



**Law
Commission**
Reforming the law

Statute Law Repeals: Consultation Paper Courts and Administration of Justice – Proposed Repeals

SLR 04/09: Closing date for responses – 29 January 2010

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 2008 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. Changes in agriculture during the second half of the 20th century had greatly reduced the numbers of persons seeking employment in farming. An Act of 1792 that criminalised the giving of false character references to servants seeking domestic employment had become superseded by changes in the civil law. And a Victorian Act requiring noisy street musicians to leave the area on pain of a forty shilling fine had long become obsolete.

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.

COURTS AND ADMINISTRATION OF JUSTICE: REPEAL PROPOSALS

CONTENTS

	<i>Pages</i>
Cornwall <i>6 & 7 Will. 4 c.xii (1836) (Bodmin Assizes Act)</i>	4 – 6
Cumbria <i>47 Geo.3 Sess.2 c.xxxii (1807) (Cumberland County Court Act)</i>	6 – 8
Derbyshire <i>45 Geo.3 c.lxi (1805) (High Peak and Castleton Courts Baron Act)</i>	8 – 10
Glamorganshire <i>4 & 5 Will.4 c.xl (1834) (Glamorgan, Brecon and Monmouth Court of Requests Act 1809 Repeal Act)</i>	10 – 11
Gloucestershire <i>1 Will. & Mar. c.18 (1688) (Erecting Bristol and Gloucester Courts of Conscience Act)</i>	11 – 14
Herefordshire <i>55 Geo.3 c.ix (1815) (Hereford County Offices Act)</i>	14 – 17
Hertfordshire <i>10 Geo. 4 c.xxxiii (1829) (St. Albans Court House Act)</i>	17 – 20
Leicestershire <i>1 & 2 Vict. c.xci (1838) (Ashby de la Zouch Court of Requests Act)</i>	20 – 21
Lincolnshire <i>49 Geo.3 c.lxxv (1809) (Lincolnshire Courthouse Act)</i> <i>3 Geo.4 c.lxxiv (1822) (Lincolnshire County Offices Act)</i> <i>1 & 2 Will 4 c.xxxiii (1831) (Lincoln County Offices Act)</i>	21 – 28
London (Greater) <i>46 Geo.3 c.lxxxvii (1806) (Southwark and East Brixton Court of Requests Act)</i> <i>55 Geo.3 c.xciii (1815) (City of London Courts of Justice Act)</i>	28 – 33
Louth (Ireland) <i>1 & 2 Geo.4 c.cxxiv (1821) (Louth County Court House Act)</i>	33 – 34
Northumberland <i>1 Will. & Mar. c.17 (1688) (Erecting Newcastle-upon-Tyne Court of Conscience Act)</i> <i>49 Geo. 3 c.clxxxv (1809) (Northumberland Gaol and Courts of Justice Act)</i>	34 – 39
Nottinghamshire <i>2 & 3 Vict. c.xcix (1839) (Newark Small Debts Recovery Act)</i>	39 – 41

	Page
Shropshire	
<i>1 & 2 Geo.4 c.xcvi (1821) (Salop County Judges' Accommodations Act)</i>	42 – 43
Suffolk	
<i>6 & 7 Will.4 c.xi (1836) (Ipswich Assizes Act)</i>	43 – 46
Surrey	
<i>46 Geo.3 c.cxxx (1806) (Croydon Court House, Market House and Burial Ground Act)</i>	46 – 50
<i>48 Geo.3 c.cxxxiv (1808) (Kingston-upon-Thames and Imworth Inclosure, Court House and Market House Act)</i>	
Worcestershire	
<i>3 & 4 Vict. c.lxix (1840) (Kingsnorton and Northfield Small Debts Recovery Act)</i>	50 – 52
Yorkshire	
<i>46 Geo.3 c.iii (1806) (West Riding of Yorkshire Court Houses Act)</i>	52 – 58
<i>46 Geo.3 c.xxxi (1806) (York Judges' House Act)</i>	
<i>2 & 3 Vict. c.xcvii (1839) (Hatfield (Yorkshire) Small Debts Recovery Act)</i>	
Other legislation	
Solicitors	
<i>Justices of the Peace Act 1949 (12, 13 & 14 Geo.6 c.101)</i>	59 – 60
Queen's Counsel	
<i>Access to Justice Act 1999 (c.22)</i>	60 – 61

COURTS AND ADMINISTRATION OF JUSTICE

<i>Reference</i>	<i>Extent of repeal or revocation</i>
1 Will. & Mar. c.17 (1688) (Erecting Newcastle-upon-Tyne Court of Conscience Act)	The whole Act.
1 Will. & Mar. c.18 (1688) (Erecting Bristol and Gloucester Courts of Conscience Act) ¹	The whole Act.
45 Geo.3 c.lxi (1805) (High Peak and Castleton Courts Baron Act)	The whole Act.
46 Geo.3 c.iii (1806) (West Riding of Yorkshire Court Houses Act)	The whole Act.
46 Geo.3 c.xxxi (1806) (York Judges' House Act)	The whole Act.
46 Geo.3 c.lxxxvii (1806) (Southwark and East Brixton Court of Requests Act)	The whole Act.
46 Geo.3 c.cxxx (1806) (Croydon Court House, Market House and Burial Ground Act)	Sections 9 to 12. Sections 15 to 18.
47 Geo.3 Sess.2 c.xxxii (1807) (Cumberland County Court Act)	The whole Act.
48 Geo.3 c.cxxxiv (1808) (Kingston-upon-Thames and Imworth Inclosure, Court House and Market House Act)	Sections 47 to 54.
49 Geo.3 c.lxxv (1809) (Lincolnshire Courthouse Act)	The whole Act.
49 Geo.3 c.clxxxv (1809) (Northumberland Gaol and Courts of Justice Act)	The whole Act.
55 Geo.3 c.ix (1815) (Hereford County Offices Act)	The whole Act.

¹ These two Acts of 1688 are, because of their date, both classified as private Acts (with italicised chapter numbers).

55 Geo.3 c.xciii (1815) (City of London Courts of Justice Act)	The whole Act.
1 & 2 Geo.4 c.xcvi (1821) (Salop County Judges' Accommodations Act)	The whole Act.
1 & 2 Geo.4 c.cxxiv (1821) (Louth County Court House Act)	The whole Act.
3 Geo.4 c.lxxiv (1822) (Lincolnshire County Offices Act)	The whole Act.
10 Geo.4 c.xxxiii (1829) (St. Albans Court House Act)	The whole Act.
1 & 2 Will.4 c.xxxiii (1831) (Lincoln County Offices Act)	The whole Act.
4 & 5 Will. 4 c.xl (1834) (Glamorgan, Brecon and Monmouth Court of Requests Act 1809 Repeal Act)	The whole Act.
6 & 7 Will.4 c.xi (1836) (Ipswich Assizes Act)	The whole Act.
6 & 7 Will. 4 c.xii (1836) (Bodmin Assizes Act)	The whole Act.
1 & 2 Vict. c.xci (1838) (Ashby de la Zouch Court of Requests Act)	The whole Act.
2 & 3 Vict. c.xcvii (1839) (Hatfield (Yorkshire) Small Debts Recovery Act)	The whole Act.
2 & 3 Vict. c.xcix (1839) (Newark Small Debts Recovery Act)	The whole Act.
3 & 4 Vict. c.lxix (1840) (Kingsnorton and Northfield Small Debts Recovery Act)	The whole Act.
Justices of the Peace Act 1949 (12, 13 & 14 Geo.6 c.101)	The whole Act.
Solicitors Act 1974 (c.47)	In Schedule 3, paragraph 4.
Access to Justice Act 1999 (c.22)	Section 45.
The Appointment of Queen's Counsel Fees Order 2002 (S.I. 2002 No.2037)	The whole Order.
Legal Services Act 2007 (c.29)	In Schedule 21, paragraph 130.

Background

1. The first 25 proposed repeals within this group range over the years 1688 to 1840, and concern in the main the rebuilding or replacement of court houses and judges' lodgings in various counties across the United Kingdom (including what was then southern Ireland). The buildings and accommodation then existing had long ceased to be fit for purpose. However, before the projects could start, parliamentary authority was required in order to acquire land or alternative premises, to raise moneys (usually on the county rate), to effect construction, and then to run and maintain the public facilities.

2. These Acts broadly fall into two categories: those authorising the construction of court buildings and those enhancing the jurisdiction of local courts of conscience, or courts of requests.

(a) The first category of Acts, those authorising the construction of courthouses or judges' lodgings, became obsolete once their purpose was fulfilled, that is to say, once construction of the buildings was complete and the care of the buildings passed to another body. In many cases the buildings authorised by these Acts no longer exist or are no longer used as courthouses. Responsibility for the maintenance of court houses now lies with Her Majesty's Court Service, which is an executive agency within the Ministry of Justice.

(b) The Acts extending the jurisdiction of courts of requests (also sometimes known as courts of conscience) are similarly obsolete. Courts of requests were established in 1483 as an inexpensive and simple means of achieving justice for the poor. Although these courts ceased to sit in 1642² they appear to have inspired the provision of more accessible justice at a local level. In the reign of Henry 8 the name *court of requests* was also given to inferior local courts

²www.nationalarchives.gov.uk/catalogue/RdLeaflet.asp?sLeafletID=143;
www.nationalarchives.gov.uk/familyhistory/guide/ancestorslaw/court.htm.

established by special Acts of Parliament with jurisdiction in matters of debt under 40 shillings. Some of the Acts described in this note extended the jurisdiction of the local courts of requests to deal with larger debts of up to £5. The courts of requests were abolished by the County Courts Act 1846.³

3. The various small debt court Acts contained provisions relating to the enforcement of court orders, including imprisonment of debtors until debts were paid. Those provisions have been superseded by the abolition of imprisonment for debtors - later governed by the Debtors Act 1869 - from 1971 onwards.⁴

4. The remaining proposed repeals in this consultation paper cover four Acts and one Order (1949 to 2007) spanning two main areas: qualification of solicitors who had served a period of years as justices' clerk assistant; and fees on application for appointment to the rank of Queen's Counsel.

Cornwall

6 & 7 Will. 4 c.xii (1836) (Bodmin Assizes Act)

Purpose

5. Prior to 1836 the county assizes and gaol delivery for Cornwall had been held alternately at Launceston and Bodmin. The Privy Council had indicated its wish to centralise trials at Bodmin once the courts there had been made "sufficiently commodious" for the conduct of both civil and criminal business.⁵

6. The assize hall and the judges' lodgings were owned by Bodmin corporation, and both buildings were in a "very dilapidated state". In 1834 the Bodmin quarter sessions received a report by two of its justices on the state of the buildings,⁶ which report recommended that a new shire hall should be built for holding the assizes. As a consequence, the sessions decided to negotiate with the corporation to acquire the existing buildings and some adjacent land, and to seek specific authorisation for the building project.⁷

³www.britannica.com/EBchecked/topic/498920/Court-of-Requests. The Act 9 & 10 Vict. c.95 (1846) related to the creation or redesignation of local courts in England. Once a court named in either Schedule A or B to the Act was redesignated a county court, the previous statutory provisions relating to that court were deemed repealed: see sections 5 and 6 of the 1846 Act.

⁴ See the Administration of Justice Act 1970 (c.31), ss 11, 12.

⁵ Preamble to 6 & 7 Will. 4 c.xii (1836) ("the Cornwall 1836 Act"), being "An Act for building new Courts of Assize at Bodmin for the County of Cornwall, and for providing Judges Lodgings, and other Purposes connected therewith".

⁶ Described as being "insufficient, inconvenient, defective, and in want of repair and improvement": the Cornwall 1836 Act, preamble.

⁷ General authorisation had previously been given by an Act in 1826 (7 Geo.4 c.63) to improve or rebuild shire halls and other buildings used for assize, general sessions and lodgings purposes across England and Wales. Doubts had arisen in Cornwall, however, as to whether the powers in that legislation were sufficient to cover the

7. The Cornwall 1836 Act provided authority for the Cornwall justices to do the following:

- (a) through general quarter sessions to enter into contracts for the purchase of the current assize building and the building used as lodgings for the assize judges,⁸ together with any necessary adjoining land;⁹ and likewise to contract for the demolition of the existing structures and the construction of a new “shire or county hall” (which could accommodate the assizes and quarters sessions and other public meetings for the county), and the erection or acquisition of a house to receive the assize judges;¹⁰
- (b) to assess and levy a special county rate to cover the expenses incurred in the project;¹¹
- (c) once complete, to vest in the justices as trustees the new buildings and fittings, to be held in accordance with the 1826 Act;¹²
- (d) to benefit from the powers in the 1826 Act and an Act of 1698 (for the building and regulation of gaols and houses of correction)¹³ so as to be able to acquire lands from persons or bodies with legal disability;¹⁴ and
- (e) to borrow moneys for the project, funded by the special rate, subject however to those moneys (and interest) being repaid within 14 years of the loan date.¹⁵

situation in Bodmin (notwithstanding the fact that the corporation’s buildings were then in use for the summer assizes). The principal concern was whether the county justices were empowered to acquire, at the county’s expense, premises and land under the 1826 Act for the purpose of re-provision. The Cornwall 1836 Act was designed to resolve the doubt.

⁸ Called in the Act “His Majesty’s Justices of Assize” to distinguish them from the lay magistracy.

⁹ The power extended to acquiring the interests of corporations and of any other person or body.

¹⁰ The Cornwall 1836 Act, s 1. The authorisation extended not just to building but also to fitting out and maintaining the accommodation once built or acquired, and to the making of orders for defraying the costs of such provision and on-going maintenance and support (together with the costs of obtaining the 1836 Act).

¹¹ The Cornwall 1836 Act, s 2. The special rate was to be collected in the same way as an ordinary county rate would be collected and enforced. Section 3 of the Act allowed the justices to direct that every tenant paying a rack rent should deduct from the landlord’s payment 50% of the rates payable which amount was then to be paid direct to the county.

¹² 7 Geo.4 c.63 (1826), above. See the Cornwall 1836 Act, s 4.

¹³ See 11 Will.3 c.19 (1698) (Gaols Act), repealed by 4 Geo.4 c.63 (1823) (Advances for Building Gaols, etc. (England) Act), s 1.

¹⁴ The Cornwall 1836 Act, s 5. This covered interests held, for example, by guardians or trustees of persons under age or suffering mental disorder.

¹⁵ The Cornwall 1836 Act, s 6.

Status

8. The Cornwall 1836 Act authorised the construction of the shire hall and judges' lodgings in Bodmin in Cornwall. That construction, in Mount Folly Square, Bodmin, was completed in 1837 and opened in 1838.¹⁶ Originally known as the Assize Hall, the buildings ceased to hold courts in 1988, and were transferred to the present Bodmin Town Council.¹⁷ They are known today as Shire House.

9. The borrowing powers in the 1836 Act were time-limited and the provisions of the Act are now spent.

Cumbria

47 Geo.3 Sess.2 c.xxxii (1807) (Cumberland County Court Act)

Purpose

10. By 1807 the county justices for Cumberland had formed the view that there was neither a shire hall nor any other public building available which was suitable for the holding of the county's assize and quarter sessions and for the archiving of its public records. Since "time immemorial" the county assizes had been convened in the guildhall of the city of Carlisle (courtesy of the city corporation), but those premises were "so incommodious and in such a ruinous state" as to pose a risk to the health and safety both of the King's assize judges and those of the public (the King's "liege subjects") who had to resort to the courts.¹⁸

11. The county justices concluded, on the advice of their appointed engineer and architect, that the only appropriate site for the construction of a new court house was on land adjoining the existing common gaol for the county. This scheme would involve using the citadel and two bastions (and parts of the city wall) at the south entrance to the city, the freehold of which was vested in "the King's most Excellent Majesty, in right of His Crown". The King, however, had signified to the county justices (on their petition) that the freehold of the structures and the necessary site could vest in them in order to facilitate the construction of a shire hall or court house for the county of Cumberland.¹⁹ But before construction could

¹⁶ At this point Bodmin became the county town of Cornwall, which status it held until the formation of the county council in 1888 (based in Truro).

¹⁷ Up until transfer, the Bodmin Town Council (as successor to the Bodmin borough council, abolished 1974) had occupied the Town Hall premises at Fore Street in Bodmin. We are grateful to Ms Jennie Hancock, Archivist at the Cornwall Record Office, for supplying background historic information for us.

¹⁸ See the preamble to 47 Geo.3 Sess. 2 c.xxxii (1807) ("the Cumberland 1807 Act"), being "An Act to enable His Majesty to grant the Citadel and Walls of the City of Carlisle, and certain grounds adjoining thereto, to the Justices of the Peace for the County of Cumberland, for building Courts of Justice for the said County, and for other Purposes relating thereto". The assize judges had previously made representations to the county's grand juries as to the inadequacy of the court accommodation.

¹⁹ The Cumberland 1807 Act, preamble.

commence the county justices needed parliamentary authority to defray the building costs and the expense of acquiring any further land for the project.

12. To this end the Cumberland 1807 Act authorised the following:
- (a) the permanent vesting of title of the citadel, bastions and walls of the city of Carlisle (and appurtenant land) in the county justices, free from any claim by the King;²⁰
 - (b) that the county justices, acting through quarter sessions, could make such orders and contracts as were appropriate for the conversion and fitting-out of the citadel and the bastions for court house use, for the erection of a new shire hall and court houses on the acquired land, and for the defraying of the costs through the county rate;²¹
 - (c) that the justices could acquire and pay for further land and buildings, either to advance the purposes of the Act or to create a “more easy, open, and convenient approach” to the city, the shire hall, the courts, and the county gaol;²²
 - (d) that special arrangements be put in place for the acquisition of land compulsorily where the owner was either unwilling or unable to effect transfer of title;²³
 - (e) that arrangements be made for the handling of minor interests and mortgages on land to be acquired;²⁴
 - (f) that the justices be permitted to sell the freehold of any land (acquired under the Act or purchased) which later may prove unnecessary, and the proceeds of sale

²⁰ The Cumberland 1807 Act, s 1.

²¹ The Cumberland 1807 Act, s 2.

²² The Cumberland 1807 Act, s 3. A limit of 3 acres was placed on the extent of land the justices could lawfully purchase. The justices were to be entitled to take possession of the necessary land on payment or tender of the purchase moneys, or payment into the Bank of England. By sections 4 and 13 of the Act corporate and other bodies, and trustees acting for infants or those of unsound mind or with some legal disability, were authorised to contract and convey their respective interests in the land to the acquiring justices; and such trustees were to be reimbursed by the county justices any reasonable expense incurred by them in acquiring alternative investment properties. The form of conveyance on sale was prescribed by section 16.

²³ The Cumberland 1807 Act, ss 5-11. In essence, the Act provided for the empanelling of a jury who would enquire into the value of the land to be taken and issue an award of compensation; and for the justices to tender the awarded sum and then take possession of the premises. [This was necessary because general statutes passed in the regnal years 11 & 12 Will. 3 (1698) and 24 Geo.3 (1784), relating to the construction of county gaols, did not extend to the building of court houses]. Depending upon the size of the award, the moneys would then be paid into the Bank of England (credited to the account of the Accountant General of the Court of Chancery) for application in accordance with the Court’s direction or the approval of two or more county justices. Where good title could not be made out, or where any dispute arose as to entitlement to adjudicated compensation moneys (or any dividend or interest accruing), the moneys would be paid into Court pending the Court’s direction. By section 12, the person in possession of the relevant parcel of land at the time of acquisition was deemed to be the lawful owner and entitled to the compensation moneys, until the contrary was proved.

²⁴ The Cumberland 1807 Act, ss 14, 15. The minor interests were those held by tenants at will or on an annual basis (where possession was to be handed over on notice or, in default, on execution by the county sheriff); and mortgages where the mortgagee (the lender) was not in possession (where principal and interest moneys were to be paid or tendered, and interest would terminate).

were to be applied either towards the purposes of the Act or “in aid of the county rate”,²⁵

- (g) that all the building materials, fixtures and fittings used for the shire hall and court buildings be vested in the county justices, and any person stealing or damaging that property should be liable to be convicted on indictment of a felony;²⁶
- (h) that within the court house or some adjoining building, provision be made for an office “for the purpose of depositing, keeping, and preserving the [county] public records”,²⁷ and
- (i) that various ancillary arrangements be made.²⁸

Status

13. A court was added to Carlisle Castle in 1841. In 1872 the headquarters of the 34th and 55th Westmorland Regiments were based in the castle. The castle was used by the Border Regiment until 1959,²⁹ and it today houses the King’s Own Royal Border Regiment museum.³⁰ The castle is now owned by English Heritage.³¹

14. Given that the castle is no longer in use for court purposes, the Cumberland 1807 Act is now of no practical utility and can be repealed in whole.

Derbyshire

45 Geo.3 c.lxi (1805) (High Peak and Castleton Courts Baron Act)

Purpose

15. In 1759 statutory power had been granted to two *courts baron*³² in Derbyshire (for the hundred of High Peak and the manor of Castleton, both within the King’s ownership as Duke

²⁵ The Cumberland 1807 Act, ss 17, 18.

²⁶ The Cumberland 1807 Act, ss 19, 20. The maximum sentence was transportation for 7 years. By section 21 the justices were required to hold the various buildings in trust for the county so that they could be used (“peaceably and quietly allow, permit, and suffer”) for the holding of the assizes, quarter sessions, and “other courts and meetings to be holden for the public administration of justice, and for transacting the public affairs and business of the said county”, together with “all such other public uses and purposes” as the justices may authorise (without restriction as to who may officiate or attend).

²⁷ The Cumberland 1807 Act, s 22.

²⁸ The Cumberland 1807 Act, ss 23-27. These arrangements related in the main to the ability of the justices to sue in civil proceedings through their clerk of the peace, the giving of notice of proceedings, and applying time limits for actions. The costs of obtaining the 1807 Act (section 27) were to be borne from the county stock or from moneys raised by county rate.

²⁹ <http://www.armymuseums.org.uk/museums/0000000052-Border-Regiment-King-s-Own-Royal-Border-Regiment-Museum.htm>

³⁰ See http://www.kingsownbordermuseum.btik.com/p_New_Home_Page.ikml . The museum opened in 1932 in the castle keep, and in 1973 transferred to Queen Mary’s Tower in the inner ward.

³¹ See <http://www.english-heritage.org.uk/server/show/nav.13665/chosenImageId/3>.

³² Courts baron were manorial courts which were responsible for regulating manors and their tenants.

of Lancaster).³³ Since “time immemorial” the courts had sat to hear pleas relating to actions for debt or damages of less than 40 shillings (£2).³⁴

16. However, the geographic spread of the hundred and manor was significant, and by 1805 encompassed “a very populous manufacturing and increasing district”. This expanding population gave rise to jurisdictional problems. Actions for 40 shillings value or more had to be tried in “the superior courts for the county” which sat in the town of Derby, some 40 miles distant from the “most populous part” of the hundred and manor. This ranked as a disincentive to creditors to recover debts properly due to them from those “many evil disposed persons” who were exploiting this lack of local jurisdiction.³⁵

17. In order to extend the financial jurisdiction of the local courts (and to make other adjustments to the earlier statute) the Act of 1805 was secured.³⁶ The Derbyshire 1805 Act provided authority for the following:

- (a) that the jurisdiction to hear actions for debt or damages arising within the courts’ areas be extended to sums “not exceeding” five pounds;³⁷
- (b) that debtors who fraudulently sought to conceal their assets would be liable, on sworn proof of that concealment, to imprisonment for an enhanced term;³⁸ and
- (c) that certain provisions be put in place relating to court process.³⁹

Status

18. The Derbyshire county records office have advised that they hold no records relating to a court house established under the Derbyshire 1805 Act.⁴⁰

³³ The 1759 Act was “An Act for regulating the Proceedings in Personal Actions in the respective Courts Baron of the Hundred of High Peak and Manor of Castleton, in the County of Derby”: 33 Geo.2 c.31 (1759), referred to in the preamble to 45 Geo.3 c.lxi (1805). This 1759 Act was repealed by the County Courts Act 1846 (c.95).

³⁴ 45 Geo.3 c.lxi (1805), preamble. The expression “time immemorial” today is treated as meaning since before the year 1189.

³⁵ 45 Geo.3 c.lxi (1805), preamble.

³⁶ See 45 Geo.3 c.lxi (1805) (“the Derbyshire 1805 Act”), being “An Act to explain and amend an Act, passed in the Thirty-third Year of His late Majesty, for regulating the Proceedings in Personal Actions in the respective Courts Baron of the Hundred of High Peak and the Manor of Castleton, in the County of Derby; and for extending the Powers of the said Courts”. The Derbyshire 1805 Act contained a specific saving for the powers and other provisions contained in the 1759 Act: see section 8.

³⁷ The Derbyshire 1805 Act, s 1. All previous powers vested in the courts, both “authorized and directed” and “heretofore used or exercised”, were to operate over the extended jurisdiction. However, by section 2 the local courts were not permitted to determine any cause which related to disputed title to land, or any action which concerned “testament or matrimony” or which fell within the jurisdiction of “the Ecclesiastical Court”. Likewise, by section 3, the local courts were not permitted to impose imprisonment on defaulting debtors which exceeded the tariff laid down by the Act (which set a maximum of 100 days for a debt not exceeding £5).

³⁸ The Derbyshire 1805 Act, s 4. In the circumstance of proven wilful and fraudulent concealment, for a debt of up to £5, the maximum term of imprisonment imposed could be 120 days. The clerk was to record the “circumstance or ground for further detention”.

³⁹ The Derbyshire 1805 Act, ss 5-7, 9. These provisions covered the non-liability of imprisoned debtors to pay gaol fees on release (and the inability of gaol keepers or turnkeys lawfully to demand payment as a prerequisite

19. Courts baron and hundred courts were superseded by the establishment of the county courts system in 1846, and were formally abolished (so far as their judicial functions were concerned) in 1977.⁴¹

20. The provisions of the Derbyshire 1805 Act are now obsolete and the Act may be repealed.

Glamorganshire

4 & 5 Will.4 c.xl (1834) (Glamorgan, Brecon and Monmouth Court of Requests Act 1809 Repeal Act)

Purpose

21. In 1809, an Act had been passed establishing a court of requests for various parishes within the counties of Glamorgan, Monmouth and Brecon. This court (comprising appointed commissioners) was designed to facilitate the recovery of small debts owed to trades people in the named towns (such as Merthyr Tydfil) and parishes. Its purpose was to reduce the disproportionate cost of litigation in the higher courts, to improve and encourage trade, and to protect “useful credit” in the places listed.⁴²

22. When the court of requests was set up, the Glamorganshire 1809 Act made savings for two existing courts, insofar as they related to manors within the named parishes: that of the court baron of the Marquis of Bute and Earl of Dumfries, and that of the court baron of the Duke of Beaufort.⁴³

23. By 1834 the court of requests had ceased to be an adequate tribunal. The Glamorganshire 1809 Act had “not been found to operate beneficially” and the court had failed “to answer the purposes for which the same was intended”. Instead, it had “been found inconvenient”.⁴⁴

to release), prohibition on imprisonment for debt where distraint on goods had already been sanctioned by court order, and the need to give prior notice of action (with a 3 months' limitation period).

⁴⁰ Moreover, manorial records for the High Peak (mainly moorland) area are very sparse.

⁴¹ The Administration of Justice Act 1977 (section 23 and schedule 4) curtailed the jurisdiction of certain ancient courts - such as courts baron, courts leet and hundred courts - by removing their legal proceedings powers but preserving their customary business role. These provisions were based on the Law Commission's recommendations in their report *Jurisdiction of Certain Ancient Courts* (Law Com. No.72, Cmnd. 6385) February 1976.

⁴² See preamble to 49 Geo.3 c.cxli (1809) (“the Glamorganshire 1809 Act”), being “An Act for the more easy and speedy Recovery of Small Debts within the Parish of Merthyr Tidfil, and other Places therein mentioned, in the Counties of Glamorgan, Brecon, and Monmouth”. The jurisdiction of the court was limited to trying actions of up to £5 in value. This 1809 Act has been repealed: see below.

⁴³ The Glamorganshire 1809 Act, ss 50, 51.

⁴⁴ Preamble to 4 & 5 Will.4 c.xl (1834) (“the Glamorganshire 1834 Act”), being “An Act to repeal an Act of the Forty-ninth Year of King George the Third, for the more easy and speedy Recovery of Small Debts within the

24. As a consequence, a very short Act of that year - the Glamorganshire 1834 Act - was enacted with two purposes:

- (a) that as from 1 January 1835 no action should be heard and determined by the court, and
- (b) that as from 1 January 1837 the Glamorganshire 1809 Act⁴⁵ be “hereby repealed”.⁴⁶

Status

25. The Glamorganshire 1834 Act has already been partially repealed by the Mid Glamorgan County Council Act 1987.⁴⁷ However, the 1834 Act still appears in force for other parts of the former counties of Glamorgan, Brecon and Monmouth.⁴⁸

26. Repeal of a repeal statute (here the 1834 Act, repealing an earlier Act of 1809) does not today have the effect of reviving the earlier Act: see the Interpretation Act 1978, s 15. Likewise, repeal in whole of a statute which has previously been repealed only in part (as here, by the 1987 Act) does not cancel out the previous partial repeal.⁴⁹ The remainder of the Glamorganshire 1834 Act can now safely be repealed.

Gloucestershire

1 Will. & Mar. c.18 (1688) (Erecting Bristol and Gloucester Courts of Conscience Act)

Purpose

27. In 1688 the two cities of Bristol (then spelt Bristoll) and Gloucester (each of which also had county status) were “very populous” and were inhabited by “many poor artificers, labourers and others” who were on the receiving end of regular “divers vexatious suites for severall debts”, which were increasing their indebtedness and causing them and their families ruination. The prisons were also filling with “miserable debtors”, and the burden on

Parish of Merthyr Tidfil and other Places therein mentioned in the Counties of Glamorgan, Brecon, and Monmouth”.

⁴⁵ Referred to in the marginal note as 49 Geo.3 c.141.

⁴⁶ The Glamorganshire 1834 Act, s 1. The marginal note referred in error to repeal as from 1 January 1835. Section 2 (in standard form) simply recited that this local Act be deemed a public Act for the purpose of judicial notice.

⁴⁷ c.vii (1987), s 56(1), sch 2 Pt I, which cites 4 & 5 Will.4 c.xl (1834) and repeals “The whole [of that 1834 Act] in so far as it extends to the county [of Mid Glamorgan]”. The county of Mid Glamorgan (post-1974 local government reorganisation) is defined in the preamble to the Mid Glamorgan 1987 Act, clause (1). Mid Glamorgan ceased to exist as an administrative county in 1996 when it was split into four unitary authority areas.

⁴⁸ Two areas named in the Glamorganshire 1809 Act (and carried forward by implication into the repeal by the Glamorganshire 1834 Act) appear to have escaped the further repeal by the Mid Glamorgan 1987 Act: the parishes of Llangunider (now in Powys) and Bedwellty (formerly in Monmouthshire and now in Blaenau Gwent), both of which - in whole or in part - fall outside the former county of Mid Glamorgan.

⁴⁹ Whole repeal of the 1834 Act is required now because the 1987 Act sought to repeal in whole with a territorial exception (leaving unspecified sections in force).

the parishes to provide poor support was increasing.⁵⁰ The solution to this problem was to take small debts (under 40 shillings worth) away from the royal courts in Westminster and other inferior courts, and to arrange for such matters to be resolved locally, using - “to great benefit and advantage” - the model adopted in the city of London. This step required parliamentary approval and authorisation.

28. The Bristol 1688 Act authorised the following:

- (a) that a court of request or conscience be established for the “relief of the poorer sort of people” who had incurred small debts within the cities of Bristol and Gloucester (and their parishes and liberties), and that commissioners be appointed to hear and determine all claims within its jurisdiction;⁵¹
- (b) that each of the appointed commissioners should take an oath of office;⁵²
- (c) that fees be charged for specified court procedures (eg issuing plaints [court proceedings], committal to prison by warrant) and that various court officers be appointed (eg registrars and clerks);⁵³
- (d) that the commissioners should assemble on a weekly basis in their own city, and sit “to heare and determine” actions for debt recovery not exceeding 40 shillings in value;⁵⁴
- (e) that any inhabitant of the two cities who had an unpaid debt (under 40 shillings) owing to him or her by another inhabitant could summons that person before the commissioners to determine the issue (without recourse to “the exact formes and methods of the common law or other courts of justice”);⁵⁵
- (f) that, in the event of non-appearance before the court of any party to proceedings or failure to comply with a court order, the court officers be empowered (on order of the commissioners) to arrest and imprison the defaulting party “without bayle

⁵⁰ See preamble to 1 Will. & Mar. c.18 (1688) (“the Bristol 1688 Act”), being an Act “For erecting Courts of Conscience in Bristol and Gloucester”. In this repeal note section numbers have been assigned to this Act for more easy reference, although numbered sections do not appear in the original text.

⁵¹ The Bristol 1688 Act, s 1. The commissioners for Bristol were to be the mayor, aldermen and common council for the city (or any three of them), and for Gloucester the mayor and aldermen for the city together with six named individuals (or any three of them).

⁵² The Bristol 1688 Act, s 2.

⁵³ The Bristol 1688 Act, s 3. The court officers were to hold office during good behaviour, and the commissioners were empowered to replace them in the event of misbehaviour. Each court registrar was to nominate a deputy and a beadle for approval by the respective commissioners.

⁵⁴ The Bristol 1688 Act, s 4. By section 8 of the Act, the jurisdiction of the commissioners was not to extend to any debt arising from non-payment of rent under any “lease for lands or tenements”, or from wills or marriage, or from any matter within the proper jurisdiction of the ecclesiastical court.

⁵⁵ The Bristol 1688 Act, s 5. Orders of the court were to be “final and conclusive”, and were not to be susceptible to review by writ of *certiorari* or the like. All orders were to be formally recorded by the court. The commissioners were empowered to take evidence on oath.

- or mainprise” pending that party performing in accordance with the court’s instructions (including by sale of the party’s “goods and chattels”);⁵⁶
- (g) that any action for debt less than 40 shillings commenced after 1st August 1689 in the royal courts at Westminster or elsewhere would be deemed void;⁵⁷ and
- (h) that - because the Newgate gaol in Bristol (which was used as the only county common gaol) was “very old and ruinous” and was on a very constrained site - the common gaol should be rebuilt on a convenient site and a tax levied by the city corporation on the citizens and inhabitants to defray the costs of site acquisition, new-build and fitting-out.⁵⁸

Status

29. The Bristol 1688 Act was extended by an Act of 1836, which had the effect of enlarging the court of conscience’s jurisdiction and making it coterminous with the new city boundary.⁵⁹

30. From the 13th century until 1551, civic business in Bristol - both municipal and judicial - was conducted in the medieval guildhall situate in Broad Street, with its adjoining chapel of St. George. In 1551 a new council house was built on the corner of Broad Street and Corn Street (partly on the site of St. Ewen’s church, a former chantry chapel), and civic business transferred there. In 1704 or 1705 the council house was superseded by another building, and then (in 1824) was replaced on the same site by a further council house. The guildhall was replaced on another site in 1843, in nearby Small Street (with the courts opening in July 1846). The Bristol county court, replacing the court of conscience, was operational from March 1847.⁶⁰ The guildhall ceased to house court sittings in the 1980s, when new law courts were opened.

⁵⁶ The Bristol 1688 Act, s 6.

⁵⁷ The Bristol 1688 Act, s 7. This limitation applied only to actions arising in one of the two cities.

⁵⁸ The Bristol 1688 Act, preamble and s 9. The existing gaol was described as being “unwholesome” and overcrowded, had given rise to prisoners contracting “severall sicknesses”, and had been the subject of various presentations and recommendations by grand juries to the city’s quarter sessions. Once built the new gaol was “for ever hereafter [to] be and be used as the common gaol” for Bristol. A ceiling of £16,000 was placed on the sum to be raised by levy.

Although the gaol-building provisions were incorporated within the Bristol 1688 Act, they were structured and drafted as if they were a stand-alone Act within that Act.

⁵⁹ See 6 & 7 Will 4 c.105 (1836) (Administration of justice in certain boroughs Act). This 1836 Act was repealed in 1882.

⁶⁰ The Tolzey court was allowed to continue to function with a limited jurisdiction relating to the resolving of debt disputes.

31. Until 1832 (the year of the Reform Act) Bristol had its own court jurisdictions: the court of conscience, established in 1688, and the ancient Tolzey court. The city was not then part of the assize circuit.⁶¹

32. The Bristol 1688 Act was repealed in part by the Bristol Court of Conscience Act 1837 (which Act was itself repealed in whole by the County Courts Act 1846).⁶² The effect of this repeal was that only those provisions in the Bristol 1688 Act relating to Gloucestershire remain in force today.

33. In Gloucester the court of conscience was established in 1689, and met once a month in the Tolzey (a building constructed in the city centre for town business, and functioning by 1455).⁶³ The court became a county court under the 1846 national legislation. The Tolzey was replaced by the new guildhall as the seat of city administration in 1892, and in 1893 the Tolzey building was sold by the city corporation and demolished. The county court now sits at a different site in the city.

34. The Bristol 1688 Act has long been rendered obsolete, and should now be repealed.

Herefordshire

55 Geo.3 c.ix (1815) (Hereford County Offices Act)

Purpose

35. It was customary to hold the county assizes and quarter sessions for Herefordshire, and other public meetings for the county, in the shire hall in the city of Hereford. But by 1814 the grand jury had reported at the assize sitting that the shire hall was in a very poor state of repair and was “a very inconvenient building, and ill adapted for the administration of justice”.⁶⁴ Moreover, because of the constraints of the existing site (surrounded by a public

⁶¹ We are most grateful to William Smith, archivist with the Bristol City record office, for this information.

⁶² See 7 Will. 4 & 1 Vict. c.lxxxiv (1837), repealed by County Courts Act 1846 (c.95). The 1837 Act repealed (from September 1837) all that part of the Bristol 1688 Act (“all the clauses, powers, and provisions therein contained”) which related to the city and county of Bristol : 1837 Act, s 1. By section 2 the successor provisions were to facilitate the “easy and speedy recovery of small debts” in Bristol city and county. Section 3 was a savings provision whereby previous actions by the court were preserved as valid, notwithstanding the repeal. Interestingly, the repeal - seemingly of all Bristol-related provisions - may have undermined the gaol rebuilding powers, although one can assume that 149 years on from 1688 the gaol had been rebuilt, and that part of the Act was already obsolete.

⁶³ See *Victoria History of Gloucestershire*, vol iv (1988, Oxford UP) at pp 116, 147 and 191. We are grateful to the Gloucestershire archives office for drawing our attention to this reference, and for other information.

⁶⁴ Preamble to 55 Geo.3 c.ix (1815) (“the Herefordshire 1815 Act”), being “An Act for erecting a Shire Hall, Courts of Justice, and other Buildings, for Public Purposes, and for providing suitable Accommodations for His Majesty’s Justices of Assize, in and for the County of Hereford”.

street), it was not practicable to enlarge the accommodation without “obstructing the highway and passage in the said street”.⁶⁵

36. The old gaol in Hereford had been relocated, and the vacated site still stood “unsold and undisposed of”.⁶⁶ However, in order to create a new complex for the assize, quarter sessions and county courts, a shire hall, and judges’ lodgings, it would be necessary to acquire further land adjacent to the site. The cost of acquisition, and of the new build, was going to involve “expenditure of a considerable sum of money”, which would have to be raised from the county rate (requiring statutory authority).

37. The Herefordshire 1815 Act was designed to achieve the following:

- (a) that the county justices be designated commissioners for the works (which were to include “making, widening, beautifying, or improving the avenues or approaches” to the new development, and supervising the erection of the various buildings) and for the raising of the necessary moneys to defray the expense of the project (and securing the Act itself);⁶⁷
- (b) that a rubric be established for the holding of commissioners’ meetings;⁶⁸
- (c) that a treasurer and other officers be appointed by the commissioners;⁶⁹
- (d) that the commissioners be authorised to utilise the “scite” of the old county gaol for construction of the “new shire hall, courts, offices, messuages, and other buildings” (including disposing of parts surplus to requirements),⁷⁰ and to acquire - and pay for - other land and buildings which “may be conveniently used for any of the purposes” of the Act, including improving the “avenues and approaches” to the new complex;⁷¹

⁶⁵ The Herefordshire 1815 Act, preamble.

⁶⁶ The Herefordshire 1815 Act, preamble. The site fronted on to St. Owen Street, within the parish of St. Peter, just a short distance away from the existing shire hall, and within easy reach of the new gaol. The building materials from the old gaol were still on site.

⁶⁷ The Herefordshire 1815 Act, s 1.

⁶⁸ The Herefordshire 1815 Act, ss 2-5. The quorum for meetings of commissioners was five, and prior notice was to be given of meetings. Commissioners were only to place orders or contracts through a formally constituted meeting, presided over by an appointed chairman. All proceedings were to be minuted by the clerk of the peace, and the minute books were to be available for inspection by ratepayers. Commissioners were also authorised to appoint committees to supervise the various works, and to issue instructions.

⁶⁹ The Herefordshire 1815 Act, s 6. The various officers were to be paid salaries and allowances from the project funds, subject to their giving security for “the faithful execution of their office”. The commissioners were authorised also to remove officers and to replace them (and those that died in service). By section 7 the commissioners were authorised to sue (and to defend proceedings) in the name of the clerk of the peace.

⁷⁰ The Herefordshire 1815 Act, ss 8, 29 and 30. The commissioners (and the county justices) were to hold the freehold of such land as was used for the project “for ever, upon trust”.

⁷¹ The Herefordshire 1815 Act, s 9. Where compensation moneys could not be agreed between the commissioners and vendor land-owners, they were to be assessed by a special jury.

- (e) that legal mechanisms be put in place for the purchase of lands (for example, to facilitate purchase from parties with legal disabilities);⁷²
- (f) that the commissioners be authorised to demolish existing buildings on acquired lands, and either to sell or to reuse the building materials; and to build on the combined site new courts of justice, a new shire hall, a lodging house for the assize judges, and offices for administration and records;⁷³
- (g) that, on completion of the new court complex, the land and buildings were to vest in the county justices to be held in trust for the holding of various forms of court sitting and other public purposes (such as the holding of meetings convened by the sheriff) and, at the same time, the old shire hall - which belonged to the city of Hereford corporation - was to be released from its obligations to the county;⁷⁴
- (h) that the new courts and shire hall be insured by the county justices and kept in good repair, the costs to be defrayed from the county rate;⁷⁵
- (i) that the moneys required for the project (to a maximum of £33,150) be raised by the commissioners through levy of “special rates” on the county of Herefordshire (but not the city of Hereford or the borough of Leominster), and that mechanisms be put in place to effect collection of the rates;⁷⁶

⁷² The Herefordshire 1815 Act, ss 10-23. Thus, provision was made for all bodies corporate, trustees and persons of unsound mind to be able to contract to transfer their legal interests in land; for land valuations to be settled by a quarter sessions jury where an owner “shall neglect or refuse to treat” or where they were absent or unable to treat; for the payment of expenses of the jury (including the sums ordered); for the payment of purchase moneys into the Bank of England (to be distributed on application by claimants to the Court of Chancery), and the right to take possession and demolish buildings; for the passing of good title; and for dealing with tenants at will and mortgagees. By section 12 the power to purchase land compulsorily was limited to those six “tenements” set out and described in the Schedule to the Act.

⁷³ The Herefordshire 1815 Act, s 24. Land was also to be made available for the widening and improvement of public streets in the vicinity of the new complex. The Act stipulated that all the project building works (including provision of “other accommodations”) had to be completed within 3 years, *ie* by March 1818. By section 25 the judges’ lodgings could be provided either by demolition and rebuilding or by acquiring for refurbishment suitable dwelling houses within the city “at such a distance from the said scite of the said old gaol, as to the said commissioners or five or more of them shall seem most expedient”. And by section 26 the commissioners were authorised to take payment from the High Sheriff for provision of the lodgings during each assize session.

⁷⁴ The Herefordshire 1815 Act, s 27. The courts involved were listed as: courts of the justices of assize and *nisi prius*, oyer and terminer, general gaol delivery, special commissions for the county, general quarter sessions, county courts, inquisitions and writs of inquiry, and the hundred courts (and the like). When the old shire hall was decommissioned for court purposes the county of Hereford (as opposed to the city) ceased to be responsible for repair and maintenance of the building. By section 28 of the Act, once the new buildings were made ready and “fit for transacting business” the various court and other public functions could lawfully be conducted from them.

⁷⁵ The Herefordshire 1815 Act, s 31. This requirement (and power) supplemented that contained in three previous general Acts, the last of which was 9 Geo. 3 c.20 (1769) (since repealed in 1826) which enabled county justices to repair shire and county halls in which the assizes or grand sessions were held. Persons who sought to damage or destroy the new court and shire buildings were to be treated as felons, liable on conviction on indictment to seven years transportation or corporal or other punishment: section 32.

⁷⁶ The Herefordshire 1815 Act, ss 33-38. Precepts were to be issued to the high constables of each county division or hundred, apportioning the sums to be collected (which collection would be undertaken by the churchwardens and the “overseers of the poor” in each town or parish). Provision was made for enforcement in the event of default to collect; for extending the existing general statutory powers vested in justices for raising county rates; and for applying the moneys raised (in paying for the Act, in defraying the costs of the building project, and for adding any surplus to the county stock). Whilst the project was in train, the commissioners were required to audit the moneys both received and expended.

- (j) that the commissioners be authorised to raise moneys for the project by borrowing, mortgaged on the rates;⁷⁷ and
- (k) that provision be made for various issues arising in legal proceedings.⁷⁸

Status

38. The Shire Hall in St. Peter's Square, Hereford was constructed in accordance with the terms of the Herefordshire 1815 Act, and operated as the court house for the county. It ceased to be used for court purposes on local government reorganisation in 1974 (when the administrations of the counties of Herefordshire and Worcestershire were amalgamated). Today the building is used as council offices and reception rooms for the new Herefordshire Council (a unitary local authority).⁷⁹

39. The Herefordshire 1815 Act is no longer required and can be repealed.

Hertfordshire

10 Geo. 4 c.xxxiii (1829) (St. Albans Court House Act)

Purpose

40. In 1829 the inhabitants of the borough of St. Albans in Hertfordshire formed the view that their town hall and court house, being "an ancient building greatly decayed and out of repair, and being also too small and otherwise inconvenient", was no longer suitable for the holding of mayoral and quarter sessions court hearings and "such other public business".⁸⁰ It was impractical to rebuild the courthouse on the same site because it was "so confined in extent".⁸¹ The solution was to dispose of the existing facility and to rebuild on a site which was more "central and conspicuous" in the town.⁸²

41. Site acquisition and rebuilding required the raising of moneys to defray the costs. That requirement necessitated the obtaining of parliamentary authority. The Hertfordshire 1829 Act authorised the following:

- (a) that at the next liberty and borough quarter sessions (or any later sitting) the borough justices be empowered to order the purchase of a suitable site for the

⁷⁷ The Herefordshire 1815 Act, ss 39-42. The form of mortgage was prescribed, with provision made for mortgagees to have equal creditor status, and for mortgages to be capable of being assigned (and registered).

⁷⁸ The Herefordshire 1815 Act, ss 43-50. Provision was made for, amongst other things, the effecting of distress, the form of conviction for offences, appeal to quarter sessions by persons aggrieved, perjury for giving false evidence on any statutory examination, and time limits on legal proceedings.

⁷⁹ Information supplied by courtesy of the Herefordshire archives office.

⁸⁰ Preamble to 10 Geo.4 c.xxxiii (1829) ("the Hertfordshire 1829 Act"), being "An Act for building a new Court House for the Liberty and Borough of Saint Alban in the County of Hertford".

⁸¹ The Hertfordshire 1829 Act, preamble.

⁸² The Hertfordshire 1829 Act, preamble. The part of St. Albans chosen was St. Peter's Street.

- new court house and the undertaking of the construction works, the costs of which were to be borne from the liberty and borough rates;⁸³
- (b) that provision be made for the legal mechanics of site purchase;⁸⁴
 - (c) that ownership of the land (once acquired) and of the court house (once built) was to vest in the borough corporation and the liberty and borough justices;⁸⁵
 - (d) that the justices be empowered to acquire waste land adjoining the purchased land, and also parts of the street or highway (so long as a minimum 30 feet of footpath and carriageway remained);⁸⁶
 - (e) that the borough corporation be authorised to sell the existing town hall and courthouse in St. Albans, and to apply the proceeds towards the rebuilding project;⁸⁷
 - (f) that the justices be required, “with all convenient speed”, to construct the new courthouse for the liberty and borough quarter sessions (and for the transaction of other public business)⁸⁸ and, once complete, hearings were to be conducted there, and a room was to be set aside as a council chamber for the borough corporation;⁸⁹

⁸³ The Hertfordshire 1829 Act, s 1. By section 24 all contracts were to be binding on the justices only in their official and not their personal capacity.

⁸⁴ The Hertfordshire 1829 Act, ss 2, 3. The provisions enabled the justices to contract with persons under legal disability (via, eg. trustees or guardians) to purchase land and premises for the new development, and to enter upon and take possession of the lands acquired once payment had been made to the parties or into the Bank of England (at which point good title would also pass to the borough corporation or to the liberty or borough justices). A ceiling of £300 was placed on the purchase by the justices (chargeable on the rates) of all the land to be assembled. All conveyances of title would be made free from trust or other encumbrance, and all trustees and the like would be indemnified from any form of claim.

By sections 4 to 9, detailed provision was made for the payment of moneys: either into the Bank of England (to the account of the accountant general of the Court of Exchequer, for distribution by that court); or, where the sum was less than £200, into that account for distribution by two trustees appointed by the justices; or, where the sum was less than £20, for direct distribution by the justices themselves. Where parties refused moneys, or the appropriate recipient could not be found, the moneys would be paid into court pending a claim being made. Where any dispute as to title of a claimant arose, a claimant in possession of the land would be presumed to hold good title (unless and until such possession was shown to have been unlawful). The expenses incurred by the justices (for example, in purchasing alternative property to be held by trustees) were to be reimbursed on the order of the Court of Exchequer.

⁸⁵ The Hertfordshire 1829 Act, s 10. The land and buildings were to be held “for the time being, for ever” for the purposes of the Act.

⁸⁶ This land also was to vest formally in the borough corporation or the justices: see the Hertfordshire 1829 Act, s 11.

⁸⁷ By sections 12 to 14 of the Hertfordshire 1829 Act disposal could only be effected once the new buildings were complete and fit for purpose (pending which the borough and quarter sessions courts would continue to occupy their old premises); and the sale moneys were to be applied by the borough treasurer first towards the sale costs, and then used to fund one-third of the costs of site acquisition and new build.

⁸⁸ The Hertfordshire 1829 Act, s 15. The justices were also authorised to provide such ancillary accommodation as was necessary, and to fit out the various buildings. In this task they were empowered to employ contractors and to hire “surveyors, artificers, workmen, labourers, and others”. By section 16 all materials purchased for the building project were to be vested in the justices, and the justices were able collectively to prosecute for any theft of, or damage to, those materials or any furnishings.

⁸⁹ The Hertfordshire 1829 Act, s17. A proviso was made to the effect that justices for the liberty (who were not also borough justices) were not “to act or intermeddle” with borough matters; and that when the courts were not being used by the justices for liberty and borough business, the borough corporation should be free to use them for borough courts or other corporate duties or occasions.

- (g) that the moneys for the rebuilding project be raised in the proportion of two-thirds (by the liberty) and one-third (by the borough),⁹⁰ and that the same proportions apply to the on-going maintenance and repair costs for the buildings;⁹¹
- (h) that the justices - acting in quarter sessions - be authorised to raise moneys for the land purchase and the building project by taking mortgages secured (as to principal and interest) on the liberty and borough rates,⁹² and by granting life annuities funded by lump sum payments;⁹³
- (i) that the moneys raised by the justices were to be used to defray the costs of obtaining the 1829 Act, and then for site surveys, site purchase, building and fitting-out, and the payment of salaries and all other expenses;⁹⁴
- (j) that the borough justices be permitted to continue to commit prisoners to the liberty gaol and house of correction (subject to making a proper financial contribution to that facility);⁹⁵ and
- (k) that provision be made for various ancillary matters.⁹⁶

Status

42. The St. Albans court house was built in the market place adjoining St. Peter's Street. References to its building and administration are to be found in the Liberty Sessions records held by Hertfordshire Archives and Local Studies.

43. The building probably ceased to operate as a court house on abolition of quarter sessions by the Courts Act 1971: it then served as the town hall. Today the building is in the care of St Albans City Council, and provides a venue for functions and for arts events.

⁹⁰ The Hertfordshire 1829 Act, s 18. The total costs were to include the cost of promoting the Bill for the Act, the cost of site acquisition borne by the justices (up to £300 - see section 2 above), the cost of securing good title, and the cost of building and fitting-out the courthouse. The borough's one-third contribution was to be fulfilled, at least in part, by the application of the moneys from the sale of the old town hall and courthouse.

⁹¹ The Hertfordshire 1829 Act, s 26.

⁹² The Hertfordshire 1829 Act, s 19. Loans were to be taken out in £100 units. The form of mortgage deed was prescribed by the Act and, once executed, mortgages were to be "inrolled" by the clerk of the peace. By section 20 moneys borrowed were to be repaid within the period 15 to 40 years of borrowing, and regular repayments of principal and interest were to be made by the justices. Each quarter sessions was to receive an account of moneys owing.

⁹³ The Hertfordshire 1829 Act, ss 21-23. Annuities were also to be secured on the rates, and they were to be restricted to a 3% p.a. return (in accordance with the rate applied by the Commissioners for the reduction of the National Debt). Both mortgages and annuities were to be transferable.

⁹⁴ The Hertfordshire 1829 Act, s 25.

⁹⁵ The Hertfordshire 1829 Act, s 27. For some time the borough gaol facility (which was sited underneath the old town hall and courthouse) had been "in bad condition" and was "very inconvenient and insecure", which led to the borough justices making an arrangement with the liberty justices.

⁹⁶ The Hertfordshire 1829 Act, ss 28-31. These included the safekeeping of all records by the clerk of the peace for the liberty, the reservation of the rights and privileges of the borough corporation, the making of provision for appeal to quarter sessions by aggrieved persons against orders by the justices (within 4 months), and the limitation on commencement of legal proceedings (within 6 months).

44. The purposes behind the Hertfordshire 1829 Act have now been superseded, and the Act may be repealed.

Leicestershire

1 & 2 Vict. c.xci (1838) (Ashby de la Zouch Court of Requests Act)

Purpose

45. In 1838 an Act was passed which constituted a court of requests (a court for the recovery of small debts) with jurisdiction to serve various towns and parishes within the counties of Leicestershire, Derbyshire, Warwickshire and Staffordshire.⁹⁷ Under the 1838 Act commissioners for the recovery of small debts were to be appointed. The Act was designed to cover, amongst other places, the town of Ashby de la Zouch, described as “a market town, and very populous”, and comprising “very considerable manufactories”.⁹⁸ Many people in this and other towns contracted small debts which “in the whole amount yearly to a very large sum of money”.⁹⁹

46. Shortly after enactment, it was realised that the first 1838 Act omitted to make specific provision for the appointment of commissioners with jurisdiction in Ashby de la Zouch (even though that had been intended as one of the “principal objects” of the Act).¹⁰⁰ In order to rectify this “mistake”, a second Act of 1838 was passed.¹⁰¹ This second Act was designed:

- (a) to appoint the designated commissioners additionally as “commissioners for the recovery of small debts” for Ashby de la Zouch in Leicestershire;¹⁰²
- (b) to extend all the powers and provisions within the first 1838 Act to the parish and town of Ashby de la Zouch;¹⁰³ and
- (c) to render valid retrospectively all meetings and proceedings held by the commissioners, and all acts undertaken by them, pursuant to the first 1838 Act, “whether relating to the said parish of Ashby de la Zouch or otherwise”.¹⁰⁴

⁹⁷ The Act was 1 & 2 Vict. c.xv (1838) (Ashby-de-la-Zouch Court of Requests Act), being “An Act for the more easy and speedy Recovery of Small Debts within the Town of Ashby de la Zouch and other Places in the Counties of Leicester, Derby, Warwick, and Stafford”. This first 1838 Act was repealed in 1847. It did not seem to require or empower the appointed commissioners to build a new court house, merely to ensure that they sat “in some convenient place within the said town”: the first 1838 Act, s 18.

⁹⁸ See preamble to the first 1838 Act.

⁹⁹ The first 1838 Act, preamble.

¹⁰⁰ Preamble to 1 & 2 Vict. c.xci (1838) - the second 1838 Act - for which see below.

¹⁰¹ 1 & 2 Vict. c.xci (1838) (“the Leicestershire 1838 Act”), being “An Act to rectify a Mistake in an Act passed in the present Session of Parliament for the Recovery of Small Debts within the Town of Ashby de la Zouch and other Places in the Counties of Leicester, Derby, Warwick, and Stafford”. This second Act was very short: it contained only a preamble and four sections.

¹⁰² The Leicestershire 1838 Act, s 1.

¹⁰³ The Leicestershire 1838 Act, s 2.

¹⁰⁴ The Leicestershire 1838 Act, s 3. The validation was to operate as if the parish “had been specifically named” in the first 1838 Act. Under the same section, “all persons” were to be “fully indemnified for any irregularity which

Status

47. The Leicestershire record office does not hold any records for the Ashby de la Zouch court of requests, and has no direct information on where it may have sat. However, it is known that the court was superseded in 1847 by the new county courts system, and that both the county court (from 1849) and the magistrates' court (from 1842) sat at the George Inn in Market Street in the town. It is possible that the court of requests used the same venue.

48. By 1858 the county court had moved its sittings to the town hall in Ashby de la Zouch.

49. The Leicestershire 1838 Act is now obsolete and may be repealed.

Lincolnshire

49 Geo.3 c.lxxv (1809) (Lincolnshire Courthouse Act)

Purpose

50. By 1808 the lodgings for the assize judges for the county of Lincolnshire had ceased to be fit for purpose: they were "very inconvenient, and [did] not afford proper and suitable accommodations".¹⁰⁵ The divisional justices¹⁰⁶ for the county formed the view that it "would be expedient and proper for the future" to designate a specific house in Lincoln which could be "kept and appropriated" as judges' lodgings for the duration of the assize sittings.¹⁰⁷

51. In October 1808 the justices gathered in general meeting at the county hall and decided to carry the project "into execution".¹⁰⁸ This required, first, the seeking of parliamentary approval. The Lincolnshire 1809 Act authorised the following:

- (a) that twelve of the justices be appointed commissioners for the purposes of the Act (representing - albeit in different proportions - the three county divisions);¹⁰⁹

may have taken place in consequence of such [previous] omission". By section 4, the Leicestershire 1838 Act was deemed to be "taken to be a public Act".

¹⁰⁵ Preamble to 49 Geo.3 c.lxxv (1809) ("the Lincolnshire 1809 Act"), being "An Act to enable the Justices of the Peace for the several Parts of Lindsey, Kesteven, and Holland, constituting the Three Divisions of the County of Lincoln, to provide a convenient House, with suitable Accommodations, for His Majesty's Judges at the Assizes for the said County".

¹⁰⁶ For administrative and judicial purposes at that time the county comprised three divisions: Lindsey, Kesteven and Holland.

¹⁰⁷ The Lincolnshire 1809 Act, preamble.

¹⁰⁸ The Lincolnshire 1809 Act, preamble.

¹⁰⁹ The Lincolnshire 1809 Act, ss 1-3. Provision was made for replacement by quarter sessions of individual commissioners in the event of death or unwillingness to serve, and for the holding of the first commissioners' meeting at county hall in Lincoln by 19 June 1809 (and thereafter at other "proper and convenient" venues in the county).

- (b) that all business pursuant to the Act be transacted only in formally constituted and notified meetings of the commissioners;¹¹⁰
- (c) that the commissioners be authorised to make orders for “erecting, building, repairing, purchasing, providing and furnishing” a house for use as an assize judges’ residence in the “city, bail, or close of Lincoln”, and to pay for those works from the county rates or the “public stock”;¹¹¹
- (d) that the commissioners be authorised to negotiate for, and purchase, any houses or land which were necessary for the project;¹¹²
- (e) that, to facilitate the sale and purchase of houses and land, all bodies or persons under legal disability be empowered to contract and to convey their interests to the commissioners, and that specific arrangements be put in place for the paying of moneys into the Bank of England (to be held and applied to the order of the Court of Chancery);¹¹³
- (f) that once purchase of the land and the necessary building had been completed, the commissioners be required to report to the county justices’ AGM on the works undertaken and their costs;¹¹⁴
- (g) that all buildings erected pursuant to the Act (once completed and fully fitted-out) be vested in the commissioners “in perpetual succession”, and the commissioners be authorised to let out the premises “for the best rent that can be got”, subject to ensuring that the accommodation was available when required for the assize judges;¹¹⁵ and

¹¹⁰ The Lincolnshire 1809 Act, s 4. Each meeting - with a quorum of three members - was to appoint a chairman; decisions were to be made by majority vote (the chairman having an additional casting vote); and all proceedings were to be minuted. By section 5 the commissioners were required to appoint a clerk (who was to be remunerated).

¹¹¹ The Lincolnshire 1809 Act, s 6. By section 8 the commissioners were not permitted to spend more than £7,000 on the provision of the new accommodation, and the moneys were to be raised by apportionment of rates levied across the county (one-half from the division of Lindsey, 2/7ths from Kesteven, and 3/14ths from Holland), using the existing power to raise rates for repair of the county gaol, county hall and Lincoln castle. By section 18, over and above the £7,000, the commissioners were authorised to raise moneys from the public stock or the county rates to cover the cost of obtaining the 1809 Act.

¹¹² The Lincolnshire 1809 Act, s 7. On payment of the purchase price, title was to be conveyed to the commissioners and the property was to be vested in them. The high sheriff of the county was to be entitled, prior to the assize sittings, to take over the accommodation (including temporarily dispossessing any occupiers) “in order that he may prepare and make ready the same for the reception of His Majesty’s Judges”, subject to his returning the premises in due course in a proper state.

¹¹³ The Lincolnshire 1809 Act, ss 9-12. Where the sum was under £200, the moneys could be handled and applied by two nominated trustees or (where it was under £20) by the commissioners themselves. By section 13, where any property-owner failed to accept the purchase price or to make good title, or where the lawful owner could not be traced, the commissioners were entitled to pay the moneys into the Bank of England (to be held and invested, pending a claim, and distributed to the order of the Court of Chancery). By section 14, where there was dispute as to lawful title, it was to be presumed - until the contrary was proved - that the person in possession had good title. And, by section 15, where sale moneys had to be reinvested in real property (to be held on continuing trust), the costs of that transaction were to be borne by the commissioners.

¹¹⁴ The Lincolnshire 1809 Act, s 16. The report was to be to the AGM held in Lincoln in the September following completion of the works.

¹¹⁵ The Lincolnshire 1809 Act, s 17. Any rental income received by the commissioners was to be utilised for effecting repairs to the buildings and furnishings (and any surplus was to be paid to the relevant treasurers in the

(h) that provision be made for various forms of legal proceeding.¹¹⁶

3 Geo.4 c.lxxiv (1822) (Lincolnshire County Offices Act)

Purpose

52. By 1822 the county hall for Lincolnshire (which was situated within the grounds of Lincoln castle) had become “very much out of repair and in great decay”, such that it posed a danger to users who were undertaking county business in it. At the spring assizes the grand jury had reported that the building was in such a state that it had to “be rebuilt or substantially repaired”.¹¹⁷ In order to demolish the existing hall, and to build a “convenient and proper” replacement within the castle yard, the county justices required parliamentary authority.

53. The Lincolnshire 1822 Act had the following purposes:

- (a) to authorise the appointment of 14 justices (representing the three county divisions) to act as commissioners for the project;¹¹⁸
- (b) to provide for the transaction of official business through formally-constituted commissioners’ meetings,¹¹⁹ and for the appointment of a remunerated clerk;¹²⁰
- (c) to authorise the commissioners to demolish the existing Lincoln county hall (including clearing the site) and to build, on or near the original site, “a new, proper, and convenient county hall” with adequate accommodation to hold the county assizes and to transact “other public business” for the county;¹²¹

county, in the prescribed proportions, for the county’s use). By section 19, whenever the buildings required repair (or the furnishings were no longer fit for the judges’ use), the commissioners were required to undertake repair or refurbishment, and to pay for the works from the rents received, topped-up if necessary from the county rate. Moreover, the commissioners were empowered both to appoint (and pay) a caretaker for the premises, and to insure the buildings against risk of fire (again financed from the rent receipts and the county rate).

¹¹⁶ The Lincolnshire 1809 Act, ss 20, 21. The commissioners were authorised to conduct legal proceedings through, and in the name of, their clerk. A limitation period of six months for any form of action was prescribed, and proceedings could only be commenced after due notice.

¹¹⁷ Preamble to 3 Geo.4 c.lxxiv (1822) (“the Lincolnshire 1822 Act”), being “An Act to enable the Justices of the Peace for the Divisions of Lindsey, Kesteven, and Holland, in the County of Lincoln, to take down the present County Hall for the said County, and to erect a convenient Hall instead thereof, with suitable Offices, and other Accommodations”. The existing county hall building was sited within the castle yard at Lincoln (“the bail of Lincoln” in the county division of Lindsey), and was leased from the King - through the Duchy of Lancaster - for a term of 30 years (running from May 1814).

¹¹⁸ The Lincolnshire 1822 Act, s 1. The commissioners were to be nominated by each county division at the relevant general quarter sessions (seven from Lindsey, four from Kesteven, and three from Holland). By section 2, provision was made for the commissioners’ replacement in the event of death or inability or refusal to serve, and for the validation of their acts pending new appointment.

¹¹⁹ The Lincolnshire 1822 Act, ss 3, 4. The first formal meeting was to be convened (with a quorum of five members) either within the castle or within the “city bail or close of Lincoln” by 19 August 1822. Thereafter, further meetings (after due notice) were to be held, and business transacted on a majority vote (the elected chairman having a casting vote). All meetings were to be minuted.

¹²⁰ The Lincolnshire 1822 Act, s 5.

¹²¹ The Lincolnshire 1822 Act, s 6. The commissioners were also authorised to fit out and furnish the new building and, in the rebuilding project, to use any materials salvaged from the old county hall. By section 13, the commissioners were required, once the project was complete, to report that fact (and to set out all the costs incurred) to the Chancellor of the Duchy of Lancaster and to the justices of the three county divisions.

- (d) to empower the commissioners to raise the necessary moneys for the project (including promoting the present Act) by drawing down moneys from the public stock or the county rates,¹²² and by using the proceeds of sale of the old county hall or its building materials;¹²³
- (e) to empower the commissioners to borrow moneys for the project, secured by mortgage on the county rates;¹²⁴
- (f) to provide that, on completion, the new county hall and ancillary offices were to be transferred to the county sheriff, the *custos rotulorum*,¹²⁵ and the various divisional justices to be held for public purposes, in the manner in which the old county hall was held, and were to be repaired and maintained by them (again, in the same manner as the old hall and castle were repaired);¹²⁶
- (g) to make provision for the lawful holding of assize hearings and other county meetings within the city of Lincoln whilst the building works were in train;¹²⁷
- (h) to authorise the various divisional justices to purchase the freehold of Lincoln castle (and the castle yard) from the King¹²⁸ for the benefit of the three county divisions, and to pay for that purchase from the county rates or the public stock;¹²⁹ and
- (i) to make provision for ancillary matters relating to legal proceedings.¹³⁰

¹²² The Lincolnshire 1822 Act, s 7. The moneys to be raised from county rates were to be apportioned across the county divisions: ½ from Lindsey, 4/7th from Kesteven, and 3/7th from Holland (and each division's quarter sessions were to issue the necessary order to levy, based on the commissioners' certificates).

¹²³ The Lincolnshire 1822 Act, s 8.

¹²⁴ The Lincolnshire 1822 Act, ss 9-12. As with the precept on the county rates, the commissioners were required to apportion the amounts of security across the three county divisions. Moneys borrowed were to be repaid with annual interest, and the form of mortgage and assignment deeds were prescribed by the Act. An overall time limit for making repayment of the borrowings, and discharging of the liability, was set at 14 years (expiring in June 1836).

¹²⁵ The *custos rotulorum* was the principal justice of the peace for the county, who was also designated the keeper of the rolls and the records of the sessions of the peace.

¹²⁶ The Lincolnshire 1822 Act, s 14. Additional uses - beyond use for county meetings and the holding of the assize sessions - could be approved by the Chancellor of the Duchy, the county lord lieutenant, and the divisional justices.

¹²⁷ The Lincolnshire 1822 Act, s 15.

¹²⁸ Selling in his personal capacity, "in right of His Duchy of Lancaster": the Lincolnshire 1822 Act, s 16.

¹²⁹ The Lincolnshire 1822 Act, s 16.

¹³⁰ The Lincolnshire 1822 Act, ss 17-19. These sections made provision for the commissioners suing (and being sued) through their clerk, their formal styling, the ownership of fixtures and fittings passing from the commissioners to the divisional justices, the competence of ratepayer witnesses in proceedings, and the time limit for legal actions (4 months with prior notice).

1 & 2 Will 4 c.xxxiii (1831) (*Lincoln County Offices Act*)

Purpose

54. Notwithstanding the passing of the Act of 1822 (as discussed above), by 1830 the King remained the owner of the freehold of the site of Lincoln castle. The county justices were still in occupation under a lease granted to them (and to the county sheriff and the lord lieutenant) in May 1814, although the lease had expired in 1828. The new county hall and a new county gaol had “been recently erected” on the site, and nearby (under the Lincolnshire 1809 Act) the county commissioners had acquired and refurbished a house as judges’ lodgings.¹³¹

55. However, the general gaol sessions in October 1830 felt that, as “large sums of money had been expended” in building the county prison in 1790, and subsequently the county hall and assize courts, it was necessary to acquire the freehold of Lincoln castle (and castle yard and bulwark) and to do other things, namely:

- to arrange for the judges’ house to be held by other than a “limited number of commissioners”
- to make provision for the justices to be able to levy county rates for the future maintenance and repair of the county hall and the assize courts
- to prevent further encroachment on the castle walls by adjoining property owners (which was endangering prison security).¹³²

56. To this end, the Lincolnshire 1831 Act had the following purposes:

- (a) to authorise the court of gaol sessions to resolve that the divisional justices enter into a contract with the chancellor and council of the Duchy of Lancaster to purchase from the King the freehold of Lincoln castle, the castle yard and the bulwark and moat, and to take a conveyance of the land, to be held by the county sheriff, the *custos rotulorum*,¹³³ and the divisional justices for the Act’s purposes “for ever”,¹³⁴

¹³¹ See preamble to 1 & 2 Will.4 c.xxxiii (1831) (“the Lincolnshire 1831 Act”), being “An Act to enable the Justices of the Peace for the Three Divisions of the County of Lincoln to purchase the Site of Lincoln Castle; and to empower the Court of Gaol Sessions for the said County to maintain and support the Judges House, County Hall, and Courts of Assize; and for other Purposes affecting the County at large”. The new county gaol had been provided pursuant to 5 Geo.4 c.12 (1824) (Gaol Sessions Act). That statute had established a court of gaol sessions for the county as a whole, and the court was empowered to levy rates on the constituent divisions of the county “for the repairs and purposes of the common gaol of such county”.

¹³² The Lincolnshire 1831 Act, preamble. The Gaol Sessions Act of 1824 had failed to include power to raise moneys by rate levy except for maintenance of the county gaol.

¹³³ The *custos rotulorum* was the principal justice of the peace for the county, who was also designated the keeper of the rolls and the records of the sessions of the peace.

¹³⁴ The Lincolnshire 1831 Act, s 1. On vesting, the land was to be freed from “all estate, right, title, claim, and interest” of the King, and from any restriction set out in the statutes 1 Ann. c.7 (1702) (relating to support for the royal household) and 4 Geo.4 c.64 (1823) (relating to the building, repair and regulation of gaols and houses of

- (b) to authorise the divisional justices, pursuant to a resolution of the court, to purchase such houses, buildings and lands adjoining the castle walls or bulwark, or the assize judges' residence, as they thought proper (using the moneys raised by levy);¹³⁵
- (c) to empower any owner of land or buildings to effect a valid sale to the justices, notwithstanding any legal disability such owner may have,¹³⁶ and to provide the justices with power to purchase compulsorily where an owner refuses to negotiate or to agree a sale (including accepting the sale price) or is absent;¹³⁷
- (d) to require the conveyance of the lands and buildings - on payment or tender of the purchase moneys - to the county sheriff, the *custos rotulorum*, and the divisional justices (which public officials were to hold the lands, of which they were deemed to be in lawful possession, "in perpetual succession");¹³⁸
- (e) to authorise the divisional justices to sell or exchange any parcels of land which they have purchased and which later become surplus to requirements (and where there are sale proceeds, that they be held by the treasurer to the court of gaol sessions);¹³⁹

correction). On receipt of the proceeds of sale, the Duchy's receiver general was to apply the moneys in accordance with 48 Geo.3 c.73 (1808) (relating to the revenues of the Duchy of Lancaster).

¹³⁵ The Lincolnshire 1831 Act, s 2. Once acquired the properties were to be held by, and vested in, the county sheriff, the *custos rotulorum*, and the divisional justices, for the Act's purposes, "in perpetual succession . . . for ever". By sections 3 and 4, the justices were required to purchase the whole of any adjoining house or building if the owner objected to the taking of part only (but, in so doing, the justices were permitted later to sell off or lease out any part surplus to their requirements). Before the court of gaol sessions could consider ordering the purchase of houses or other buildings, it was required to give notice to the clerks of the peace of the three county divisions (for the information of their divisional justices) and to the public: section 28.

¹³⁶ The Lincolnshire 1831 Act, s 5. Persons with a legal disability included the King, together with all corporate bodies, guardians and trustees. Sale under this provision would free the land of any encumbrance (such as trusts, remainders and reversions). By section 14, where any dispute arose as to the vendor's title, and the purchase moneys had been paid into the Bank of England to the order of the Court of Exchequer (see below), there was a rebuttable presumption that the person in possession was "lawfully entitled". And, by section 15, where moneys due to a person or body with legal incapacity had to be reinvested in real estate (to be held in trust), the costs of that reinvestment were to be borne by the justices from the Act's moneys.

¹³⁷ The Lincolnshire 1831 Act, s 6. The owner in question was to be afforded the opportunity to attend the general gaol sessions and, after hearing any submission, the sessions were empowered to appoint a jury to enquire into the appropriate valuation for the premises, and then to arrange for payment of the purchase moneys based on the valuation. The jury was to be empanelled in accordance with the procedure set down by section 7, and penalties were laid down for any person (including the sheriff and other officers) who defaulted in connection with jury summoning and jury service. By section 8, the costs and expenses associated with the valuation process were to be reimbursed either from the moneys to be raised under the Act or from the land owner who gave rise to the valuation dispute.

¹³⁸ The Lincolnshire 1831 Act, s 9. The purchase moneys were deemed to pay off, first, the value of any encumbrances or charges, and secondly, the value of the property passing. By sections 10 to 13, a mechanism was set down whereby moneys payable to persons who had legal incapacity could either be paid into the Bank of England to stand to the order of the Court of Exchequer (which could order payment out on a substantiated claim, and investment of unclaimed moneys in bank annuities), or, where the sum was less than £200, be held by two appointed trustees for the same purpose. If the sum was less than £20 it could be distributed as appropriate by the justices. Where good title was not made out, or the vendor could not be traced, the justices were to pay the purchase moneys into the Bank of England to be held to the order of the Court of Exchequer, pending an application for distribution: section 13.

¹³⁹ The Lincolnshire 1831 Act, s 16.

- (f) to provide that the moneys to be expended on obtaining the Act, and on acquiring the castle, the castle yard, and the bulwark and moat lands, and the purchase of adjoining houses and buildings, be defrayed from the public stock or the county rates, or by borrowing (which borrowings were to be repaid within 14 years);¹⁴⁰
- (g) to require that the assize judges' residence (and its fitments) - built by the special commissioners under the Lincolnshire 1809 Act¹⁴¹ - be transferred to, and held "in perpetual succession" by, the county sheriff, the *custos rotulorum*, and the divisional justices "for ever";¹⁴²
- (h) to repeal those parts of the Lincolnshire 1809 Act which laid down regulations for the holding of commissioners' meetings, and to authorise the justices in the gaol sessions court both to undertake the functions in that 1809 Act (relating to the upkeep of the assize judges' residence) and to raise moneys utilising its statutory powers;¹⁴³
- (i) to extend the powers relating to the county common gaol - which were then vested in the court of gaol sessions - to the maintenance and improvement of the judges' residence, the county hall and the assize courts (and other public buildings adjoining the castle yard);¹⁴⁴ and
- (j) to make provision for various legal issues.¹⁴⁵

¹⁴⁰ The Lincolnshire 1831 Act, ss 17-21. The moneys to be raised from public stock or by county rate precepts were to be apportioned across the three county divisions: ½ from the Lindsey division, 2/7th from Kesteven, and 3/14th from Holland. On receipt of the precepts, the divisional treasurers were to make the necessary payments within six calendar months. Section 27 provided that when moneys were required for the "enlarging, improving, repairing, or maintaining" of the judges' residence, the county hall, the assize courts, and other public buildings (all close to or within the castle walls), the court of gaol sessions could order payment be made from the public stock or the county rates (drawn down proportionately from each county division).

In order to carry the Act's purposes forward "the more speedily and effectually", the divisional quarter sessions within each county division were also empowered by section 18 to borrow moneys by way of mortgage charged on the rates (the lenders becoming non-preferential creditors). The form of mortgage was prescribed by the Act and, by section 19, the securities were to be transferable (and registrable). Interest was to be paid half-yearly: section 20.

¹⁴¹ 49 Geo.3 c.lxxv (1809), discussed above.

¹⁴² The Lincolnshire 1831 Act, s 22. The gaol sessions justices were empowered to appoint a salaried caretaker for the lodgings. The new owners of the lodgings were to honour the purposes of the Lincolnshire 1809 Act which authorised their construction. By section 23, all the powers vested in the original commissioners and their clerk in 1809 were transferred to the divisional justices (and their clerk) acting through the gaol sessions court for the county. And by section 25, the judges' residence and all additions to be made to Lincoln castle were deemed to be within the jurisdiction of all three county divisions and their justices.

¹⁴³ The Lincolnshire 1831 Act, s 24. The repeal by this Act of the obsolete provisions in the Lincolnshire 1809 Act was non-specific as to section numbers. The ability to raise moneys by rate levy was linked to the existing (but again unspecified) power to raise moneys for the maintenance of the county gaol.

¹⁴⁴ The Lincolnshire 1831 Act, s 26. The powers relating to the common gaol were contained in the statutes 4 Geo.4 c.64 (1823) (now repealed) and 5 Geo.4 c.12 (1824) (also repealed).

¹⁴⁵ The Lincolnshire 1831 Act, ss 29-34. For example, the provisions of the Act were not to interfere with the existing rights and privileges of the county sheriff in relation to the holding of prisoners on "mesne process", or in the appointment of a gaol keeper, or in his obtaining access to the common gaol or the castle yard. Similarly, provision was made for the justices bringing (and defending) civil proceedings in their corporate capacity; the defraying of costs incurred; the competence of ratepayer witnesses in proceedings; and the limitation period for legal actions (6 months, on notice). By section 33 there was a specific saving for the rights and privileges vested in the King and his successors, both "in right of His Crown as in right of His Duchy of Lancaster".

Status

57. The Lincolnshire 1809 Act has already been repealed in part by the Lincoln County Offices Act 1831, s 24 (see above).

58. The Lincolnshire 1809 to 1831 Acts authorised the building of a courthouse within the grounds of Lincoln Castle, and the crown court (which was formerly the assize court) still sits within the castle grounds.¹⁴⁶ The Lincolnshire archive office has indicated (from the relevant Pevsner architectural history volume) that the buildings date in the main from 1823 to 1826. Although the court buildings are now owned and managed by HM Courts Service, the 1809 to 1831 Acts are obsolete, as they relate to the construction phase, and can be repealed.

London (Greater)

46 Geo.3 c.lxxxvii (1806) (Southwark and East Brixton Court of Requests Act)

Purpose

59. By Acts passed in 1748 and 1758 provision was made to facilitate the recovery of small debts within the borough of Southwark and various parishes in its vicinity.¹⁴⁷ In 1806 it had become clear that the jurisdictional ceiling for the court of requests should be raised in order to encourage trade in the borough and in east Brixton.¹⁴⁸ To this end the Southwark 1806 Act was promoted.

60. The Act provided:

- (a) that those (unspecified) parts of the 1748 and 1758 Acts which limited the court's jurisdiction be repealed, and that the existing commissioners be appointed to a new court of requests with jurisdiction to determine inter-party disputes arising on debts not exceeding £5;¹⁴⁹

¹⁴⁶<http://www.heureka.clara.net/lincolnshire/lincoln-castle.htm>.

¹⁴⁷ The Acts were 22 Geo.2 c.47 (1748) (Small debts, Southwark, etc. Act) and 32 Geo.2 c.6 (1758) (Small debts, Southwark, etc. Act), both of which were repealed by 1846 with the formation of the county courts jurisdiction. The parishes were: St. Saviour and St. Mary parishes in Newington, St. Mary Magdalen in Bermondsey, Christ Church and St. Mary in Lambeth, St. Mary in Rotherhithe and, after 1758, the eastern portion of the hundred of Brixton (all then within the county of Surrey).

¹⁴⁸ Preamble to 46 Geo.3 c.lxxxvii (1806) ("the Southwark 1806 Act"), being "An Act to explain, amend, and render more effectual Two Acts, passed in the Twenty-second and Thirty-second Years of His late Majesty, for the more easy and speedy Recovery of Small Debts, within the Town and Borough of Southwark, and the several Parishes and Places in the said Acts mentioned". The need was to extend the jurisdiction of the local court of requests to cover debts (contractual and otherwise) up to £5 rather than £2 (40 shillings) as then limited. The Southwark 1806 Act was to come into force in August 1806: see section 26.

¹⁴⁹ The Southwark 1806 Act, ss 1, 2. By section 3 the appointed commissioners were required to take an oath of office in prescribed form (which oath replaced a previously prescribed oath). The commissioners were, in effect, civil judges.

- (b) administrative and other arrangements for the running of the court of requests;¹⁵⁰
- (c) power to the commissioners to determine disputes brought before them relating to civil debts;¹⁵¹
- (d) that the court's jurisdiction should include actions for the recovery of wages due to "any menial or other servant under the age of twenty-one years",¹⁵² but should exclude debt actions where title to land was in question, or where the debt was by "specialty" (arising under a deed) and not for a fixed sum, or where it originally exceeded £5;¹⁵³
- (e) for various procedural matters in the court;¹⁵⁴
- (f) for the regulation of the holding of prisoners in custody in debt and related matters;¹⁵⁵ and
- (g) for various savings.¹⁵⁶

¹⁵⁰ The Southwark 1806 Act, ss 4, 5 which provided for the continuing employment of the clerks (now as clerks to the court of requests) and the regulation of the court's sitting hours.

¹⁵¹ The Southwark 1806 Act, ss 6-10. Any person living within Southwark borough or the eastern half of the Brixton hundred, to whom an unpaid debt of up to £5 was owed, could cause a summons to be issued against the debtor if that person resided or conducted a business within the court's jurisdictional area. The courthouse for the borough was situate at St. Margaret's Hill. The commissioners were empowered to give judgment ("as they shall find to stand with equity and good conscience") and to make the necessary orders (including for repayment by instalments). All orders were to be recorded, and no decision of the court was to be reviewable "by *certiorari*, or otherwise howsoever" (in other words, by no other court or body). Witness summonses were to be issued by the court officers, and failure to attend to give evidence was to be punishable with a fine of up to 40 shillings, to be applied in the "support and maintenance of the poor of the said parish" (with committal to the borough compter or the county common gaol for up to one month for continuing breach): see section 7. Where a debtor failed to appear, the commissioners were empowered to proceed in his or her absence; if the claimant (plaintiff) failed to appear, the commissioners could dismiss the claim and award costs to the defendant. Section 10 extended the statutory provisions relating to perjury (including penalties) to proceedings of the court of requests.

¹⁵² The Southwark 1806 Act, s 11. The debt could not exceed £5, and the minor was deemed "of full age" for this purpose.

¹⁵³ The Southwark 1806 Act, s 12. The jurisdiction of the court also excluded any debt arising from occupation of land outside the borough and the half-hundred, from wills ("testament") or matrimony, and from matters within the jurisdiction of the ecclesiastical court or relating to retainer of tythes (irrespective of sum).

¹⁵⁴ The Southwark 1806 Act, ss 13-15. The matters included the non-award of costs to a claimant where an action for a debt of less than £5 was commenced in a court of record at Westminster, although this did not bar actions for recovery of rent or distress where the amount was less than £5; and the time-barring of actions commenced outside the statutory limitation period. By sections 21, 23 actions in general under the 1748 and 1758 small debts Acts (see above) were subject to a limitation period, and the commissioners were required to make rules for the handling and audit of parties' moneys held by the court.

¹⁵⁵ The Southwark 1806 Act, ss 16-20. Where a debtor was committed to the borough compter or other gaol by order of the court of requests, that person should only be held up to the maximum prescribed period (up to a maximum term of 100 days, dependent on the size of the debt outstanding, although multiple debts could lead to successive terms). The provisions in an Act of 25 Geo.3 (1785) (which, amongst other things, abolished the paying of fees by debtors to gaolers) were deemed to apply to the present Act. However, in their place a table of maximum fees payable to the bailiff, the clerks and the court officers was prescribed by the Act. An annuity-based compensation scheme was to be put in place for the loss of fees which would result to the four counsel of the "ancient court of the Marshalsea and the court of His Majesty's Palace of Westminster" (whose lifetime earnings from their offices were required to pay land tax on certain freeholds they also held).

¹⁵⁶ The Southwark 1806 Act, ss 22, 24 and 25. Savings were made for the 1748 and 1758 Acts (see above), except for those provisions "expressly repealed or otherwise provided for", for the continuing jurisdiction of the court of the King's Palace of Westminster (save for the small debt provisions relating to the court of requests), and for the continuing rights and privileges of the Lord Mayor of the City of London, the court of the Mayor and

Status

61. The Southwark 1806 Act was extended, and part repealed,¹⁵⁷ by the Southwark Court of Requests Act 1823¹⁵⁸ (itself now repealed). The 1823 Act made further provision for the regulation of the Southwark court of requests, including putting a cap on fees charged to litigants, revising the commissioners' oath of office, redefining the gaols to hold Surrey county and Southwark borough debtors, and ring-fencing the jurisdiction of the court (so as to exclude matters relating to title to land).

62. By contemporary paintings the Southwark court of requests can be placed at Trinity Place in Southwark.¹⁵⁹ According to James Grant, writing in the mid-1830s, the Court sat in Swan Street, Southwark.¹⁶⁰

'The Southwark Court of Requests has a more extensive jurisdiction than that of Westminster. It embraces the town and borough of Southwark, Lambeth, and the eastern half of the hundred of Brixton. It possesses the power of imprisoning the person in execution, but not for a longer period than one hundred days. It is competent to hear and decide all cases under five pounds. Five commissioners are necessary to constitute a Court when the debt is above forty shillings; and three, when the debt is under that sum. The number of commissioners is 152. They are chosen in the same way as the commissioners for the Westminster Court of Requests. When the Court was established, I have not been able to ascertain. The average number of suits instituted in this court every year, is rather above 16,000. Perhaps there is no other Court of Requests in the kingdom in which there is so slight a variation in the number of cases tried, as in the Court of Requests for Southwark. This fact will appear from the following statement of the respective numbers for the five consecutive years preceding the year 1835. In 1830, the number was 16,441 ; in 1831, 16,751; in 1832, 16,192; in 1833, it was 16,250; and in 1834, it was 16,450. The total average amount of debts sued for each year is about 22,000/.; and the annual average expenses of prosecuting this amount of debts is close on 4000/., giving, as in the case of the Westminster Court of Requests, the expenses of each case at somewhere about three shillings and sixpence. The Southwark Court usually sits two days each week. It begins its sittings at ten o'clock, and rises at half-past three. It is divided into two branches; an arrangement indispensable for getting through the great quantity of

Aldermen, the city recorder, the steward of the city court, and the borough court of Southwark, which were exercisable within the borough, "as if this Act had not been made".

¹⁵⁷ Sections 6 and 13 of the Act were partially repealed by the 1823 Act, ss 15, 16 (below).

¹⁵⁸ 4 Geo.4 c.cxxiii (1823), repealed by the County Courts Act 1846.

¹⁵⁹ See: [http://collage.cityoflondon.gov.uk/collage/app.jsessionid=CB413BEB226A4A9EE4A544BF7FF11E43?service=external/SearchResults&sp=l%3ACourt+of+Requests+\(L.B.+of+Southwark\)++++++++ ++%3A%3A](http://collage.cityoflondon.gov.uk/collage/app.jsessionid=CB413BEB226A4A9EE4A544BF7FF11E43?service=external/SearchResults&sp=l%3ACourt+of+Requests+(L.B.+of+Southwark)++++++++ ++%3A%3A).

¹⁶⁰ See <http://www.victorianlondon.org/publications/sketchesinlondon-10.htm>.

business, the transaction of which devolves on the commissioners. Instead of the chief bailiff for Southwark, and the two principal clerks, as in the case of the Westminster Court of Requests, deriving their emoluments from fees on the cases which are tried before the Court, they have severally a fixed yearly salary. That of the chief bailiff is 500*l.*, while one of the two principal clerks, namely, Mr. Meymott, has 750*l.* The other chief clerk, viz., Mr. George Drew, receives the same amount of yearly salary as the chief bailiff, which I have stated to be 500*l.* The Court sits in Swan-street.'

Swan Street was originally built in the same style, and at the same time, as Trinity Church Square and Cole Street. Both sides (north and south) of Trinity Street contained small houses or shops. The Southwark Court of Requests was built in 1824 at the western end of the street, on the site of the present Inner London crown court annexe.

Apart from the Trinity Arms, none of the original buildings in the area remain. Gloucester Court, and various buildings in Swan Street, were all built in the early 1960s.¹⁶¹

63. The Southwark 1806 Act is now obsolete and may be repealed.

55 Geo.3 c.xciii (1815) (City of London Courts of Justice Act)

Purpose

64. In 1815 the courts of King's Bench and of Common Pleas, when determining matters arising within the City of London, would sit in "certain apartments in the Guildhall", and the court of requests for the city would sit in the Guildhall chapel (on the east side of Guildhall Yard).¹⁶²

65. Because neither of these venues were suitable for court sittings, the City corporation ("the Mayor and Commonalty and Citizens of the City of London") decided that they should acquire land to build alternative premises. The corporation already owned Blackwell Hall cloth market and warehouses - regulated by statute since 1557¹⁶³ - which had long fallen into both disuse and disrepair, and felt that that site, together with the Guildhall chapel site, could be used to erect new court buildings for the King's Bench and Common Pleas courts and for the court of requests.¹⁶⁴ This project required specific parliamentary authority.

¹⁶¹ <http://www.tnra.net/theEstate/estate.html>.

¹⁶² See preamble to 55 Geo.3 c.xciii (1815) ("the City 1815 Act"), being "An Act to enable the Mayor and Commonalty and Citizens of the City of London, to provide convenient Courts of Justice in and for the said City". The Guildhall chapel was formerly known as the Chapel of St. Mary Magdalen or All Saints, and physically adjoined the Guildhall building. The chapel building was now "much decayed" and had not been used for divine service "for many years".

¹⁶³ 4 & 5 Ph. & M. c.5 (1557) (Woollen cloths Act), recited in the preamble to the City 1815 Act.

66. The City 1815 Act was designed to authorise the following:
- (a) the repeal of various Acts (in whole or in part) relating to the Blackwell Hall market, which market was to cease - and “be utterly void” - in its entirety;¹⁶⁵
 - (b) to permit the City corporation to purchase portions of the Guildhall chapel and Blackwell Hall sites (and ancillary buildings) which they did not already own, and to authorise persons or bodies with legal disability to effect sale for value and transfer of their interests to the corporation;¹⁶⁶
 - (c) to make provision for the payment of purchase moneys to persons or bodies under legal disability, either by payment into the Bank of England to be held to the direction of the Court of Chancery (which could order payment out or reinvestment in other land to be held in trust), or by other means;¹⁶⁷
 - (d) to authorise the City corporation to demolish the Guildhall chapel and Blackwell Hall (and ancillary buildings), and to build new accommodation to house the King’s Bench, Common Pleas and City requests courts on the cleared sites (together with the construction of other buildings for public business, and the laying out of avenues and streets);¹⁶⁸
 - (e) to authorise the City corporation to lease off any lands within the development site which may become surplus to requirements, with a stipulation that the lessees build such houses or buildings as the corporation prescribe;¹⁶⁹
 - (f) to authorise the City corporation to use or to sell off any reclaimable building materials from the several demolitions, and to put the proceeds of sale from

¹⁶⁴ The City 1815 Act, preamble. Any lands surplus to requirements were to be sold off by building lease, and the ground rents were to be used to help defray the new-build costs.

¹⁶⁵ The City 1815 Act, s 1. The Acts (which were identified by reference to those cited in the City 1815 Act’s preamble) spanned the years 1557 to 1714.

¹⁶⁶ The City 1815 Act, ss 2-4. The decision to purchase was to be made by the City corporation sitting in common council. Apart from the provisions relating to capacity to sell, specific provision was made by section 5 for sales by “any feme covert” (a woman lacking independent legal status by virtue of marriage), which were to be enrolled in the city’s court of hustings or in the Court of Chancery, and were to be enforceable in the same way as fines and recoveries.

¹⁶⁷ The City 1815 Act, ss 6-9. Where the compensation sum exceeded £200 payment was to be made into the Bank of England (where it was to be invested in the short term in 3% consolidated or reduced bank annuities); where it was less than £200 but exceeded £20 it was to be paid into the Bank, without need for court direction, to be distributed by two appointed trustees (approved by the Lord Mayor); and where it was less than £20 it could be paid direct by the City corporation to the parties concerned or their trustees or guardians. By section 9, where moneys were to be paid into the Bank and then used for the purchase of alternative lands (to be held in trust), the court could order the City corporation to reimburse the expenses incurred.

¹⁶⁸ The City 1815 Act, ss 10, 11. In so doing, two monuments on the walls of the Guildhall chapel were to be preserved and reinstalled in the parish church of St. Lawrence Jewry (to the direction of the bishop of London), and the internal floor and foundations of the chapel - including the gravestones set within them - were to be left undisturbed: sections 12, 13.

¹⁶⁹ The City 1815 Act, ss 14, 15. Building leases were to be granted for terms not exceeding 99 years, with the payment of rent yearly. On completion of the building works the corporation was empowered to sell the reserved ground rents and freeholds of the properties in question.

both the lands and materials towards the cost of the court building project;¹⁷⁰
and

(g) to permit the City corporation to appoint a committee or committees to supervise (on its behalf) the whole site acquisition and building scheme.¹⁷¹

Status

67. A court house (for the City of London courts of justice) was built by William Mountague on the site of the old Guildhall Chapel around 1822 under the provisions of the City 1815 Act. By an Order in Council of May 1883 (made under the Courts of Justice Building Act 1865)¹⁷² it was declared that "all or any issues or inquiries in cases at *nisi prius*, which would otherwise be tried and executed within the county of the City of London, shall be tried and executed at the Royal Courts of Justice". Accordingly, by a resolution of the Court of Common Council in July 1885, the law courts at Guildhall ceased to function as such and were converted into the new Guildhall Art Gallery.

68. The building was damaged during the Second World War and has since been demolished as part of the construction of Guildhall Yard East.¹⁷³ Accordingly, the provisions of the City 1815 Act are now obsolete.

Louth (Ireland)

1 & 2 Geo.4 c.cxxiv (1821) (Louth County Court House Act)

Purpose

69. In 1813 the grand jury for the county of Louth in Ireland (then part of the UK, and today within the Republic of Ireland) decided that a new county court house was required, and that it should be sited in Dundalk. The jury, sitting in the county assizes, appointed eleven named individuals as "overseers" of the project. This body entered into a contract with a builder from Dublin in that same year.¹⁷⁴

70. By 1818 the builder (William Moore) had been paid some £14,525, but "great delays [had] occurred in the execution of the said building, and great public inconvenience [had]

¹⁷⁰ The City 1815 Act, ss 16, 17.

¹⁷¹ The City 1815 Act, s 18.

¹⁷² 28 & 29 Vict. c.48 (1865), s 20.

¹⁷³ Information provided by courtesy of the London Metropolitan Archives.

¹⁷⁴ See preamble to 1 & 2 Geo. 4 c.cxxiv (1821) ("the Louth 1821 Act"), being "An Act for enabling the Grand Jury of the County of Louth to levy by Presentment certain Sums of Money expended for the Building of the Court House of the said County". The courthouse was to be built within 3 years for the contract sum of £16,190 10s (of which only £14,500 was to be paid prior to completion). If any alterations to the original plans were required by the overseers, additional time and moneys would have to be allowed within the contract.

been occasioned”.¹⁷⁵ The grand jury decided to dispense with the builder’s services, and the overseers employed alternative builders. As a consequence, the building project was “speedily finished” by early 1819, and the assizes were then held in the new court house.¹⁷⁶

71. However, not everything ran smoothly. By 1821 Mr Moore had issued civil proceedings in the Irish Court of Common Pleas against various of the overseers for non-payment of an alleged contract debt. At trial in November 1820 he was successful.¹⁷⁷ Contributions were made by each of the overseers, but the grand jury - by this juncture - had no funds left to reimburse them. Given that they had each acted “solely for the public benefit and advantage of the said county”, it was felt “just and reasonable” that moneys be found for this purpose.¹⁷⁸ In order to obtain the necessary authority to raise the moneys from the county, the Louth 1821 Act was sought. This short Act provided:

- (a) that any grand jury assembled for the Louth county assizes be empowered to present sufficient sums as would “reimburse and indemnify” the named overseers for their lawful expenditure on the courthouse project (which sums were to be raised by a levy on “the said county at large”);¹⁷⁹
- (b) that any person liable to a grand jury “cess” be entitled to “traverse” (contest) the “presentment”, and to have the issue tried;¹⁸⁰ and
- (c) that the expense of obtaining the Louth 1821 Act be borne out of the county levy.¹⁸¹

Status

72. The courthouse as built exists today and is still in operational use. However, because the courthouse lies outside the United Kingdom, the Louth 1821 Act no longer serves a useful purpose within the UK jurisdiction, and it can be repealed. Repeal of the Act will not affect its continuing status or functioning within Ireland.

Northumberland

1 Will. & Mar. c.17 (1688) (Erecting Newcastle-upon-Tyne Court of Conscience Act)

Purpose

73. In 1688 the town and county of Newcastle-upon-Tyne was “very large and populous”, and a significant part of the population were poor freemen, artificers and labourers. When

¹⁷⁵ The Louth 1821 Act, preamble.

¹⁷⁶ The Louth 1821 Act, preamble.

¹⁷⁷ William Moore obtained judgment for £3,500 owed to him for works undertaken, plus costs.

¹⁷⁸ The Louth 1821 Act, preamble.

¹⁷⁹ The Louth 1821 Act, s 1. Before making a “presentment”, the grand jury was required to take sworn evidence of, and to examine documentation to support, the expenditure claims: section 3.

¹⁸⁰ The Louth 1821 Act, s 2.

these people needed to recover debts owed to them they were forced to issue proceedings in the Westminster courts in London, at great expense and inconvenience. Whilst they were away from home, the responsibility for, and cost of, support and maintenance for their wives and children fell upon the city corporation.¹⁸²

74. Experience in London had shown that the creation of a local court for recovery of small debts (with a limited monetary jurisdiction)¹⁸³ was “of great benefit and advantage” to the poor in the city who needed a means of redress.¹⁸⁴ The purpose of promoting the Newcastle 1688 Act was therefore to replicate that arrangement in Newcastle. To this end the Act authorised the following:

- (a) that a court of requests or conscience be established to benefit “the poorer sort of people” within the county and city of Newcastle upon Tyne;¹⁸⁵
- (b) that the mayor, aldermen and common council of the town (the corporation), or the mayor and six aldermen, nominate 13 or more individuals to be commissioners of the court - initially for one year - and to appoint court officers including a beadle and a registrar or clerk;¹⁸⁶
- (c) that the commissioners were to meet within Newcastle on days to be appointed, and were to be authorised to determine all *assumpsit* debt or damages actions within the court’s jurisdictional limit;¹⁸⁷
- (d) that any inhabitant of the town or its liberties who had debts owing to him or her be permitted to require the debtor to be summoned to the court of conscience by the beadle or other officer, and to seek an appropriate order;¹⁸⁸ and in the event that any party failed to appear without “some just and reasonable cause or excuse” (or failed to comply with the court’s order) the court could order the beadle to levy distress on that party’s “goods and chattels”;¹⁸⁹

¹⁸¹ The Louth 1821 Act, s 4.

¹⁸² Preamble to 1 Will. & Mar. c.17 (1688) (“the Newcastle 1688 Act”), being “An Act for erecting a Court of Conscience at Newcastle upon Tyne”. This Act had no section numbers, so the numbers referred to here have been assigned to the Act’s text for reference purposes.

¹⁸³ Up to 40 shillings (£2).

¹⁸⁴ The Newcastle 1688 Act, preamble. The small debts court in London had prevented “many great mischiefs and inconveniences” which would have flowed from the cost of due process in the Westminster courts.

¹⁸⁵ The Newcastle 1688 Act, s 1.

¹⁸⁶ The Newcastle 1688 Act, s 1. Of the 13 nominees, a minimum of six were to be aldermen and the remainder were to be common councilmen. Either the mayor or the senior alderman was to be an *ex officio* commissioner.

¹⁸⁷ The Newcastle 1688 Act, s 2. *Assumpsit* debt actions were those for simple debt arising from non-performance of a contract. As with London, the jurisdictional ceiling was to be 40 shillings. The court was prevented, however, by section 6, from determining matters relating to debts arising from occupation of land, or from testaments (probate) or matrimony, or from anything within the jurisdiction of the ecclesiastical court.

¹⁸⁸ The Newcastle 1688 Act, s 3. The commissioners were required to determine the claim summarily, in a manner consistent “with equity and good conscience”.

¹⁸⁹ The Newcastle 1688 Act, s 5. Any surplus moneys realised on the sale of the goods or chattels were to be repaid to the party concerned. If the belongings were insufficient to satisfy the court order, the court’s officers

- (e) that the court's orders were to be "final and conclusive", and binding on all parties, and were not to be capable of being impugned by writ of error or *certiorari* in law or in equity;¹⁹⁰
- (f) that the various commissioners were required, before undertaking their duties, to take an oath in prescribed form to fulfil their duties properly;¹⁹¹
- (g) that any action commenced after August 1688 in any court (other than the new court) for recovery of a sum of less than 40 shillings would be non-effective;¹⁹² and
- (h) that the court's registrar or clerk should take no more in fees for various stages in an action than those set out in the Act.¹⁹³

Status

75. Records for the court of conscience held at Newcastle are still in existence for the years 1697 to 1847.¹⁹⁴ The court was held in the guildhall in Sandhill, together with the other town courts. The guildhall had been erected between 1655 and 1658 (to plans drawn by Robert Trollope of York).

76. The guildhall building exists today, and operates principally as a tourist information centre. It had previously been used to house the magistrates' court.

77. The court of conscience was superseded by the county court system of 1846. As a consequence the Newcastle 1688 Act is now obsolete and can be repealed.

49 Geo. 3 c.clxxxv (1809) (Northumberland Gaol and Courts of Justice Act)

Purpose

78. In 1809 the grand jury for the county of Northumberland, noting that the existing moot hall (in which the county assizes had been held "for time immemorial"), the grand jury room and the holding gaol were all in a bad state of repair, decided that the buildings should be replaced on the same site within Newcastle's castle garth.¹⁹⁵

were authorised to hold the relevant party in the town prison (without bail or mainprize) until the order was complied with.

¹⁹⁰ The Newcastle 1688 Act, s 3. The commissioners were empowered to take evidence on oath, and to examine witnesses.

¹⁹¹ The Newcastle 1688 Act, s 4.

¹⁹² The Newcastle 1688 Act, s 6. In such circumstance, judgment would not be given on any verdict, and the defendant would be awarded his legal costs.

¹⁹³ The Newcastle 1688 Act, ss 7, 8. The scale of fees covered issue and service of plaints, committal warrants, distress warrants and the like, and was to be applied notwithstanding any law or custom to the contrary.

¹⁹⁴ The records are held by the Tyne and Wear Archive Service.

¹⁹⁵ Preamble to 49 Geo.3 c.clxxxv (1809) ("the Newcastle 1809 Act"), being "An Act to enable His Majesty to grant the Moot-hall, Grand Jury Room, and certain Grounds and Buildings adjoining thereto, in the Castle Garth,

79. The King - who owned the existing buildings and land “in right of his crown” - had signified his willingness to transfer his freehold interest to the county justices so that new buildings could be constructed. The justices, however, required parliamentary authority to defray the costs of the building project, and of the acquisition of additional land, and to levy a poor relief rate on the towns and parishes within the county.¹⁹⁶ To this end, the Newcastle 1809 Act provided that:

- (a) the moot hall, grand jury room and adjoining waste ground (more particularly described in the Act’s preamble), and the stones contained within the buildings, be vested in the Northumberland county justices “for ever”;¹⁹⁷
- (b) the county justices be authorised to enter into contracts for the demolition of the existing buildings, and to erect and fit out a new moot hall, courts of justice and assize gaol for the county (together with other suitable accommodation) on the vested and acquired lands;¹⁹⁸
- (c) the county justices could purchase any other adjoining lands which they thought necessary for the project, including creating a “more easy, open, and convenient approach” to the court complex;¹⁹⁹
- (d) the county justices be authorised to sell off any lands which become surplus to requirement, and the proceeds of sale were to be applied towards defraying the costs of the project;²⁰⁰
- (e) all materials to be used for the building project (and for furnishing the buildings) were to remain the property of the county justices as a body, and any person damaging or stealing the materials would be liable to prosecution;²⁰¹

within the Scite of the Old Castle of Newcastle-upon-Tyne, to the Justices of the Peace for the County of Northumberland; for building Courts of Justice, and also a Gaol for the said County; and for other Purposes therein mentioned relating thereto”. The moot hall and the jury room were both inconvenient, as the judges of assize had “repeatedly . . . represented” to the grand jury, and the gaol (used for the temporary holding of prisoners brought for trial from the county gaol at Morpeth) was “unwholesome”.

¹⁹⁶ The Newcastle 1809 Act, preamble. The costs of obtaining the Act were to be defrayed from the county stock or the county rates, and repaid in due course from the moneys raised under the Act: section 26.

¹⁹⁷ The Newcastle 1809 Act, s 1.

¹⁹⁸ The Newcastle 1809 Act, s 2.

¹⁹⁹ The Newcastle 1809 Act, s 3. The power to acquire was restricted to land owned or occupied by willing sellers at a price to be agreed mutually, and by section 5 the justices were given power to acquire lands by exchanging other lands surplus to the requirements of the project. However, by section 4, the new street to be built - running from Bailey Gate to Castle Garth - was not to exceed 25 feet in width, in accordance with a contract already entered into with one John Turner, unless sales of adjoining property were mutually agreed.

²⁰⁰ The Newcastle 1809 Act, ss 6, 7.

²⁰¹ The Newcastle 1809 Act, s 8. By section 9, all the project buildings (once complete) were deemed to be vested in the county justices for Northumberland in order that they be held in trust “at all times for ever hereafter” for the purpose of holding the assize and quarter sessions hearings, for the transaction of county business, and for such other public purposes as the justices may direct. And by section 10, all the project buildings and adjoining court yard were deemed to lie within the county of Northumberland, and all the remaining parts of the old castle and castle garth were deemed to lie within the town and county of Newcastle-upon-Tyne (notwithstanding any law or custom to the contrary).

- (f) the county justices could raise the moneys necessary for the Act and the building project by levying a rate precept of up to 2d in the £ based on annual values of properties within the county (by warrants delivered to the overseers of the poor within each county division);²⁰²
- (g) the county justices could sell “a large ruinous building” owned by the county in Morpeth (which structure was linked to, but some distance from, the house of correction there), and put the proceeds of the freehold sale towards the various costs of the present project;²⁰³
- (h) the county justices, pending completion of the new building project, could utilise alternative premises for the assize sittings and for holding prisoners for trial;²⁰⁴
- (i) a constable should be appointed “for the better preservation of the peace and protection of the property” within the castle garth precincts;²⁰⁵
- (j) once constructed and operational, the new moot hall, shire hall and courts were to be “for ever after repaired, supported, maintained” and insured from fire out of the moneys raised on the county general rate;²⁰⁶ and
- (k) provision be made for various legal issues.²⁰⁷

Status

80. The Newcastle 1809 Act authorised the building of a gaol and courts of justice on land at the old castle of Newcastle. According to a record of 1839 -

²⁰² The Newcastle 1809 Act, s 11. The levying of a precept was seen as preferable to taking the moneys from the county stock because the burden would then fall on some land occupiers “who have no permanent interest in the effects of this Act”. By the precept route the justices could vary the amount of levy dependant upon the degree of financial commitment already borne by particular parishes and townships. The justices were also given powers of enforcement by distress on goods. By sections 12 and 13, in the event that a particular place had no overseers of the poor, the county justices were required to summon two or more “respectable inhabitants” so that they could be examined as to the appropriate values to be placed on hereditaments for rate assessment purposes; and where any “extra-parochial, peculiar, or other places” had no overseer who could execute the Act’s provisions, the justices could appoint an overseer or overseers (with the necessary powers) “for effectuating the purposes” of the Act. The county treasurer was to keep separate accounts for all moneys raised under the Act (to be laid before each general quarter sessions), and any balance found at the end to be surplus to requirements was to be applied towards the county rate: sections 14, 20.

²⁰³ The Newcastle 1809 Act, s 15. As well as being in disrepair, the building was “of no public utility”.

²⁰⁴ The Newcastle 1809 Act, s 16. Notwithstanding the change of venue, all actions were still deemed to be held at the castle in Newcastle. By section 18 the sheriff was authorised to erect gallows within the castle garth precincts “for the more speedy execution of justice in certain cases” when so ordered by the assize judges.

²⁰⁵ The Newcastle 1809 Act, s 17. The constable was to be appointed from the group of inhabitants resident within the castle garth. Service in the office was to be voluntary, although the duties were to be enforceable, and the officer was to be remunerated from the Act’s moneys (section 19).

²⁰⁶ The Newcastle 1809 Act, s 21. The moneys were to be raised in the same manner as applied to other public buildings for a county.

²⁰⁷ The Newcastle 1809 Act, ss 22-25. These sections provided for the conduct of civil actions by the county justices, competence to give evidence, payments into court, and limitation of actions (commencement within 12 months).

'The town and county gaol is a massive stone building of modern erection, large and commodious, and admitting the requisite classification. The moot-hall, or County Court-house, erected in part of the precincts of the ancient castle, is a building of elegant proportions, adorned with a fine portico of six Doric columns on the south front, and a similar portico of four columns on the north front. The architectural details are from the temple of Theseus at Athens. Much of the old castle, which was formerly used as a county prison and for holding the assizes, is yet standing; many alterations have been made in it within the last twenty or thirty years, but by no means in harmony with the original architecture of the building, which is Norman'.²⁰⁸

81. Today, all that remains of Newcastle castle is the keep and the Black Gate. The remainder of the castle garth - including the half-moon battery, on which was built the court house - has been redeveloped.²⁰⁹ The courthouse building, which was formally opened in 1812 (after two years in the construction)²¹⁰ is in existence today, and is still used for court purposes.

82. The Act of 1809 is however redundant because it was required only to facilitate relocation and construction of the court building. It may be repealed.

Nottinghamshire

2 & 3 Vict. c.xcix (1839) (Newark Small Debts Recovery Act)

Purpose

83. By 1839 the borough of Newark in Nottinghamshire had become a "large and populous" market town, and "a place of extensive trade". In Newark and in many surrounding places - some within Lincolnshire - a considerable number of "mills, malt-kilns, and manufactories" employed a large number of workers who ran up small debts which they were then either unable or unwilling to pay.²¹¹ In those circumstances creditors either had to forgo their moneys or incur disproportionate expense in recovery.

²⁰⁸ See <http://oldtowns.co.uk/Northumberland/newcastle.htm> (last accessed 27.8.09).

²⁰⁹ See http://www.castlekeep-newcastle.org.uk/keep_guide.htm. (last accessed 27.8.09).

²¹⁰ See Eneas Mackenzie 'Public buildings: The county courts' in *Historical Account of Newcastle-upon-Tyne: Including the Borough of Gateshead* (1827) at pp 224-229, available at <http://www.british-history.ac.uk/report.aspx?compid=43348> (accessed on 27.8.09).

²¹¹ See preamble to 2 & 3 Vict. c.xcix (1839) ("the Nottinghamshire 1839 Act"), being "An Act for the more easy and speedy Recovery of Small Debts within the Borough of Newark and other Places in the Counties of Nottingham and Lincoln". The Act listed in its preamble the various townships, parishes, hamlets and places affected.

84. The purpose behind the Nottinghamshire 1839 Act was to institute “an easy and speedy method” of debt recovery. It authorised or required the following:

- (a) that the Newark court of requests (to be presided over by a judge) be established as “a court of justice for the recovery of small debts” within the constituent borough, townships and parishes;²¹²
- (b) that the Lord Chancellor, the Lord Keeper or the Lords Commissioners for England be authorised to appoint a suitably qualified judge to the court;²¹³
- (c) that the county justices be permitted (with the judge’s approval) to appoint an attorney as clerk to the court, and the judge to appoint the court bailiffs and other “inferior officers”;²¹⁴
- (d) that the county justices appoint a treasurer to the court (who was not to be the clerk),²¹⁵ and that the various appointed officials be required to undertake their duties as prescribed;²¹⁶
- (e) that the treasurer be permitted to borrow moneys at appropriate rates of interest in order to defray the costs of the court (including acquiring suitable premises for it to sit), which sums would be paid from the general rate fund, supplemented by a special fund;²¹⁷
- (f) that responsibility for care of the court house be vested in the clerk, who was to have power to arrange all furnishings, cleaning, heating, lighting and the like;²¹⁸
- (g) that court fees were to be charged in accordance with a published table, and all moneys taken were to be accounted for;²¹⁹

²¹² The Nottinghamshire 1839 Act, s 1. By section 3 the court was to sit within the borough of Newark at intervals of no more than two months. By section 20 the court’s jurisdiction was to extend only to the recovery of small debts of £5 or less (to be determined in accordance with English law), but not to matters of title to land, tithes, tolls, fairs, markets or franchises, or to wills or trusts. And by section 28 the judge was to be the sole arbiter of all matters of fact and law.

²¹³ The Nottinghamshire 1839 Act, s 2. The power of appointment also included the power to remove for misbehaviour, and to replace in the event of death or resignation. By section 4 the appointed judge was empowered to appoint a deputy to sit during periods of “illness or unavoidable absence”.

²¹⁴ The Nottinghamshire 1839 Act, s 5. The Newark petty sessions justices were also empowered to appoint a “provisional clerk” in the event of an unexpected vacancy arising. By section 6 the appointed clerk was authorised (with the judge’s approval) to appoint a deputy to act in his absence. The clerk was required (amongst other things) to keep records of all proceedings issued and of all judgments of the court: section 43.

²¹⁵ The Nottinghamshire 1839 Act, ss 7, 8. By sections 9, 10 the treasurer (or, on death, his personal representative) was required to hand over to his successor any monetary balances then in his control (enforceable by court action).

²¹⁶ The Nottinghamshire 1839 Act, ss 11-13. The clerk was required to maintain registers of all summonses issued and orders made; the bailiffs had to execute all orders and warrants; and the treasurer was required “quarterly or oftener” to audit and settle all accounts. Each officer who handled moneys had to give security to the county justices “for the due performance of his office”. By section 18 the treasurer and all the appointed officials were to be paid salaries, payable from the general fund (see below).

²¹⁷ The Nottinghamshire 1839 Act, ss 14, 15. The special fund (“The General Fund of the Newark Court of Requests”) was to be raised by the clerk levying a charge of 1 shilling in the £ on each plaintiff’s quantified claim.

²¹⁸ The Nottinghamshire 1839 Act, s 16.

²¹⁹ The Nottinghamshire 1839 Act, ss 17, 19. The county justices were from time to time to fix the levels of fee, and the fee income was to be certified and reported to the judge and (annually) to the county quarter sessions. Fee levels were to be reviewed and varied according to the balance held in the court’s general fund. The initial fee levels were set down in the Schedule to the Act.

- (h) that court process should follow the rubric set down in the Act;²²⁰
- (i) that arrangements be put in place for the enforcement of orders of the court;²²¹
- (j) that a rubric be put in place for the conduct and protection of bailiffs and court officers;²²² and
- (k) that provision be made for miscellaneous matters (including savings).²²³

Status

85. The Nottinghamshire 1839 Act was repealed in part by 4 & 5 Vict. c.lxxix (1841) (Newark Small Debts Recovery Act), section 13, which was itself repealed in 1846 on the formation of the county courts system.

86. Although the Nottinghamshire Archives Office has references within its catalogues and indexes to a court for the recovery of small debts in Newark (Acts of 1839 and 1841) - and holds papers for the court of record (1579-1847) and the court of pleas (1591-92) - there are no records as to when the court buildings ceased to be used for court purposes or as to subsequent use of the site.

87. Given the formation of the county courts system, which rendered the Newark small claims court obsolete, the Nottinghamshire 1839 Act is likewise obsolete, and can now be repealed.

²²⁰ Various aspects of court process and procedure span the Nottinghamshire 1839 Act, ss 21-45. The list of matters includes: actions to commence by plaint, non-division of causes of action to circumvent jurisdiction rules, minors to sue for wages, payments into court (and unclaimed moneys), making rules of court (to be approved by two assize judges), non-appearance of parties, witness summonses and perjury, judgments and costs.

²²¹ The Nottinghamshire 1839 Act, ss 46-55. In the event of default on a court judgment, the court could issue a warrant of execution (imprisoning the defaulting party or levying distress on goods), with power to suspend. Committal to any common gaol or house of correction within Nottinghamshire or Lincolnshire was for a maximum period of 40 days. The court's general fund was to finance the maintenance of prisoners held in custody. Where goods were taken in execution, they were not to be sold for 8 days, and then only by "sworn brokers and appraisers" (section 51). The bailiff also had power to apply for distress on goods held - and for arrest - outside the court's territorial jurisdiction.

²²² The Nottinghamshire 1839 Act, ss 57-59. Penalties were laid down for any court official who committed "extortion or misconduct", or who failed to account for moneys received or sought fees beyond the authorised level. By the same token, protection was afforded to officers of the court who lawfully took goods in execution, and were claimed against, as if they were sheriffs falling within 1 & 2 Will. 4 c.58 (1831).

²²³ The Nottinghamshire 1839 Act, ss 60-69. Actions which could have been brought at Westminster or in "any hundred court, court baron, court leet, manor court, or other court" could continue to be brought in those courts. The sections also covered recovery of penalties by the justices (including by committal); savings of rights for various courts (the Peveril royal court of record, the Nottinghamshire and Lincolnshire county courts, the Newark borough court of record, the Loveden hundred court, and other unspecified courts); the cesser and determination of the Act's provisions relating to jurisdiction on the coming into force of any subsequent general Act which dealt with small debt recovery, and the selling of the court of requests' assets (sections 67, 68); and interpretation.

Shropshire

1 & 2 Geo.4 c.xcvi (1821) (Salop County Judges' Accommodations Act)

Purpose

88. In January 1821 the Shropshire²²⁴ county justices in quarter sessions reviewed the state of the assize judges' lodgings in Shrewsbury, and concluded that they were "very inconvenient" and failed to "afford proper and suitable accommodations".²²⁵ Accordingly they felt that alternative premises should be acquired or built, but that this would require specific statutory authority.

89. The Shropshire 1821 Act was designed to authorise the following:

- (a) that the county justices, acting in quarter sessions, be empowered to make appropriate orders for the purchase, leasing or construction of a house or "suite of apartments" (with suitable office accommodation) within Shrewsbury for use as a judges' residence, together with land to form an approach to the building;²²⁶
- (b) that the county justices be authorised to borrow moneys for the project (to a maximum of £4,000), mortgaged on the county rates;²²⁷
- (c) that the county justices be authorised to negotiate and agree the purchase price of buildings and land to be acquired and, once the moneys had been paid over (either to the owner or into the Bank of England), to effect conveyance to the clerk of the peace and the taking of possession;²²⁸
- (d) that arrangements be put in place to ensure that persons or bodies with legal incapacity could effect sale, and that compensation moneys be paid either into the Bank of England (to be held to the order of the court of chancery) or to the appropriate trustees;²²⁹

²²⁴ Then referred to as the county of Salop.

²²⁵ Preamble to 1 & 2 Geo.4 c.xcvi (1821) ("the Shropshire 1821 Act"), being "An Act for providing a convenient House, with suitable Accommodations, for His Majesty's Judges at the Assizes for the County of Salop, and for maintaining and supporting the same".

²²⁶ The Shropshire 1821 Act, s 1. The judges' residence was to be used for when the judges were sitting at the county assizes or at "any special commission of oyer and terminer". The power to acquire and/or build extended to the raising of the necessary moneys from the public stock or the county rates (subject to certain restrictions spelt out later in the Act eg. by section 5 the project was not to exceed £4,000 in cost, although additional moneys could be raised to cover the cost of obtaining the Act). By section 2 the county justices were permitted to remunerate the clerk of the peace for the additional work involved in this project.

²²⁷ The Shropshire 1821 Act, s 3. The form of mortgage was prescribed by the Act. By section 4 mortgages could be assigned or transferred by lenders. All transfers had to be recorded by the clerk of the peace.

²²⁸ The Shropshire 1821 Act, s 6.

²²⁹ The Shropshire 1821 Act, ss 7-10. Moneys in excess of £200 were to be paid into the bank to be held to the court's order; moneys below that limit were to be handled in a more flexible manner. By sections 11, 12, in the event that a dispute should arise as to title of property, the person in possession was to be deemed lawfully entitled (until the contrary were proved); and where property had to be purchased in substitution for property held in trust for an individual under legal disability, the expense of that purchase was to be borne by the justices.

- (e) that, on completion of the project and the accommodation being put into “a proper state for the reception” of the assize judges, notice be given to the high sheriff so that he could take possession of the building prior to the judges’ arrival;²³⁰
- (f) that land or buildings surplus to requirements be sold off by the county justices, and the proceeds of sale be transferred to the public stock;²³¹
- (g) that the justices be empowered to ensure that the judges’ residence be “sufficiently and properly supplied with water”, and that the new complex be maintained and repaired as necessary, the cost of which was to be borne by the public stock or county rates;²³² and
- (h) that provision be made for legal proceedings.²³³

Status

90. The property used as judges’ lodgings under the Shropshire 1821 Act was located at No 6 Belmont in Shrewsbury (which was built in 1701). Today the property, which is a listed building, has reverted to private house status. Until December 1996 the building was owned by Shropshire County Council, at which juncture it was sold to a property company.

91. The Shropshire archivist holds records of the judges’ lodgings committee from 1821 until 1875 and account books from 1850 to 1889.

92. The purpose underpinning the Shropshire 1821 Act was exhausted in the main once the lodgings were acquired and made suitable for their judicial occupants. Given that they have now been decommissioned, the Act of 1821 is now obsolete and may be repealed.

Suffolk

6 & 7 Will.4 c.xi (1836) (Ipswich Assizes Act)

Purpose

93. The county of Suffolk, in the early part of the 19th century, was divided administratively into two parts: the division of Bury St Edmund’s and the eastern part of the

²³⁰ The Shropshire 1821 Act, s 13. The sheriff or his deputy was to be provided with an inventory of furniture and household goods, for which he would then be responsible. The sheriff was authorised to remove any other occupant from the premises who failed to leave prior to the judges’ arrival date. By section 14 the sheriff was to pay over to the county treasurer moneys provided from the Exchequer to accommodate the judges during the period of their stay.

²³¹ The Shropshire 1821 Act, s 15.

²³² The Shropshire 1821 Act, s 16. The justices were also authorised to appoint a salaried caretaker, to pay any rental charges for the buildings, and to effect fire insurance cover, all funded from the public stock or county rates.

²³³ The Shropshire 1821 Act, ss 17, 18. Civil actions for or against the county justices were to be issued in the name of the clerk of the peace; witnesses were to be competent to give evidence, notwithstanding being county ratepayers; and actions were to be subject to a limitation period of six months.

county (itself comprising three sub-divisions, including Ipswich).²³⁴ Traditionally the county assizes had been held at the county hall in Bury. But by 1836 there was a feeling that it would be more convenient for the eastern part residents if the assizes could be held occasionally at Ipswich. However, the shire hall in Ipswich (which could accommodate quarter sessions) was too small to permit assize sitting, and the town itself lacked any judges' lodging.²³⁵

94. The county justices believed that it would be expedient for a new county hall (with courts) and judges' lodgings to be built in Ipswich, but this first required parliamentary authority. To this end the Suffolk 1836 Act provided:

- (a) that the county general or quarter sessions to be held in Ipswich should be empowered to order the purchase of a suitable site for the construction project, and to defray the necessary costs;²³⁶
- (b) that the county justices be authorised to negotiate with any person or body (irrespective of legal incapacity) for the purchase of any buildings or land within, or close to, Ipswich borough which would be appropriate for the Act's purpose;²³⁷
- (c) that, in order to effect sale to bodies or persons under legal disability, mechanisms be put in place for the payment of the acquisition moneys either into the Bank of England (to be held and invested to the order of the court of exchequer, pending the purchase of replacement land) or to trustees;²³⁸
- (d) that the county justices be authorised - upon finding a "commodious site" - to build a new county hall, courts of justice, ancillary office accommodation, and assize judges' lodgings, and to fit-out those buildings as necessary;²³⁹

²³⁴ The eastern part comprised the divisions of Beccles, Woodbridge and Ipswich (and two hundreds, Hartsmere and Stow).

²³⁵ Preamble to 6 & 7 Will.4 c.xi (1836) ("the Suffolk 1836 Act"), being "An Act for erecting a County Hall and Courts of Justice, and for providing Accommodation for His Majesty's Justices of Assize, for the Eastern Part of the County of Suffolk". Not only was the accommodation inadequate, but the Ipswich shire hall was not in the ownership of the county justices. This meant that any enlargement fell outside the existing rebuilding provisions - relating to county buildings - in the statute 7 Geo.4 c.63 (1826) (itself now repealed). The expression "the eastern part of the county" was defined more particularly in section 2 of the Act.

²³⁶ The Suffolk 1836 Act, s 1. As an alternative, and "in lieu of purchasing a site", the county justices were authorised to construct the new county hall, courts of justice, offices and assize judges' lodgings on land adjacent to the existing county gaol and house of correction: section 13.

²³⁷ The Suffolk 1836 Act, s 3. On payment of the purchase moneys (in the manner later prescribed by the Act), the justices or their agents were then to be entitled to take lawful possession of the premises. By section 4, all persons or bodies under legal disability were able to effect sale and convey their interest in the land to the justices.

²³⁸ The Suffolk 1836 Act, ss 5-7. Where the moneys were less than £200 they could be paid to two trustees (approved by the justices), and where they were less than £20 they could be applied by the justices themselves. By section 8, if the existing owner could not make good title, or could not be found, the justices were able to pay the purchase moneys into the Bank of England, under the control of the court of exchequer (which court could order distribution on claims being made). In the event that dispute arose as to title, by section 9 the person in possession of the land was deemed to be the lawful owner until the contrary was proved.

²³⁹ The Suffolk 1836 Act, s 11. In order to facilitate the construction and fitting-out, the justices were empowered to enter into contracts with all manner of contractors (surveyors, workmen and so on) and, by section 12, those

- (e) that the new county hall, courts, offices and lodgings, once built, should vest in the county justices “upon trust peaceably, quietly, and freely to permit” their use for the assize and quarter sessions, and the county court sittings (for both administrative and judicial use),²⁴⁰ and for other “public uses and purposes”;²⁴¹
- (f) that the county hall was deemed to be a county building for the purposes of the statute 7 Geo.4 c.63 (1826),²⁴² and that it was to be a place “in which the county court for the election of knights of the shire” could be held;²⁴³
- (g) that the new county hall was to be maintained and insured “for ever thereafter” at the expense “of the eastern part of the said county of Suffolk”;²⁴⁴
- (h) that the county justices be permitted to charge the high sheriff a “consideration” for making the new judges’ lodgings available for the period of the assize sittings, and to let the lodgings when not in use for assize or other court sessions (the rental income to be used for “cleaning, airing, or repairing” the building);²⁴⁵
- (i) that the justices be authorised to borrow moneys for the project, secured on the eastern county rates, up to a maximum of £10,000;²⁴⁶
- (j) that, as an alternative to borrowing, the justices be permitted to raise up to £1,000 each year by levy on the county rate (up to £10,000);²⁴⁷ and
- (k) that provision be made for various forms of legal procedure which might arise under the Act.²⁴⁸

contracts were only to bind the justices in their official rather than their personal capacity. In the event that the justices were not able to build the judges’ lodgings in time - or at all - they were authorised by section 18 to take a lease of suitable accommodation, and to charge the expense to the general rates collectable for the eastern part of the county.

²⁴⁰ In this context the administrative use was the holding of elections. The courts involved included those for assize, *nisi prius*, oyer and terminer (in other words, general criminal and civil proceedings) general gaol delivery, special commissions and quarter sessions. Once constructed, the new county hall and court complex were deemed to lie within the county of Suffolk (for the purpose of transacting county business), even though they were situated within the borough of Ipswich: section 21.

²⁴¹ The Suffolk 1836 Act, s 15. By section 14, the various materials used in the building process were to become the property of the justices, and the clerk of the peace could bring proceedings against any person who sought to steal or damage the materials.

²⁴² *ie* that the more general powers relating to the repair and maintenance of county halls and other public buildings should apply to the new buildings on this site.

²⁴³ The Suffolk 1836 Act, s 16.

²⁴⁴ The Suffolk 1836 Act, s 17. Responsibility was to lie with the county justices sitting at quarter sessions in Ipswich. They were empowered to appoint a salaried or fee-paid caretaker or caretakers, and to recoup the expenditure from the general rates.

²⁴⁵ The Suffolk 1836 Act, ss 19, 20. The high sheriff was reimbursed the cost of providing the lodgings from His Majesty’s Exchequer.

²⁴⁶ The Suffolk 1836 Act, ss 22-24. The form of mortgage was prescribed by the Act. Mortgages could be transferred by the lenders, subject to enrolment of the transfer by the clerk of the peace. Interest payable on the mortgages was chargeable to the county rates, and the justices were authorised to create a sinking fund which would ensure that the principal was paid off within 20 years. An account of all payments was to be tendered to each sitting of the quarter sessions, and each security was to be discharged in an order of priority settled by lot.

²⁴⁷ The Suffolk 1836 Act, ss 25-27. The justices were authorised to assess a special county rate for this purpose. By section 28 all the moneys raised under the Act were to be applied towards the project, from the initial surveys through to fitting-out the new buildings and paying the necessary salaries and allowances.

²⁴⁸ The Suffolk 1836 Act, ss 29-33. The Act provided for summary enforcement of penalties and fines, for the form of proceedings (information and conviction), for appeal by aggrieved persons to quarter sessions (without recourse to the Westminster courts of record), and for the award of costs.

Status

95. According to *A Topographical Dictionary of England* published in 1848:

‘The [Ipswich borough] corporation hold courts of session for the determination of all civil and criminal causes, except capital offences, twice in the year, prior to the assizes; and a court of record on alternate Mondays, for the recovery of debts to any amount. Petty-sessions are held weekly. The town hall was built on the site, and partly with the materials, of the ancient parochial church of St. Mildred, which was a building of extraordinary solidity. Courts of justice have been lately erected, the exterior of which is very elegant, light, and chastely ornamented; and a house for the accommodation of the judges has been built, the summer assizes being now held here, as are also the quarter-sessions for a portion of the county. The powers of the county debt-court of Ipswich, established in 1847, extend over the registration-districts of Ipswich, Sampford, and Bosmere and Claydon’.²⁴⁹

96. Because the principal purpose of the Suffolk 1836 Act was to provide for the building of new law courts and judges’ lodgings, and that purpose having been now long achieved, the Act of 1836 is no longer required.

Surrey

46 Geo.3 c.cxxx (1806) (Croydon Court House, Market House and Burial Ground Act)

Purpose

97. In 1806 various issues had arisen within the parish of Croydon (then in the county of Surrey) which required parliamentary intervention. One of these concerned the adequacy of the existing court house (which accommodated the county assize sittings) and the butter market house. These buildings were said to be (in the case of the former) “extremely incommodious and much out of repair” and (in the case of the latter) “very ruinous and decayed”, and too small for its purpose.²⁵⁰ The rebuilding of these two public facilities required specific parliamentary authority.

98. The Surrey 1806 Act had the following purposes:

- (a) to authorise the sale of certain enclosed allotments (being part of former common and waste lands), the creation of additional burial ground,²⁵¹ and the protection of various gravel pits,²⁵²

²⁴⁹ From: 'Ingrave - Ipswich', *A Topographical Dictionary of England* (1848), pp. 614-620. URL: <http://www.british-history.ac.uk/report.aspx?compid=51063> Last accessed 1 September 2009.

²⁵⁰ See preamble to 46 Geo.3 c.cxxx (1806) (“The Surrey 1806 Act”), being “An Act for rebuilding the Court-House and Butter Market-House of the Town of Croydon in the County of Surrey, for providing an Additional Burial-Ground, and for selling certain Waste Lands belonging to the said Parish”.

²⁵¹ The Surrey 1806 Act, ss 13, 14. The burial ground land was to be sited as close as possible to the Croydon parish church, and was to be used “for ever thereafter” as consecrated ground.

- (b) to require the vicar, churchwardens, overseers of the poor, and six inhabitants (chosen annually by the vestry) of Croydon parish - who under the Act formed a corporate body - to repair or rebuild the present court house to form “a proper and commodious town hall or court house” within the parish, either on the present site or elsewhere; and likewise to build a new butter market house with ancillary rooms²⁵³ (and a replacement corn market);²⁵⁴
- (c) to provide that, once constructed, the town hall or court house, and the new butter market, be vested in the corporate body to hold the buildings in trust for the parish inhabitants “for the time being”;²⁵⁵
- (d) to authorise the corporate body to purchase lands and hereditaments in order to facilitate the building project (expending no more than £7,000), and to authorise the county justices (in the hundred of Wallington) to order the diversion or alteration of any “publick streets, lanes, or passages” which the project necessitated;²⁵⁶
- (e) to authorise the corporate body to acquire vacant land adjoining the existing town hall and butter market, and to use it for the project (subject to ensuring provision of a proper causeway between the new buildings and the existing houses);²⁵⁷ and
- (f) to permit the corporate body to let any spare rooms within the new buildings (using the rental income for the repair and improvement of the buildings), and to sell off the existing sites or any other land surplus to requirements (with the moneys raised again being used for the Act’s purposes).²⁵⁸

Status

99. Croydon’s first town hall was built in the 1500s. It was replaced in 1809 by a building sited in the High Street. The town hall housed the assize court hearings (which alternated in Surrey between Guildford and Croydon). In 1893 the building was vacated and demolished as part of the Croydon improvement scheme (which involved widening High Street and

²⁵² None of these provisions in the Surrey 1806 Act are presently recommended for repeal. The gravel pits were used primarily for creating or repairing public roads.

²⁵³ The Surrey 1806 Act, s 9. The corporate body for the parish was authorised to contract with surveyors and workmen for the building works, and to defray the costs from moneys raised from the sale of allotment lands under an earlier part of the Act.

²⁵⁴ The Surrey 1806 Act, s 11. Once the existing court house was demolished, the old corn market would also be destroyed. It would need to be replaced under the Act.

²⁵⁵ The Surrey 1806 Act, s 10. The buildings were to be used for the purposes for which the previous Croydon town hall was used and other public purposes.

²⁵⁶ The Surrey 1806 Act, s 15. The diversion power did not extend to the High Street in Croydon; and use of the power had first to be approved by a special vestry meeting on behalf of the inhabitants of the parish. Aggrieved persons had a right of appeal.

²⁵⁷ The Surrey 1806 Act, s 16.

²⁵⁸ The Surrey 1806 Act, ss 17, 18.

rebuilding the town hall on a nearby site fronting Katharine Street).²⁵⁹ The court transferred to the new town hall building where it operated until the opening of the replacement law courts complex in Barclay Road in the late 1960s.

100. The Surrey 1806 Act was amended by the Local Government Supplemental Act 1869 (32 & 33 Vict. c.cxxiv), s 1 and Sch, Provisional Order No. 1 relating to Croydon (16.3.1869) (transferring certain lands from Local Act trustees to the Local Board of Health). This Act remains in force so far as it applies to Croydon. However, the statutory amendment was cast in such general terms that it is not appropriate to seek to repeal either a small portion of the 1869 Act or the Provisional Order.

101. Although portions of the Surrey 1806 Act may still have validity (relating to the allotments and the burial ground), those sections relating to the town hall and court house - sections 9 to 12 and 15 to 18 - are now unnecessary and can be repealed.

48 Geo.3 c.cxxxiv (1808) (Kingston-upon-Thames and Imworth Inclosure, Court House and Market House Act)

Purpose

102. In 1808 an Act was promoted which encompassed two principal purposes: first, the enclosing of various common lands within the manors of Kingston-upon-Thames and Imbercourt in the county of Surrey; and secondly the reconstruction of the existing court house in the town of Kingston-upon-Thames. In connection with the latter, where the Lent assizes and the Michaelmas quarter sessions for the county were held, the buildings were “extremely incommodious and much out of repair” and were unfit for reception of the assize judges or the county bench.²⁶⁰

103. The solution was to rebuild the court house and market house, utilising the moneys to be released from sale of various common lands. This, however, required specific parliamentary authority.

²⁵⁹ The scheme was facilitated by the Croydon Improvement Act 1890 (53 & 54 Vict. c.lii), which Act was repealed by the Croydon Corporation Act 1960 (c.xl). The 1890 Act, ss 10-13 permitted the corporation to demolish the existing town hall and butter market-house (notwithstanding anything in the Surrey 1806 Act), to rebuild the town hall building with public offices and a library on land to be acquired, and to dispose of the site of the former town hall and market-house. We are grateful to the Croydon local studies team for their guidance on the history of the town hall and law courts.

²⁶⁰ Preamble to 48 Geo.3 c.cxxxiv (1808) (“the Surrey 1808 Act”), being “An Act for inclosing Lands in the several Manors of Kingston-upon-Thames, and Imworth, otherwise Imbercourt, in the County of Surrey, and for selling Part of such Lands for the Purpose of providing a Court House and Market House for the said Town”. This repeal note does *not* propose repeal of those sections of the Act which relate to the enclosure and sale of commons and waste lands (which covered some 1,350 acres in the parishes of Kingston-upon-Thames and Thames Ditton).

104. The Surrey 1808 Act authorised the following:
- (a) that two commissioners be elected to supervise the dividing and allotting of the identified common and waste lands, and to carry the Act generally “into execution”,²⁶¹
 - (b) that the bailiffs and freemen of the town of Kingston-upon-Thames (who were empowered under the Act, both as lords of the manor and in their corporate capacity, to sell off allotment lands vested in them)²⁶² be empowered to provide -
 - “a proper and commodious town hall or court house” to accommodate the assize judges in the town, either by repairing and enlarging the existing court house, or rebuilding on the site of the old town hall (or somewhere else convenient within the town), and
 - a market house, also in the town, with ancillary rooms on the upper storey or adjoining the building;²⁶³
 - (c) that the new buildings, once constructed, were deemed to be vested in the bailiffs and freemen of the town, and were to be used as the old town hall was used and for “other parochial purposes”,²⁶⁴
 - (d) that the bailiffs and freemen could purchase lands and hereditaments within the town where required for “the more commodious and the better forming, erecting, and completing” of the building project; and where parcels of land (including the site of the existing town hall and market house) became surplus to requirements - “useless and unnecessary” as the Act put it - the bailiffs and freemen could sell them off for the best price obtainable;²⁶⁵ and
 - (e) that any financial surplus accruing after sale of lands (and after deduction of all costs and expenses related to the building works) was to be paid into the Bank of England and held - subject to the direction of the court of chancery - for application by the bailiffs and freemen “to such parochial purposes and

²⁶¹ The Surrey 1808 Act, s 1. Neither this section, nor the succeeding sections which set out the rubric under which the two commissioners were to operate, are proposed for repeal.

²⁶² The Surrey 1808 Act, s 46.

²⁶³ The Surrey 1808 Act, s 47. The bailiffs and freemen were also authorised to enter into building and other contracts for the project, and were required to defray the resulting costs from the moneys realised on the sale of the allotments (as previously authorised under the Act). By section 50, in the event that the existing town hall and market house were demolished to make way for the new buildings, the salvaged building materials were to be sold and the moneys also applied to the rebuilding project.

²⁶⁴ The Surrey 1808 Act, s 49. By section 48, the obtaining of that part of the Act which related to the new-build project was to be funded by the bailiffs and freemen from the moneys provided under the Act.

²⁶⁵ The Surrey 1808 Act, s 51. On sale of surplus land by the bailiffs and freemen, the moneys raised were likewise to be put towards the Act’s purposes. Section 52 set down the mechanics for sale of parcels of land by public auction.

improvements of the said town [of Kingston] as to them shall seem right and proper”.²⁶⁶

Status

105. The original guildhall in Kingston was constructed around 1500, but by the 19th century the building had become very dilapidated, necessitating improvement or rebuilding. The Surrey 1808 Act was designed to facilitate that process. However, sales of land to raise moneys, and then the rebuilding, took time. The old guildhall building was finally demolished c.1838, and the new building opened on the site in 1840.

106. This guildhall building served as the seat of local government for 95 years until 1935 when it was replaced by a further guildhall (sited on the High Street) in 1935. Until that date the 1840 building housed the court room and council chamber on the first floor, with market accommodation beneath. Kingston borough council ceased to use the building once it transferred to the new premises in 1935 (from which premises the London borough council still operates today).

107. The 1840 building exists today (known as the ‘Market House’) and, although not used for mainstream municipal purposes, since 1995 it has housed the Kingston tourist information centre.²⁶⁷

108. Although portions of the Surrey 1808 Act may still have validity today, sections 47 to 54 (which relate to construction of the town hall, courts and market house) are now no longer required, and can be repealed.

Worcestershire

3 & 4 Vict. c.lxix (1840) (Kingsnorton and Northfield Small Debts Recovery Act)

Purpose

109. In 1840 the parishes of Kingsnorton and Northfield, both in the county of Worcestershire, were “very populous”, and the population was still expanding. A proportion of the population had run up small debts which amounted, cumulatively, to a significant sum (and a number of debtors, who were “well able to discharge” the moneys they owed, simply

²⁶⁶ The Surrey 1808 Act, s 53. This surplus (or “overplus”) was to be invested in navy or victualling bills, or in exchequer bills (issued by the government), pending a court order - on the application of the bailiffs and freemen - that they could be sold and the moneys reused: section 54.

²⁶⁷ The historic information contained in this part of the note has been supplied to us by the Surrey History Centre at Surrey County Council (whose help we gratefully acknowledge), and is based in part on June Sampson’s *The Kingston Book* (Historical Publications, 2006) at p48.

refused to do so). It had become uneconomic for creditors to instigate recovery proceedings because the expense of litigation had become disproportionate to the size of the debt.²⁶⁸

110. The solution was to put in place “a more easy and less expensive method of recovering small debts within the said parishes”.²⁶⁹ To this end the Worcestershire 1840 Act provided for:

- (a) the Kingsnorton court of requests to be established - to sit in the parishes of Kingsnorton and Northfield at least every two months - and for a judge (and his successors) to be appointed by the Lord Chancellor, Lord Keeper or the Commissioners of the Great Seal;²⁷⁰
- (b) the appointment, by the county justices in quarter sessions, of an attorney as clerk of the court, and a treasurer;²⁷¹
- (c) the duties of the clerk, the court bailiffs and the treasurer to be laid down;²⁷²
- (d) all moneys paid into court (fees and fines) to be accounted for, and the accounts to be submitted regularly to the judge and annually to the clerk of the peace for the county;²⁷³
- (e) the jurisdiction and process of the court to be laid down, including the arrangements under which actions were to be determined and judgment given;²⁷⁴
- (f) the ability of the judge to order a retrial where it appeared that an error had been made by a jury,²⁷⁵ and of the Westminster superior courts to order review of proceedings in certain limited instances;²⁷⁶

²⁶⁸ See preamble to 3 & 4 Vict. c.lxix (1840) (“the Worcestershire 1840 Act”), being “An Act for the more easy Recovery of Small Debts within the Parishes of Kingsnorton and Northfield in the County of Worcester”.

²⁶⁹ The Worcestershire 1840 Act, preamble.

²⁷⁰ The Worcestershire 1840 Act, ss 1-3. By section 4 the judge was authorised to appoint a deputy to act in his stead in the event of illness or “unavoidable absence”.

²⁷¹ The Worcestershire 1840 Act, ss 5, 7. By section 6 the clerk was authorised to appoint a deputy clerk with like powers, subject to “approbation of the judge”. No individual was permitted to hold the offices of both clerk and treasurer (or deputy): sections 7, 8. On leaving office (or on death) the treasurer or his or her representatives were obliged to hand over to the successor treasurer all moneys then in their possession (with power to the incoming treasurer to sue for moneys not accounted for): sections 9, 10.

²⁷² The Worcestershire 1840 Act, ss 11-17, 47. The clerk was to issue all court process and to account for all court fees and fines received and, in due course, to take charge of the new court house. The bailiffs were to serve all summonses and execute warrants and orders. The treasurer was to audit and settle the accounts, to effect the necessary borrowings, to pay the costs of construction from the allocated funds, and to hold the court buildings and related land “in trust for the purposes of this Act”. Each of these officers was to provide security for due performance of his or her office, and each officer was (by sections 17, 18 and Schedule) either to be paid a salary or - in the case of the judge, clerk and bailiffs - remunerated from the fees chargeable to litigants.

²⁷³ The Worcestershire 1840 Act, s 19. The county justices were given power to adjust the table of fees (upwards or downwards, depending on circumstances) set out in the Schedule to the Act.

²⁷⁴ The Worcestershire 1840 Act, ss 20-43. These provisions covered, for example: placing a ceiling on the court’s jurisdiction (excluding claims over £15 in value and matters involving title to land and issues under wills or settlements; providing for jury trial for claims over £5); summonses only to be issued where forfeitable deposits paid; ability of minors to sue for wages owed; set-offs and limitation periods; rules of court and procedural forms - sections 37, 67, 68 and Schedule; evidence on oath; and orders as to costs. However, by section 64, concurrent jurisdiction of other courts - both superior and inferior - was not to be undermined. And by section 69 no claim was to succeed where the defendant had already paid sufficient moneys into court to satisfy the claim.

²⁷⁵ The Worcestershire 1840 Act, s 44.

- (g) the manner in which accounts were to be kept, unclaimed moneys were to be handled, and monetary orders were to be enforced;²⁷⁷
- (h) the regulation of the conduct of bailiffs and court officers;²⁷⁸
- (i) the mechanisms for the recovery of all penalties, forfeitures and fines;²⁷⁹
- (j) the ceasing of the Worcestershire 1840 Act provisions (which give the court of requests and its judge jurisdiction) where “any general Act shall be passed for the recovery of small debts”, the operation of which would be “inconsistent” with the 1840 Act’s powers;²⁸⁰ and
- (k) various miscellaneous matters.²⁸¹

Status

111. The Worcestershire 1840 Act was subject to a very minor partial repeal by the Kingsnorton Court of Requests Act 1841.²⁸²

112. The Kingsnorton court of requests ceased to have jurisdiction once the county court system took responsibility for small debt actions across England and Wales. On this basis the Act of 1840 is now obsolete and can be repealed.

Yorkshire

46 Geo.3 c.iii (1806) (West Riding of Yorkshire Court Houses Act)

Purpose

113. Prior to 1806 the general quarter sessions for the West Riding of the county of Yorkshire had been held in eleven towns within the riding.²⁸³ However, by this date the

²⁷⁶ The Worcestershire 1840 Act, s 45.

²⁷⁷ The Worcestershire 1840 Act, ss 48-60. The Act specified how execution of court judgments was to be undertaken (including distraint and effecting imprisonment for debt); how debtor prisoners were to be treated; how execution was to be effected out of the court’s jurisdiction; and how contempt was to be dealt with.

²⁷⁸ The Worcestershire 1840 Act, ss 61-63. Bailiffs and other court officers were prohibited from extorting moneys, from failing to account, and from accepting fees which were not authorised. But, on the other hand, such officers were to be afforded protection when they had properly levied distress on an individual’s goods and a claim was made by a third party.

²⁷⁹ The Worcestershire 1840 Act, ss 65, 66.

²⁸⁰ The Worcestershire 1840 Act, ss 70, 71. The ceasing was to occur six months after the new Act was passed. Were this to happen, neither the judge nor the court officers would be entitled to compensation for loss of office. And all property belonging to the local court was to be sold by the treasurer and the proceeds used to pay off outstanding debts, and then the surplus to be passed to such person as directed under the new Act.

²⁸¹ The Worcestershire 1840 Act, ss 72-74.

²⁸² 4 & 5 Vict. c.lxxv (1841). This 1841 Act was itself repealed by the County Courts Act 1846 (c.95), s 5 and Sch B, and an 1847 Order in Council. The 1846 Act was “An Act for the more easy Recovery of Small Debts and Demands in England”. The 1846 repeal did not revive any Act already repealed. The repeal did not mention, however, the Worcestershire 1840 Act.

The Kingsnorton Court of Requests Act 1841 was designed to extend the jurisdiction of the court to cover further parishes in both Worcestershire and Warwickshire where “very considerable trade and traffic is carried on”. The repeal provision in section 8 was limited to that part of the 1840 Act which authorised committal to a house of correction in Worcestershire county of “any person taken in execution” of a court order.

various court houses and related buildings in the towns - which “for the most part [were] very ancient” - had become “greatly out of repair, and altogether inconvenient” for holding court hearings and the like. Moreover, none of these buildings were actually owned or controlled by the county justices: they were used (as the Yorkshire 1806 Act put it) by “permission and sufferance”. The solution was to build new court houses, with suitable ancillary accommodation, but this required specific parliamentary authority.

114. The Yorkshire 1806 Act required or permitted the following:

- (a) that the West Riding justices, sitting at Pontefract, be authorised to make orders for building and fitting-out court houses in any of the eleven towns, and to raise the necessary moneys from “the publick stock or county rates” for the riding;²⁸⁴
- (b) that the justices be empowered to purchase the necessary lands for the project, and to receive good title on payment (which lands would then be vested in them);²⁸⁵
- (c) that any individual or body politic or corporate be enabled to sell land or buildings to the justices, notwithstanding any legal disability on their part, and that mechanisms be put in place which would enable compensation to be paid and title to pass;²⁸⁶
- (d) in the event that the owner of land to be acquired failed to make good title, or could not be traced, or refused to accept payment, the justices were authorised to pay the purchase moneys into the Bank of England to be held to the direction of the court of chancery (which court could, on a claim being made to it, order distribution);²⁸⁷
- (e) that the county justices could cause the various court houses to be erected in the towns where quarter sessions were ordinarily held, but only after due notice had

²⁸³ Preamble to 46 Geo.3 c.iii (1806) (“the Yorkshire 1806 Act”), being “An Act to enable the Justices of the Peace for the West Riding of the County of York, to provide convenient Court Houses for holding the General Quarter Sessions of the Peace within the said Riding”. The towns in which quarter sessions had been held were: Wetherby, Wakefield, Doncaster, Pontefract, Skipton, Bradford, Rotherham, Knaresborough, Leeds, Sheffield and Barnsley.

²⁸⁴ The Yorkshire 1806 Act, s 1.

²⁸⁵ The Yorkshire 1806 Act, s 2. By section 3 the justices were able to purchase no more than one acre of land in each of the towns.

²⁸⁶ The Yorkshire 1806 Act, ss 4-7. Compensation moneys in excess of £200 were to be paid into the Bank of England to stand to the order of the court of chancery (for distribution or reinvestment on a claim being made). Compensation below that figure was to be paid into the Bank of England to be held by two trustees (approved by the justices) and distributed without need for court “direction or approbation” (and where it was less than £20, distribution could be made by the justices themselves).

²⁸⁷ The Yorkshire 1806 Act, s 8. By section 9, were any question to arise as to entitlement to moneys paid into court for particular lands or hereditaments, the person who had been in possession was deemed to have a lawful interest until the contrary was proved. And, by section 10, if the court ordered that alternative land should be purchased and held in trust for a person or body under legal disability, the reasonable costs of that purchase were to be reimbursed to the trustees by the county justices.

been given of their intention to acquire specific lands,²⁸⁸ and only on lands which were held or acquired by the riding;²⁸⁹

- (f) that the justices be authorised to put moneys towards the repair and maintenance of the buildings, their fitting-out, and their cover for fire insurance, and to defray the costs from “the publick stock and rates of the same riding”,²⁹⁰ and
- (g) that provision be made for various ancillary matters.²⁹¹

Status

115. The West Yorkshire records office (based in Wakefield) holds plans for the Wakefield court house (1804) and quarter sessions papers (1806) relating to the provision of a court house in the town.²⁹² The court house was built, and operated until the 1970s, when the crown court moved to Leeds. Since then the court house has stood empty - owned by various developers - and remains undeveloped.

116. Given that the purpose of the Yorkshire 1806 Act was to authorise the construction of the new court house, that purpose has now long since expired. The Act can be repealed.

117. The Yorkshire 1806 Act has not been subject to any subsequent repeals or amendments.

46 Geo.3 c.xxxi (1806) (York Judges' House Act)

Purpose

118. In August 1805 the Yorkshire county justices (meeting at York castle) concluded that the lodgings in the city of York for the assize judges were “very inconvenient, and do not afford proper and suitable accommodation” for the judges whilst in residence. However, they

²⁸⁸ The Yorkshire 1806 Act, ss 11, 12.

²⁸⁹ The Yorkshire 1806 Act, s 14. The lands and new buildings were to be held by the justices and their successors - or some person in trust for them - “for ever”, for the purposes set down in the Act, which purposes included “such other publick uses and purposes” as the justices considered appropriate (section 16). By section 15 the riding justices were also empowered to rebuild, repair or upgrade (at the public expense) any existing court building owned by a body corporate or “politick”, or a lord of the manor, so long as the building in question was “for ever afterwards” made available in that town to the justices for the Act’s purposes.

²⁹⁰ The Yorkshire 1806 Act, s 17.

²⁹¹ The Yorkshire 1806 Act, ss 18-20. Provision was made for the justices to issue and defend legal proceedings in the name of the clerk of the peace for the riding; for the competence of ratepayer witnesses; for the limitation of actions (to six months); and for the expenses incurred in obtaining the 1806 Act to be raised from the public stock and the county rates of the riding.

²⁹² Documents are catalogued at www.archives.wyjs.org.uk and include QD1/680-700, QD1/225 (1804), QS1/145/4 (1806) and QD3/537-540 (1806). We are grateful to the West Yorkshire Records Office for this information.

also considered that there appeared to be “no mode of procuring permanent suitable accommodation” for the judges except by acquiring or building a specific house.²⁹³

119. The county justices required parliamentary approval for this course of action. The York city 1806 Act authorised or required the following:

- (a) that five commissioners be appointed to put the Act into effect;²⁹⁴
- (b) that the commissioners appoint a clerk who was to be remunerated and indemnified;²⁹⁵
- (c) that the commissioners be empowered to make orders for the acquisition of land and the building (or refurbishing) of “any proper house” for use as “the residence of His Majesty’s judges at the assizes for the said county”, and defraying the costs incurred from “the public stock or county rates”;²⁹⁶
- (d) that any body (politic, corporate or collegiate) or individual who was under legal disability be enabled to sell and convey their interest in any land or buildings to the commissioners;²⁹⁷
- (e) in the event that the owner of land to be acquired failed to make good title, or could not be traced, or refused to accept payment, the commissioners were authorised to pay the purchase moneys into the Bank of England to be held to the direction of the court of chancery (which court could, on a claim being made to it, order distribution);²⁹⁸
- (f) that if any question were to arise as to entitlement to moneys paid into the Bank for particular lands or hereditaments, the person who had been in possession

²⁹³ Preamble to 46 Geo.3 c.xxxi (1806) (“the York city 1806 Act”), being “An Act to enable the Justices of the Peace for the County of York to provide a convenient House, with suitable Accommodations, for His Majesty’s Judges of the Assizes at the said County”.

²⁹⁴ The York city 1806 Act, ss 1-3. The commissioners were required to meet, initially in York, and thereafter in the county. The quorum was to be three, and meetings were to be minuted (section 4). Provision was made for replacement of commissioners - on death or if indisposed - by the county justices sitting in the county assize.

²⁹⁵ The York city 1806 Act, s 5. The clerk’s salary (and other payment) was to be found from the county rates.

²⁹⁶ The York city 1806 Act, ss 6-8. The commissioners were authorised to agree the purchase price for houses, lands and hereditaments and, on payment, to take possession of them. The county high sheriff was then able to give notice to the commissioners of his need to occupy the premises so that they could be made ready for the assize judges coming into residence. By section 8 the moneys were to be raised across the county (in like manner as the rates for the repair of York castle), apportioned as follows: £2,787. 10s from the west riding, £1,862. 10s from the north riding, and £1,350 from the east riding (totalling £6,000, which was the maximum limit). And by section 18 further moneys could be raised by the commissioners in the same proportions to cover the expenses incurred in obtaining the 1806 Act.

²⁹⁷ The York city 1806 Act, s 9. By sections 10-12, where the compensation to be paid exceeded £200, it was to be paid into the Bank of England, to be held and distributed to the order of the court of chancery (including reinvestment in alternative lands or property, the expense for which was to be reimbursed: section 15). Where it fell below that sum, the moneys were to be held either to the order of two trustees (approved by the commissioners), without need for court approbation, or (where it was below £20) to the order of the commissioners themselves.

²⁹⁸ The York city 1806 Act, s 13.

was deemed to have had a lawful interest until the contrary was proved to the court;²⁹⁹

- (g) that the commissioners report to the justices for the three ridings once a suitable property had been acquired and fitted-out in readiness for the judges,³⁰⁰ and that such property then vest “in perpetual succession” in the commissioners and their successors;³⁰¹
- (h) that the commissioners be required to make repairs to the building as circumstances required (and pay all taxes due and effect fire insurance) using the moneys drawn proportionately from the county rate;³⁰² and
- (i) that provision be made for various matters relating to legal proceedings.³⁰³

Status

120. The York city 1806 Act authorised the construction or renting of judges’ lodgings for the York assizes.³⁰⁴ The lodgings building - built as a private residence in 1710 and acquired in 1806 - still stands in the centre of York and is, today, a hotel called ‘Judges Lodgings Hotel’.³⁰⁵ The purpose of the Act had been simply to procure accommodation for the assize judges, and that purpose is long since exhausted.

121. The York city 1806 Act has not been subject to any subsequent amendments or repeals. It is no longer necessary and can be repealed.

2 & 3 Vict. c.xcvii (1839) (Hatfield (Yorkshire) Small Debts Recovery Act)

Purpose

122. In 1839, in the manor of Hatfield in Yorkshire,³⁰⁶ the population of the various townships and parishes was not insubstantial. Concern had grown within this part of the county that various people had incurred a mass of small debts which, taken cumulatively, amounted annually to “a very great sum of money”, and frequently these debts were not being paid because the debtors simply refused to honour them.³⁰⁷ Creditors were either obliged to forego their claims or to incur disproportionate cost in seeking recovery by court

²⁹⁹ The York city 1806 Act, s 14.

³⁰⁰ The York city 1806 Act, s 16.

³⁰¹ The York city 1806 Act, s 17.

³⁰² The York city 1806 Act, s 19. The commissioners were also empowered to appoint a salaried caretaker for the building.

³⁰³ The York city 1806 Act, ss 20-22. Provision was made for the conduct of litigation by the commissioners, and for the limitation of actions (to six months).

³⁰⁴ See <http://www.historyofyork.org.uk/timeline/georgian/judges-lodging>.

³⁰⁵ See <http://www.judgeslodgings.com/JLH%20Welcome.html>.

³⁰⁶ The manor was also known as Haitefield, then in the west riding of the county, and comprised the market towns of Hatfield, Stainforth, Thorne and Armthorpe, and various surrounding townships and parishes, lying to the north-east of Doncaster (today in the South Yorkshire area).

³⁰⁷ Preamble to 2 & 3 Vict. c.xcvii (1839) (“the Yorkshire 1839 Act”), being “An Act for the more speedy Recovery of Small Debts within the Manor of Hatfield and other Places in the West Riding of the County of York”.

process. The solution was to create, as the Yorkshire 1839 Act put it, “an easy and speedy method of recovering small debts” within the locality, which would have the added benefit of protecting commercial credit. However, this step required specific parliamentary authorisation.

123. The Yorkshire 1839 Act sanctioned the following steps:

- (a) that a new court - the Hatfield court of requests - be established, presided over by a judge appointed by the Lord Chancellor, Lord Keeper or lords commissioners, who could hold office for life, subject to “good behaviour”;³⁰⁸
- (b) that the west riding justices - acting in the divisional quarter sessions - be required to appoint a suitably qualified attorney as clerk to the court, and that the resident judge be authorised to appoint bailiffs and other court officers;³⁰⁹
- (c) that the justices appoint a treasurer (who was not also to be the clerk),³¹⁰ which officer was required to give security for moneys handled and to audit the accounts for the court;³¹¹
- (d) that, in order to facilitate the Act’s purpose, the treasurer could borrow on security moneys which were to be used to acquire the necessary land and buildings, and then hold that property “for the time being . . . in trust for the purposes of this Act”;³¹²
- (e) that the clerk should create a general fund for the court’s running costs, resourced by specific levy on plaintiffs in debt actions (1s. in the £, *ie* at a rate of 5%);³¹³

³⁰⁸ The Yorkshire 1839 Act, ss 1, 2. By section 3 the court of requests was to be held in Hatfield, sitting at intervals of no more than two months. By section 4, provision was made for appointment of a deputy judge to act in the absence - through illness or otherwise - of the resident judge. The jurisdiction of the new court was to cover debt actions up to £15 in value, but excluded actions related to title to land, or to “any tithe, toll, fair, market, or franchise”, or to any matter relating to a will or trust: section 20. Actions were not to be split so as to bring them within the monetary limit of the court: section 24. Actions under £5 in value could be tried by the judge alone, without a jury (sections 28, 29). The court was to have its own seal for official documents: section 21.

³⁰⁹ The Yorkshire 1839 Act, s 5. By section 6 the clerk (with the judge’s approval) was authorised to appoint a deputy to act in his stead when unavoidably absent. By section 11, the clerk and the bailiffs were required to issue all court process and register all judgments, and to serve all summonses and execute all court orders, respectively. And by section 16 the clerk was to take charge of the court house, including arranging staffing, repair and furnishing, and cleaning, heating and so forth.

³¹⁰ The Yorkshire 1839 Act, ss 7, 8. On leaving office, for whatever reason (including death), the treasurer or his or her personal representative was required to account for and transfer all moneys then in hand: sections 9, 10.

³¹¹ The Yorkshire 1839 Act, ss 12, 13.

³¹² The Yorkshire 1839 Act, s 14. The moneys raised by this method were also to be used to defray the costs of obtaining the 1839 Act. Prior to borrowing, the treasurer was required to obtain the consent of the justices of the west riding in quarter sessions.

³¹³ The Yorkshire 1839 Act, s 15. In the first instance the general fund was to be used to defray the costs of obtaining the 1839 Act, and then was to be utilised for the court house procurement project. By section 17 and Schedule, court fees to remunerate the judge, clerk and bailiffs were to be charged to litigants as prescribed in the Act or as directed by the west riding justices. By contrast, the treasurer and other officers were to be paid salaries from the general fund: section 18. All fees and fines received in the court, together with all moneys paid into court by litigants, were to be accounted for to the resident judge and, annually, to the clerk of the peace: section 19.

- (f) that provision be made for the processes and procedures to be adopted by the new court,³¹⁴ and for existing courts to retain concurrent jurisdiction;³¹⁵
- (g) that provision be made for the behaviour, disciplining and relief from process of bailiffs and court officers;³¹⁶ and
- (h) that provision be made for a range of ancillary matters.³¹⁷

Status

124. According to the West Riding quarter sessions records held by the West Yorkshire records office, the Hatfield court of requests had a limited lifespan: from 1840 to 1846. In 1846 the Thorne county court replaced the Hatfield court.³¹⁸

125. The Yorkshire 1839 Act was amended by the Hatfield Court of Requests Act 1841,³¹⁹ which 1841 Act was repealed by the County Courts Act of 1846. The Act of 1839 is now obsolete and can be repealed.

Extent

126. The legislation in respect of each of the courts and associated buildings cited above was local and operated within England and Wales only (and in one instance Ireland), and more particularly within the county or city for which it was designed.

³¹⁴ The Yorkshire 1839 Act, ss22-60, 67 and 68. For example actions to be commenced by plaintiff (section 22); minors entitled to sue for wages owed (section 25); provision for payment of moneys into court by defendants (section 36); provision for court forms for proceedings (section 37 and Schedule); evidence on oath and proceedings for perjury (sections 39-41); attendance of witnesses and penalties (section 42); finality of judgments, except by leave of Westminster superior courts (section 46); all proceedings of the court to be recorded (section 48); annual returns to be made of all unclaimed moneys in court (section 50); execution of unpaid judgments by imprisonment - up to 40 days - or distress on goods (sections 51-59); committal for contempt in court (section 60).

³¹⁵ The Yorkshire 1839 Act, s 64. The superior courts at Westminster and a variety of local courts (hundred courts, courts leet, courts baron, manorial courts) were to retain jurisdiction in small debt matters, and the forum for proceedings could be determined by the plaintiff or claimant.

³¹⁶ The Yorkshire 1839 Act, ss 61-63.

³¹⁷ The Yorkshire 1839 Act, ss 65, 66, 69-75. Amongst other matters, the Act provided for: recovery of penalties and fines; savings of the "rights, privileges, franchises, courts, and jurisdictions" of the county sheriff and the various lords of the manors within the court's district; and for interpretation of the Act's provisions.

More particularly, sections 72, 73 made provision for the Act being superseded by other legislation. Should a later general Act be passed relating to the recovery of small debts which ran counter to the present Act - in that it contained "inconsistent" provisions - those "clause[s]" in the 1839 Act which purported to give the court of requests or the judge separate jurisdiction were deemed to "cease and determine". This provision was not a full sunset clause in that the clauses (or sections) in question were not deemed also to be repealed. However, in the event that the court was superseded, the court treasurer was bound to realise the various assets (land and other securities) and to pay all surplus moneys over to the designated successor body. The property in question would then cease to be owned by the original court.

³¹⁸ Information kindly supplied by the Wakefield and the Doncaster archivists. Doncaster archives hold a register for the Hatfield court of requests for the period Feb 1840 to Jan 1847 (CCT/1/1). No record exists as to the fate of the court building.

³¹⁹ 4 & 5 Vict. c.lxxiv (1841). This short 1841 Act extended the jurisdiction of the Hatfield court (which by now had an appointed judge and was sitting) to cover various parishes in the West Riding and in Lincolnshire and Nottinghamshire. In the townships (particularly Crowle and Epworth) mills and factories employed a large number of people, and others were engaged in commerce and river navigation. The small debt recovery mechanism was increasingly needed in these places.

Other legislation

Solicitors

Justices of the Peace Act 1949 (12, 13 & 14 Geo.6 c.101)

Purpose

127. The Justices of the Peace Act, as enacted in 1949, was designed to deal with a range of issues relating to magistrates' courts in (in the main) England and Wales, including - as the long title put it - "to amend the law relating to justices of the peace . . ., justices clerks and the administrative and financial arrangements for magistrates' courts".

128. Today all but the short title, the long title and sections 20(3) and 46(1), (3) of the 1949 Act have been repealed by a range of Acts from 1952 onwards. The sections which remain deal with a narrow aspect of the qualification of justices' clerk (insofar as the provisions have not been superseded by those later set down in the Justices of the Peace Act 1997, ss 42-44 and now in the Courts Act 2003, s 27).

129. Section 20(3) of the 1949 Act made special provision for the qualification as a solicitor of persons who had not served articles of clerkship (the equivalent of today's solicitor's training contract) but who had worked as "an assistant to a justices' clerk" for a period of ten years. It was a pre-requisite that the individual had worked five of his or her ten years in "approved service", that is to say, in service approved and certified as such by the Law Society as the relevant regulatory body. It was also a requirement that not less than five of the ten years should have been worked in the assistant capacity before 1 January 1960. In other words, the latest the qualifying work could have started was 1 January 1955. The special arrangements set out in section 20 were to operate subject to the provisions of the Solicitors Acts 1932 to 1956, which today are in the Solicitors Act 1974.³²⁰

130. The remaining subsections of section 20 (sub-ss (1), (2), (4)-(7)) have already been repealed.

³²⁰ The Justices of the Peace Act 1949 was amended by the Solicitors (Amendment) Act 1956 (c.41), s 2(4), Sch 1 para 5 (which Act was itself repealed in 1974), and the Solicitors Act 1974 (c.47), s 89(1), Sch 3 para 4, which provisions substituted different words in section 20(3).

131. Section 46(1), (3) of the 1949 Act deals simply with short title citation and extent.³²¹ This section (and the Act's title) is only required whilst section 20 remains live on the statute book.

Status

132. Both sections 20 and 46 may now be repealed as the special arrangements, by passage of time, have become obsolete. By virtue of the Interpretation Act 1978, s16(1)(b) and (c), the repeals will neither undermine the ability of solicitors who qualified under the 1949 Act provisions to continue to practise, nor adversely affect their professional qualification.³²²

133. In consequence of the repeal of section 20 of the 1949 Act, the following provision (which made consequential amendment to that Act by substitution) will also require repeal: *Solicitors Act 1974, Sch 3 para 4.*

Extent

134. The 1949 Act extended to England and Wales (and to a limited extent, to Scotland). Sections 20 and 46 related only to England and Wales.

Queen's Counsel

Access to Justice Act 1999 (c.22)

Purpose

135. Section 45 of the Access to Justice Act 1999 introduced a scheme whereby barrister and solicitor applicants for the status of Queen's Counsel (QC) within England and Wales had to make formal application to the Lord Chancellor and to pay a fee for that application to be processed.

136. The 1999 Act originally spoke of "the Lord Chancellor". That reference was amended in 2003 to "the Secretary of State",³²³ but reverted to "the Lord Chancellor" in 2007.³²⁴

³²¹ Section 46(3) now reads "This Act extends to England and Wales only". The remaining words - which extended portions of the Act (but not section 20) to Scotland - were repealed by the Statute Law (Repeals) Act 1989.

³²² Section 16(1)(b), (c) provides that, ordinarily, repeal of an enactment will not affect anything done under that enactment, or any right or privilege accrued by virtue of it. Thus, once a justices' clerk's assistant had undertaken "approved service" prior to 1965, that element of qualification would hold good indefinitely, whether or not he or she was admitted a solicitor subsequently.

³²³ By The Secretary of State for Constitutional Affairs Order 2003 (SI 2003 No.1887), art 9, Sch 2 para 11(1)(c). Because this Order makes composite amendments within the 1999 Act (and other statutes) it is not suitable for partial repeal.

³²⁴ See Legal Services Act 2007 (c.29), s 208, Sch 21 para 130 which effected the substitution in section 45 of the 1999 Act. Schedule 21 para 130 can also be repealed in consequence of the suggested repeal of section 45.

137. Under the 1999 Act two fees Orders were made: one in 1999,³²⁵ superseded by a second in 2002.³²⁶ The last prescribed fee was £720.

138. The appointment of Queen's Counsel is now handled by the Queen's Counsel Selection Panel (and Secretariat), which body is independent of the Bar Council, the Law Society and of government. The current process was approved by the then Lord Chancellor and Secretary of State in November 2006, having started with an approved pilot process in 2004.³²⁷ The fee payable on application this year (2009) is £2,350 plus VAT, with a further payment due on grant of £3,500 plus VAT. The 2002 fee Order has not, however, been amended.

Status

139. Because QC applications are no longer made direct by applicants to the Lord Chancellor, the provisions in section 45 of the 1999 Act, and in the *Order SI 2002 No. 2037*, are now superseded. They can be repealed and revoked respectively. Likewise, the amending provision in *Legal Services Act 2007, schedule 21 paragraph 130* should also be repealed.

Extent

140. Section 45 of the 1999 Act applies within England and Wales only.³²⁸

Consultation

141. HM Treasury, the Ministry of Justice, HM Courts Service, various county councils, the Law Society for England and Wales, the General Council of the Bar, the QC Selection Panel, the relevant authorities in Scotland, Wales and Northern Ireland, and the Attorney General for Ireland, have been consulted about these repeal proposals.

32-195-440(2)
LAW/005/020/06
October 2009

³²⁵ SI 1999 No. 2138.

³²⁶ SI 2002 No. 2037, which revoked the 1999 Order. Although the 2002 Order has been overtaken by events, it remains unrevoked.

³²⁷ See <http://www.qcapapplications.org.uk/introduction> (last accessed 10.8.2009).

³²⁸ See Access to Justice Act 1999, s 109.