland'"). By 1953 the whole of the 1867 Act had been repealed in the UK.

²⁴³ See www.nationalarchives.ie/aboutus/history.html

²⁴⁴ Preamble to 54 Geo.3 c.113 (1814), discussed below.

²⁴⁵ 54 Geo.3 c.113 (1814), preamble.

²⁴⁶ 54 Geo.3 c.113 (1814) ("the 1814 site Act"), being "An Act to vest in His Majesty, his Heirs and Successors, for ever, Part of the Ground and Buildings now belonging to the Society of King's Inns, Dublin, for the erecting thereon a Repository for Public Records in Ireland". The Society held lands -

- (a) the vesting in the King of the relevant parcels of land for the record office building project, and for the laying out of a public passageway as a “more convenient communication” linking the Four Courts and the record repository;²⁴⁷
- (b) the completion of the remaining parts of the Society’s buildings in the style of the finished dining hall;²⁴⁸ and
- (c) the keeping of the land to the south of the building project (including that not in the King’s ownership) entirely free from development.²⁴⁹

13. By 1826 it had become clear that the restriction in the 1814 site Act - which required the keeping free from development of the land to the south of King’s Inns - had become “unnecessary and useless for any purpose of security” relating to the storage of public records. It was acknowledged that the land held by the King was “fully sufficient and adequate to insulate or secure the said depositories and offices”, and that the Society should be at liberty to build on its own land as it saw fit.²⁵⁰

14. Against this backcloth, the very short *Site for Record Office (Ireland) Act* of 1826²⁵¹ was sought and passed. The 1826 Act provided that:

- (a) the relevant part of the 1814 site Act be repealed,²⁵² thus rendering it lawful for the Society (or its successors in title) to build on the southern site;²⁵³ and
- (b) the Society be permitted also to build over the strip of land which had previously been reserved as a route for a public passageway (subject to

subject to rents being payable - pursuant to a grant made by the Dean and Chapter of Christ Church, Dublin (and others) under the pre-Union Act 38 Geo.3 (Ire) c.49 (1798): see preamble to the 1814 site Act.

²⁴⁷ The 1814 site Act, s 1. The section spelt out in detail the dimensions of the site, and identified the streets and buildings adjoining it (King’s Inns Place, the Society’s Dining Hall and Henrietta Street for the one parcel, and King’s Inns Place, Constitution Hill and Colerain Street for the second parcel). The land was to be transferred free from all encumbrance.

²⁴⁸ The 1814 site Act, s 2.

²⁴⁹ The 1814 site Act, s 3. Sections 4 and 5 of the site Act contained savings provisions to the effect that the rent payments under the earlier 1798 Act (relating to the land and buildings retained by the Society) should not be abridged or diminished and, more generally, that no third party should be affected adversely by the legislation.

²⁵⁰ Preamble to 7 Geo.4 c.13 (1826), examined below. It was thought that the Society’s building would “greatly tend to the improvement of that part of the county of the city of Dublin”.

²⁵¹ 7 Geo.4 c.13 (1826) (“the 1826 Act”), being “An Act to alter and amend an Act passed in the Fifty fourth Year of the Reign of His late Majesty King George the Third [1814], for vesting in His Majesty, His Heirs and Successors, for ever, Part of the Ground and Buildings now belonging to the Society of King’s Inns, Dublin, for erecting thereon a Repository for Public Records in Ireland”.

²⁵² The 1826 Act, s 1. The section did not identify specifically that repeal would affect section 3 of the 1814 site Act.

²⁵³ The 1826 Act, s 1.

obtaining the written approval of the Commissioners of Public Roads and the Commissioners of Records for the intended development).²⁵⁴

Status of the 1807 to 1826 Acts

15. Of the five Acts dealt with in this note, three related to the General Post Office, and two related to the Dublin public record office.
16. The General Post Office, sited at O'Connell Street, Dublin, is still operational today. However, the Acts of 1807, 1809 and 1814 no longer have practical utility because their original purpose has long since expired. The first two Acts were designed to facilitate the acquisition of the legal interests in the then post office building (at College Green, Dublin) and in adjoining parcels of land, so that the post office could be enlarged on that site. The last Act was designed to authorise the sale of the old building and the reconstruction of the post office on a newly assembled site at O'Connell Street (where it stands today). Each of these functions must have been completed by the time the new building was opened in 1818.
17. The public record office is today part of The National Archives of Ireland, established in 1988. There is no longer any need for the 1814 site Act or the 1826 Act, each having served its purpose.
18. Today, none of the five Acts has effect beyond the Republic of Ireland, which means that - linked with the fact that each of the Acts no longer has practical utility - each may now be repealed in whole.

Extent

19. The 1807 to 1826 Acts impliedly extended across the United Kingdom, which then included Southern Ireland (today the Republic of Ireland).

²⁵⁴ The 1826 Act, s 2. The reserved route had run in a straight line from the south end of King's Place to Constitution Hill where it adjoined Colerain Street, and the parcel of land was owned by the King (see the 1814 site Act, above). The Society was proposing to build a terrace of chambers and a "line of street" which would deviate from the reserved route. In obtaining approval to deviate, the Society would retrieve title to the ground it needed for its development, subject to its providing elsewhere on its land an alternative "good and convenient public street or passage" (30 feet wide) joining the King's Inn Buildings to the Four Courts: the 1826 Act. s 2.

Consultation

20. HM Treasury, the Foreign and Commonwealth Office, the Department for Business, Enterprise and Regulatory Reform, the Ministry of Justice, The National Archives (UK), the Office of the Attorney General for Ireland, The National Archives of Ireland, An Post, and the relevant authorities in Scotland, Wales and Northern Ireland have been consulted about the repeal proposals set out in this note.

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GROUP 5 – DUBLIN CORPORATION

<i>Reference</i>	<i>Extent of repeal or revocation</i>
13 & 14 Vict. c.81 (1850) (Dublin Corporation Act)	The whole Act.
Dublin Corporation Loans Act 1889 (52 & 53 Vict. c.cxxix)	The whole Act.
Dublin Corporation Act 1893 (56 & 57 Vict. c.xv)	The whole Act.
Dublin Corporation Act 1900 (63 & 64 Vict. c.cclxiv)	The whole Act.

Background

1. Formal local governance in Dublin is documented back to 1229 when, by charter, Henry III created the office of Mayor of Dublin (electable by the citizens). The office of Town Clerk was created in 1230. In 1641 the formal title of Mayor changed to Lord Mayor of Dublin (although no office-holder used that title until 1665).²⁵⁵
2. In 1840 legislation was passed by the United Kingdom parliament (then covering the whole of Ireland) to standardise the variety of municipal corporations in Ireland – several constituted by charter – which were charged with ensuring that the cities, towns and boroughs within their remit were “well regulated and quietly governed”.²⁵⁶ The 1840 Act dissolved several corporations and, amongst other things, made arrangements for the formation of new corporations by popular petition. It also laid down qualification requirements for burgesses (citizens eligible to elect town council members) by reference to residence and to rateable

²⁵⁵ See <http://www.dublincity.ie/YourCouncil/LordMayorDublin/HistoryofLordMayor/Pages/>, and also <http://www.dublincity.ie/YourCouncil/AbouttheCouncil/Pages/DublinCityCouncilHistory/> (accessed 3.6.08).

²⁵⁶ See preamble to 3 & 4 Vict. c.108 (1840) (“the 1840 Act”), being “An Act for the Regulation of Municipal Corporations in Ireland”. This 1840 Act, which related to Ireland only (as then constituted), appears to remain in force - at least in part - in Northern Ireland. Its status within Great Britain is unclear. In the Republic the 1840 Act was wholly repealed by the Local Government Act 2001, c.37 (Ireland), s 5 and sch 3 pt 1. Because the 1840 Act covered municipal issues right across Ireland (beyond Dublin), the Act is not proposed for repeal within this present UK-based project.

occupancy of premises.²⁵⁷ Where rates or local taxes were payable in advance in any borough, public notice had first to be given in prescribed form.²⁵⁸

3. By 1849 it was felt that, for the borough of Dublin, the provisions in the 1840 Act relating to “the qualification of burgesses” should be altered (to bring it into line with that in England and Scotland), and that the only pre-condition for enrolment should be occupancy and payment of rates.²⁵⁹ To this end the 1849 Act was passed.

Dublin Corporation Acts

Purpose

4. Only a year after the 1849 Act was passed, there arose doubt as to whether the provisions enacted in the 1840 Act, relating to publication of notice of certain rates (prior to their becoming payable), applied to the various rates listed in the schedule to the 1849 Act. The *Dublin Corporation Act* of 1850²⁶⁰ was designed simply to put the matter beyond doubt by deeming that neither the 1840 Act, nor any notice under it, was to apply “to any of the rates, cesses, or taxes” specified in the 1849 Act.²⁶¹
5. By 1889 the city of Dublin (as a municipal borough) needed to consolidate its various loans and to borrow moneys through the creation of corporation stock, charged “indifferently” against all the corporation’s revenues and rates.²⁶² Its existing loans (by borrowings, debenture issues and re-mortgaging) amounted to just over £1.151M.²⁶³ In order to effect this change the corporation required

²⁵⁷ The rates were payable for each 12 months “for the more effectual relief of the destitute poor in Ireland”: see the 1840 Act, s 30.

²⁵⁸ The 1840 Act, s 31. Notices were to be posted at the court house and the town hall, and to be published in the local newspaper. Completion of publication was made a condition precedent to the incurring of liability to pay the “cess, rate, or tax”.

²⁵⁹ See preamble to 12 & 13 Vict c.85 (1849) (“the 1849 Act”), being “An Act to amend an Act for the Regulation of Municipal Corporations in Ireland, so far as relates to the Borough of Dublin”. Section 1 of the 1849 Act repealed the qualification provisions in the 1840 Act relating to Dublin burgesses (although it did not specify the relevant sections of the Act). Section 3 set out the replacement occupancy qualification, and the remainder of the 1849 Act was devoted to the nature of occupancy (and the exceptions), the mechanics of rating, the re-division of Dublin into wards, the listing of persons eligible to be burgesses, and the election arrangements for aldermen and councillors. The whole of the 1849 Act has been repealed: see Statute Law (Repeals) Act 1993, s 1(1), sch 1 (for the UK), and Electoral Act 1963 (19/1963), s 3, sch 1 (in the Republic of Ireland).

²⁶⁰ 13 & 14 Vict. c.81 (1850) (“the 1850 Act”), being “An Act to explain an Act of the last Session for amending an Act for the Regulation of Municipal Corporations in Ireland so far as relates to the Borough of Dublin”. The 1850 Act comprised only preamble and two short sections. It appears unrepealed.

²⁶¹ The 1850 Act, s 1. Section 2 related only to possible amendment or repeal of the Act within the then current parliamentary session.

²⁶² Preamble to the Dublin Corporation Loans Act 1889, c.cxxix (see below).

²⁶³ Dublin Corporation Loans Act 1889, preamble and sch 2.

statutory authority, which it obtained through the *Dublin Corporation Loans Act 1889*.²⁶⁴ This 1889 Act enabled the following:

- (a) the creation of redeemable corporation stock in accordance with any existing statutory borrowing power, which stock was to be transferable and bear dividends;²⁶⁵
- (b) the creation of a consolidated loans fund, which would hold all the dividends due to be paid on corporation stock, plus moneys for redemption of stock;²⁶⁶
- (c) the substitution of corporation stock for other forms of existing secured loan;²⁶⁷
- (d) the application of moneys raised by the issue of stock;²⁶⁸ and
- (e) the putting in place of all necessary administration arrangements.²⁶⁹

6. In 1893, as part of its function as an urban sanitary authority, the city corporation needed to borrow additional moneys for waterworks purposes, and to augment its existing borrowing powers.²⁷⁰ The *Dublin Corporation Act 1893*²⁷¹ was promoted to provide the supplemental powers and, more particularly, to do the following:

²⁶⁴ 52 & 53 Vict. c.cxxix (1889) (“the 1889 Act”), being “An Act to authorise the Right Honourable the Lord Mayor, Aldermen and Burgesses of Dublin to consolidate their Loans and create Corporation Stock; and for other purposes”. The Act’s short title was assigned by section 1.

²⁶⁵ The 1889 Act, s 4. The stock was initially to be redeemable by the corporation “at par” (£100 for every £100 worth of stock). Each borrowing power was deemed to allow stock to be issued up to the lawful maximum which could be raised: the 1889 Act, s 5, and all stock issued was to be charged on the whole of the corporation’s revenues, from whatever source: the 1889 Act, s 6.

²⁶⁶ The 1889 Act, ss 7-16. The Act set out the complex mechanisms by which moneys would be transferred between accounts so as to contribute to the loans fund, how capital moneys from land and property sales were to be applied, how stock was to be redeemed, and how loans fund accounts were to be maintained.

²⁶⁷ The 1889 Act, ss 17, 18. The existing loans included mortgages, bonds, debentures, annuities and rent charges created under statutory borrowing power. The repayment period for the schedule 2 loans was not to be extended. The final loan appeared to expire by May 1888. Where stock was issued for a whole loan for its whole term, the previous relevant borrowing power then expired.

²⁶⁸ The 1889 Act, ss 19, 20.

²⁶⁹ The 1889 Act, ss 21-54. These matters covered: registration and certificates; transfer and transmission of stock (including the handling of transfer registers); payment of dividends (and the handling of unclaimed dividends); issue of stock certificates (of title); matters relating to the holding of stock in trust; the prescribing of forms relating to stock and dividends (in schedule 3); and various savings for existing powers and obligations.

²⁷⁰ Preamble to the Dublin Corporation Act 1893, c.xv (see below). The Dublin Main Drainage Provisional Order 1892 had authorised the corporation to acquire lands required for sewerage and drainage works by compulsory purchase order, and to borrow moneys for that purpose, and (pursuant to the Dublin Corporation Waterworks Act 1861, c.clxxii) the corporation had also constructed water supply works.

²⁷¹ 56 & 57 Vict. c.xv (1893) (“the 1893 Act”), being “An Act to authorise the Right Honourable the Lord Mayor Aldermen and Burgesses of Dublin to raise further moneys by borrowing and for other purposes”. The Act’s short title was assigned by section 1.

- (a) to extend the previous time limit within which borrowing might be effected, and to remove the statutory ceiling on the amount which could be borrowed;²⁷²
- (b) to authorise the borrowing of moneys “for waterworks purposes”, secured by mortgage on the various water rates and water undertaking revenues;²⁷³
- (c) to effect repayment of borrowings by annual instalments or by annual contributions to a sinking fund;²⁷⁴ and
- (d) to allow the raising of moneys by the issue of corporation redeemable stock.²⁷⁵

7. By 1900 the city of Dublin had attained county borough council status (with responsibility for, amongst other functions, the delivery of sanitary and water supply services).²⁷⁶ For reasons of greater efficiency it had become expedient to reorganise local government within the greater Dublin area. Various “townships” on the outskirts of the city of Dublin (New Kilmainham, Drumcondra, Clonliffe, Glasnevin and Clontarf, all within the county of Dublin) were then under the jurisdiction of urban district councils (UDCs).²⁷⁷ These townships (and various separate “townlands”) were to be subsumed within the city of Dublin, their local authorities dissolved, and their governance to be transferred to the city corporation. That statutory body would “be constituted the sole authority for all municipal and sanitary government within the extended city”.²⁷⁸

²⁷² The 1893 Act, s 3. This involved two steps. First, the amendment of the Local Government Board (Ireland) Provisional Order Confirmation (No 10) Act 1892 (c.ccxvi), s 2, by extending the borrowing time limit from one year to two years. Secondly, the lifting of the restriction in the Public Health (Ireland) Act 1878 (c.52), s 238 on the amount which could be borrowed (a ceiling of £100,000) for the current purposes. [Much of the 1878 Act is extant in Northern Ireland, although section 238 was repealed in 1972. The 1892 Act is still in force in the UK, although it is obsolete].

²⁷³ The 1893 Act, s 4, 5. Moneys borrowed under this provision could not exceed £120,000, and had to be repaid within 60 years of the borrowing. Re-borrowing after repayment, on the same terms as the original loan, was permitted in limited circumstances. By section 9 the 1893 Act provided savings for any existing mortgagees (who were to retain “the same priority of charge” on the rate fund and corporation revenues).

²⁷⁴ The 1893 Act, s 6. By section 8 the town clerk was required to certify annually to the Local Government Board the amounts set aside for, or paid into, the sinking fund, and the Board was given default powers.

²⁷⁵ The 1893 Act, s 10. The issue of redeemable stock (for the authorised purposes) was governed by the Dublin Corporation Loans Act 1889 (see above).

²⁷⁶ See preamble to 63 & 64 Vict. c.cclxiv (1900), discussed below. County borough status relating to the city was conferred and regulated by the Local Government (Ireland) Act 1898 c.37, substantial parts of which Act have since been repealed in relation to Northern Ireland.

²⁷⁷ Preamble to 63 & 64 Vict. c.cclxiv (1900). Other “townlands”, identified by parish, fell within the jurisdiction of rural district councils (RDCs), and details of the lands were recited in Schedule 1 to the Act.

²⁷⁸ Preamble to 63 & 64 Vict. c.cclxiv (1900). Consequential adjustments also had to be made: the “added area” required division into electoral wards, and the creation of additional aldermen and

8. In order to effect the reorganisation, the city council promoted a bill which became the *Dublin Corporation Act 1900*.²⁷⁹ That Act provided (put briefly) as follows:

- (a) that from January 1901 the several urban district councils were abolished, and all their property, rights and liabilities were transferred to, and vested in, the enlarged city corporation;²⁸⁰
- (b) that the city corporation be empowered to collect rates and other debts due to the former UDCs, and to collect general and water rates prospectively for the former township areas (subject to not exceeding certain financial limits);²⁸¹
- (c) that all existing byelaws and regulations made by the former district councils were “annulled” (but with savings for previously-incurred penalties);²⁸²
- (d) that all employed officers in the affected UDCs were to lose office, but either were to be re-employed by the city corporation at like salary or were to be compensated by way of “superannuation allowance”;²⁸³
- (e) that the Dublin city boundary be extended to include the five urban districts and the various townlands,²⁸⁴ and that the city corporation’s jurisdiction be extended accordingly;²⁸⁵

councillors for the “extended city”; and the reconstituted corporation required the transfer to it of both property, rights and liabilities, and the extension of its borrowing powers.

²⁷⁹ 63 & 64 Vict. c.cclxiv (1900) (“the 1900 Act”), being “An Act to extend the City of Dublin and for other purposes”. The short title of the Act was assigned by section 1 and, by section 2, the Act was divided into six parts.

²⁸⁰ The 1900 Act, ss 6, 7. There was also a partial transfer of assets and liabilities from the affected rural district councils (who would have had oversight of the townlands within the various parishes). Specific savings were made for existing conveyances, contracts and other forms of obligation, and for all forms of legal proceedings then in train: the 1900 Act, ss 8-10.

²⁸¹ The 1900 Act, ss 11, 12. Liability for payment of existing (inherited) mortgage debts also fell to the corporation, apportioned in the case of the rural district councils where only part of their area had been reorganised: the 1900 Act, ss 13-15. Power to close existing slaughter houses in the transferred areas (five were named in the Act’s schedule 4) was limited for the ensuing 25 years unless compensation were paid or unless the premises were deemed injurious to public health: the 1900 Act, s 16. A general rating re-valuation was to be carried out across the city “[a]s soon as conveniently may be” after commencement of the Act: the 1900 Act, s 60.

²⁸² The 1900 Act, s 17. Plans for new buildings and new streets approved previously under the byelaws were deemed to hold good for two years, notwithstanding the annulment. By section 25 (see below) the city’s existing byelaws were to extend into the former district council areas.

²⁸³ The 1900 Act, ss 20, 21. The compensation scheme extended also to officers of the rural district councils and the county council who might suffer loss of office or of fees or salary, and would thus be entitled to assistance in accordance with the Local Government (Ireland) Act 1898: see the 1900 Act, ss 21, 34.

²⁸⁴ The 1900 Act, s 23. The effect of the boundary extension was to remove the areas from the county of Dublin and to place them within the city administration. The revised city boundary was more particularly described in schedule 1 to the 1900 Act, and was delineated on the city plan (sections 38, 39). The new boundary was not to affect the limits of the parliamentary borough of Dublin: the 1900 Act, s 57.

²⁸⁵ The 1900 Act, ss 24, 25. The benefit of all municipal trusts in Dublin were extended to all citizens of the extended city. Various other administrative adjustments had to be made relating to: the powers of

- (f) that the added areas be reconstituted as city wards (and district electoral divisions for poor law purposes), and provision be made for the election of new aldermen and councillors;²⁸⁶
- (g) that the city corporation's borrowing powers be extended to cover its additional commitments, that arrangements be made for repayment of moneys borrowed (including, if required, utilising a sinking fund), and that authorisation be granted to issue Dublin Corporation redeemable stock;²⁸⁷ and
- (h) that provision be made for various miscellaneous matters.²⁸⁸

Status of the Acts

9. At their core, all four Dublin Corporation Acts (1850 to 1900) were concerned with similar issues relating to municipal finance: the raising of moneys by rate, the raising of loans by stock issue and by mortgage, and the increasing of the corporation's revenue-raising ability when the city boundaries were extended to embrace greater Dublin. Certain consequential adjustments had also to be made (eg. as to electoral matters). The Acts each effected incremental changes to the city's governance arrangements prior to Ireland's national independence.

quarter sessions, the coroner, the "civil bill court and the court of conscience", the sheriff, and the city's chief officers; and to prosecution records, electoral registration, the responsibility for repairing all streets in the added area (and for the maintenance of all boundary roads), and rating and other financial matters, both formerly handled by the county council and by the constituent UDCs: the 1900 Act, ss 26-32, 35, 36.

²⁸⁶ The 1900 Act, ss 40, 43-48. Separate arrangements had also to be made for the completion of specified main drainage, internal drainage and sewerage systems: the 1900 Act, ss 41, 42. Why these latter provisions were included within the part of the Act dealing with electoral matters is less than clear.

²⁸⁷ The 1900 Act, ss 49-56. The issue of stock was previously regulated by the Dublin Corporation Loans Act 1889 (c.cxxix), which local Act is still in force and is listed in the 1900 Act, preamble & sch 2 (Local Acts) as applying to the pre-1900 city. Specific loan sanction had to be sought for moneys to build "artisans' dwellings and houses for the working classes" in Kilmainham: the 1900 Act, s 70.

²⁸⁸ The 1900 Act, ss 58-72. The Act provided savings for, amongst other things, the relief of rates on agricultural lands within the extended city (but not for application of the Land Acts), railway land partial rating exemptions, Trinity College Dublin's rating exemptions, and the Alliance and Dublin Consumers Gas Company; and provided for the making of the metropolitan police district coterminous with the city, the protection of the Dublin Port and Docks Board's rights, and the laying of electricity mains (and supplying of energy) in Clontarf. The 1900 Act also provided for repeals of those parts of the Township Acts 1868-1899 (set out in schedule 3, and affecting the five named former urban districts) which were "inconsistent with" the new Act, but preserved the Clontarf Urban District Council Act 1900: the 1900 Act, s 63. Section 63 failed, however, to identify which specific provisions within the Township Acts were so repealed.

10. The Acts have not been the subject of amendment or repeal within the United Kingdom, with the exception of the 1893 Act. The 1893 Act was saved and amended by an Act in 1895,²⁸⁹ and applied by an Act in 1899.²⁹⁰ None of the four Dublin Acts have effect today beyond the Republic of Ireland, and thus they all may be repealed in whole within the UK.

Extent

11. The four Acts impliedly extended across the United Kingdom, which then included that part of Ireland which today forms the separate Republic of Ireland.

Consultation

12. HM Treasury, the Foreign and Commonwealth Office, the relevant authorities for Scotland, Wales and Northern Ireland, the Office of the Attorney General for the Republic of Ireland, and Dublin City Council have been consulted about these repeal proposals.

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²⁸⁹ Local Government Board (Ireland) Provisional Order Confirmation (No. 10) Act 1895 (c.lxxxiv), relating to Dublin main drainage. This Act is still live in the UK (although obsolete).

²⁹⁰ Dublin Corporation (Markets) Act 1899 (c.ccxxxvi), relating to Dublin markets. This Act is still live in the UK (although obsolete), but in the Republic it has been repealed. The 1899 Act extended the borrowing powers in the 1893 Act, ss 4-10 to the wider purposes contained in the 1899 Act. The provisions within the 1893 Act were deemed to be “re-enacted” in the 1899 Act by section 9 of that Act.

GROUP 6 – CARRIAGES

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Dublin Carriage Act 1853 (16 & 17 Vict. c.112)	The whole Act.
Dublin Amended Carriage Act 1854 (17 & 18 Vict. c.45)	The whole Act.
Dublin Amended Carriage Act 1855 (18 & 19 Vict. c.65)	The whole Act.

Background to the legislation

1. From before 1796 a series of Acts had been passed, first by the Irish Parliament and then (1801 onwards) by the United Kingdom Parliament, authorising the Dublin justices to licence and regulate carriages plying for hire in the street.²⁹¹ These carriages were - in the main - hackney and stage carriages.
2. By 1853 the most recent Act in the series to be passed was that in 1848.²⁹² The time had now come to consolidate the legislation in this field, and to place the licensing of hackney, stage and hire carriages (and their proprietors and drivers) in the hands of the Dublin Metropolis police commissioners.

Dublin Carriage Acts

Purpose

3. The *Dublin Carriage Act 1853*²⁹³ was designed to do the following:
 - (a) to repeal (in whole or in part) the thirteen Acts scheduled, subject to such savings as were necessary,²⁹⁴ and to provide for the expiry in June 1854 of all licences granted under the 1796 legislation;²⁹⁵

²⁹¹ The 1796 Act, which was 37 Geo.3 c.58 (Ire), was passed to consolidate previous Acts and laws "relating to Hackney and other Carriages plying in the City of Dublin" and its outskirts to a radius of seven miles: see Dublin Carriage Act 1853, s 1 and sch A, below.

²⁹² 11 & 12 Vict. c.113 (1848), which related to the Dublin police. This 1848 Act is the subject of a separate repeal note within the Dublin topic (see Group 3 - police and justice, above).

²⁹³ 16 & 17 Vict. c.112 (1853) ("the 1853 Act"), being "An Act to consolidate and amend the Laws relating to Hackney and Stage Carriages, also Job Carriages and Horses, and Carts let for Hire, within the Police District of Dublin Metropolis". The short title to the Act was assigned by section 81.

²⁹⁴ The 1853 Act, s 1 and sch A. The Acts extended from 1796 to 1848 inclusive, and related in the main to vehicle and driver licensing.

- (b) to authorise a single metropolitan police commissioner to undertake the functions bestowed by the licensing legislation on the two police commissioners;²⁹⁶
- (c) to prescribe the level of duty to be paid (from January 1854) on grant of an annual licence under the 1853 Act;²⁹⁷
- (d) to set down the rubric for carriage licensing applications, and for the handling and determination of such applications;²⁹⁸
- (e) to provide a regulatory and enforcement regime in respect of public carriages,²⁹⁹ and of drivers;³⁰⁰
- (f) to empower the commissioners to regulate routes for licensed carriages;³⁰¹
- (g) to provide a compensation scheme for persons injured by negligent or wilful driving;³⁰²
- (h) to regulate the availability for hire of carriages and the taking of fares;³⁰³
- (i) to authorise the commissioners to vary hackney carriage fare rates, to designate carriage stands and limit the number of carriages, and to make rules and byelaws to ensure public safety and convenience;³⁰⁴

²⁹⁵ The 1853 Act, s 3. However, where licences were paid up and had not expired by effluxion of time, the licensee was to be entitled to a proportional discount on renewal of the licence for the same class of vehicle under the new legislation: the 1853 Act, s 4.

²⁹⁶ The 1853 Act, s 2. An exception was made in respect of the amendment of regulations and byelaws, and the altering of duties and fares, which continued to require two signatures.

²⁹⁷ The 1853 Act, s 5 and sch B. Sections 6 and 7 of the Act provided for use of the duties when collected, and for either reduction or abolition of individual duties as set down in the schedule, when thought "proper" (subject to approval by the chief governor of Ireland, and publication of the revised schedule of duties in the *Dublin Gazette* and local newspapers).

²⁹⁸ The 1853 Act, ss 8-18. These sections covered: the form of application, the granting by commissioners of licences with conditions attached (such as non-transferability), the grounds for refusal (where eg. any carriage was "unserviceable or unsafe, or otherwise unfit for public accommodation or use"), the form of licence and numbered vehicle plate, the register of licences, and the circumstances in which plates would be reissued. Plates could also be recalled by commissioners for substitution under section 22.

²⁹⁹ The 1853 Act, ss 19-25. It was made an offence to drive any carriage without a licence plate, to forge a licence or plate, to hire out any unlicensed carriage or cart, and to obstruct any officer in the course of his duty. The Act prescribed penalties and also vested in the commissioners power to forfeit and revoke licences in certain circumstances.

³⁰⁰ The 1853 Act, ss 33-36. It was made an offence to act as a driver (or conductor) without holding the requisite licence.

³⁰¹ The 1853 Act, ss 27-29, 31. Commissioners were empowered to divert carriages away from churches on Sundays and religious festivals, and to prevent obstructions occurring in and around (the then royal) Phoenix Park, and in public places generally.

³⁰² The 1853 Act, s 32.

³⁰³ The 1853 Act, ss 38-47. Various penalties were prescribed for exacting improper fares and for refusing hirings, and for passengers and others who refuse to pay lawful hire charges or damage any licensed carriage. Charges for waiting were permissible. Carriage proprietors were authorised to ply for hire on Sundays, subject to complying with the usual weekday regulations. Authorised hirings were regulated for a radius of ten "statute miles" from the Dublin General Post Office.

³⁰⁴ The 1853 Act, ss 48-50. Variations of fares by the commissioners required the sanction of the Dublin city recorder. Breaches of the rules and byelaws (also to be confirmed by the recorder on making) could lead to imprisonment and licence revocation. By section 60 no advertising material was to be affixed to, or carried on, any carriage "to the obstruction or annoyance of the inhabitants [of public places] or passengers".

- (j) to regulate the conduct of hackney and stage carriage drivers and stage carriage conductors through a licensing regime;³⁰⁵ and
 - (k) to make provision for the resolution of disputes arising on hire, and for matters ancillary to legal proceedings.³⁰⁶
4. One year on, several provisions in the 1853 Act already required amendment. In order to effect repeals and amendments to the legislation, the *Dublin Amended Carriage Act 1854*³⁰⁷ was passed. The purpose of this Act was (broadly):
- (a) to repeal several provisions in the 1853 Act so that the rubric relating to licence duties and the issue of licences could be varied;³⁰⁸
 - (b) to empower the commissioners of police to grant licences to proprietors of stage, job and hackney carriages (and the like), subject to prescribed terms and conditions and payment of the annual duty, and to revoke such licences where the vehicle or horse appeared “unserviceable or unsafe, or otherwise unfit for public accommodation or use” or the licensee became unfit through criminal conviction;³⁰⁹
 - (c) to permit the transfer or assignment of licences to named fit persons (on application to the commissioners for approval);³¹⁰
 - (d) to provide for the issue of replacement licences in certain circumstances, and to place a limit on the number of hackney carriage licences to be granted as a whole;³¹¹
 - (e) to provide for an amended schedule of licence duties;³¹² and

³⁰⁵ The 1853 Act, ss 51-59. The regime covered licence application, determination, licensee identification and behaviour.

³⁰⁶ The 1853 Act, ss 61-79, 82 and sch E (fees to justices). The matters included: recovery of fines, service of summonses, compellability of witnesses, compensation, false evidence, appeals (and process), distraint on goods, and time limits for actions.

³⁰⁷ 17 & 18 Vict. c.45 (1854) (“the 1854 Act”), being “An Act to amend the Dublin Carriage Act 1853”. The short title to the Act was assigned by section 14.

³⁰⁸ The 1854 Act, s 1 and sch A. The provisions in the 1853 Act repealed (in whole or in part) were sections 5, 7, 10, 14, 59, 71 and 80, a portion of schedule B and the whole of schedule C. Various general savings were made. By section 11 of the 1854 Act, the remaining parts of the 1853 Act and the replacement provisions in the 1854 Act were to be construed together.

The 1854 Act, s 5 provided that all hackney carriage licences granted under the 1853 Act were to expire in August 1854, but would ordinarily be replaced by cabriolet licences under the 1854 Act. A “cabriolet” was defined to include a four-wheeled “Hansom’s patent safety cab”: the 1854 Act, s 10.

³⁰⁹ The 1854 Act, s 2. No licence was to be granted to anyone under 18 years of age, unless it was to be held jointly with a trustee or guardian.

³¹⁰ The 1854 Act, s 3.

³¹¹ The 1854 Act, s 6.

³¹² The 1854 Act, s 7 and sch B. The commissioners were empowered by section 8 of the Act to alter or abolish the specified duties, subject to approval by the chief secretary to the Lord Lieutenant of Ireland and to publication in the *Dublin Gazette* and local newspapers of any revised schedule.

(f) to provide for various ancillary matters.³¹³

5. Only a year later, in 1855, further amendment was required to the two carriage Acts because (as the next Act put it) “doubts have arisen with respect to the construction” of the 1853 and 1854 Acts.³¹⁴ Accordingly, the very short *Dublin Amended Carriage Act 1855*³¹⁵ did two things. First, it sought to remove the doubts by enacting that the provisions in the two Acts relating to hackney carriages (and to their owners and drivers) be deemed to apply equally to carriages designated “cabriolets”, notwithstanding anything in the Acts “to the contrary”.³¹⁶ And secondly, it provided that all three Acts should now be construed together as a single Act.³¹⁷

Status of the Acts

6. Each of the three Acts related to the licensing and regulation of various forms of carriage (particularly hackney and stage carriages) which were available for public transportation. The Acts were interlinked and provided a self-contained licensing regime for the city of Dublin.
7. Today, none of the Acts has effect beyond the Republic of Ireland, which means that they may now be repealed in whole. Within the Republic the three Acts are still operational.³¹⁸

Extent

8. The 1853 to 1855 Acts impliedly extended across the United Kingdom, which then included Southern Ireland (today the Republic of Ireland). In practice the Acts related only to the city of Dublin.

³¹³ The 1854 Act, ss 9-16 and sch C. These matters included the taking of recognisances in criminal appeals, the giving of security by employed officers and (seemingly) the replacement of the licence forms prescribed under the 1853 Act.

³¹⁴ Preamble to 18 & 19 Vict. c.65 (1855).

³¹⁵ 18 & 19 Vict. c.65 (1855) (“the 1855 Act”), being “An Act to amend the Dublin Carriage Acts”. The short title to the Act was assigned for citation by section 3.

³¹⁶ The 1855 Act, s 1.

³¹⁷ The 1855 Act, s 2.

³¹⁸ See Statute Law Revision Act 2007 (Ire), s 2 and sch 1 pt 4 (statutes retained).

Consultation

9. HM Treasury, the Foreign and Commonwealth Office, the Department for Transport, the relevant authorities for Scotland, Wales and Northern Ireland, the Office of the Attorney General for the Republic of Ireland, the Department of Transport for the Republic of Ireland, and Dublin City Council have been consulted about these repeal proposals.

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