

From the *Transactions* of the
Bristol and Gloucestershire Archaeological Society

**Gloucestershire Peace Rolls: Commissions of the Peace: (A)
The Commissions for the Sessions**

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1940, Vol. 62, 15-20

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Also in making up lists of persons indicted before the justices of the peace who were to be brought before the king's bench in 1378 and 1387 the clerk followed the order of the indictments on the peace rolls, felons, trespassers and accessories being summoned in separate groups.¹⁹ The nature of each offence was noted in the margin of the roll, possibly to facilitate the making of these lists. One such list for 1387 contains names that are not on the extant roll, and so indicates that the records of some sessions of the peace held at approximately the same date as those that are extant may have been lost.²⁰ While the king's bench at its session held at Gloucester in 1398 took no action on the indictments on the latest roll—presumably because of the unsettled state of the government—after the accession of Henry IV this roll was searched and proceedings begun against some of the offenders indicted on it. Also pardons granted by Richard II were noted on it.²¹

While the rolls of the king's bench have yielded a large amount of material relating to the Gloucestershire justices of the peace, the same is not true of other records of the central government. The extant rolls of the justices of gaol delivery contain but three cases that were tried on indictments on the extant peace rolls, though there are on them trials of indictments made before the justices of the peace at other dates.²² The records of chancery and the exchequer contain practically nothing that relates to the functioning of the Gloucestershire justices of the peace at the dates of the rolls printed in this volume.

III (A) COMMISSIONS OF THE PEACE

The Commissions for the Sessions

The sessions of the peace recorded on the rolls printed below were held under six commissions issued for Gloucestershire and for other counties on 20 March 1361,

¹⁹ KB 27/471, Rex, mm. 24d, 26d; 506, Rex, mm. 20d, 21.

²⁰ KB 27/506, Rex, m. 21.

²¹ *infra* pp. 143, 163.

²² *infra* p. 50.

2 July 1377, 28 February 1384, 18 June 1394, and 27 July and 12 November 1397. During these forty years the peace commission was developing the form that with slight changes was used until 1485.²³

The commissions of March 1361 were drawn up almost immediately after the passage of the statute of Westminster in January 1361.²⁴ Like all subsequent commissions they included the peace provisions of this statute in addition to those of the statutes of Winchester and Northampton. This commission contained, for the last time, the old trailbaston preamble and a clause on suspects that did not appear again in this form. The justices were to hear and determine felonies and trespasses, enforce the labour provisions of the statute of Westminster and the legislation on weights and measures and, for the first time, take surety for good behaviour. Of the eight justices appointed for Gloucestershire under this commission two who had died or been removed were replaced by others early in 1362.²⁵

The commissions of 1377 issued on the accession of Richard II followed the form first used in 1368 which, after expansion as a result of a discussion of the office of justice of the peace in parliament in 1380, became the

²³ On commissions of the peace see Putnam, *Proceedings*, pp. xix ff; "The Transformation of the Keepers of the Peace into the Justices of the Peace, 1327-1380", Royal Historical Society, *Transactions*, 4th series, xii, 19-48 (London, 1929); R. Sillem, "Commissions of the Peace, 1380-1485," *Bulletin of the Institute of Historical Research* (1932-3), x, 81-104; *Records of Some Sessions of the Peace in Lincolnshire, 1360-1375*, ed. by R. Sillem, 1936, 30, pp. xix ff.

²⁴ *infra* pp. 58-61; *CPR 1361-1364*, 63. Commissions of this type are in print in C. G. Crump and C. Johnson, "The Powers of the Justices of the Peace", *EHR* (1912), xxvii, 234-236; Putnam, *YS*, pp. 1-3, 42-44. For a list of commissions in print see Putnam, *Proceedings*, pp. 7-8. To these should be added commissions printed in Putnam, *YS*; Sillem, *LS*; *Rolls of the Warwickshire and Coventry Sessions of the Peace, 1377-1399*, ed. by E. G. Kimball (Dugdale Society Publications, xvi, London, 1939); and in *The Little Red Book of Bristol*, ed. by F. B. Bickley (Bristol, 1900), 1, 127-129.

²⁵ *CPR 1361-1364*, 208. One of these men, William Yonge, had previously been removed from the commission; *infra* p. 32.

model for later commissions.²⁶ The justices were empowered to hear and determine felonies and trespasses, including forestalling, regrating and violations of the labour laws and the legislation controlling weights and measures. One of the justices was named *custos rotulorum* and there was a quorum of two, of whom one was to sit when felons were tried. The Gloucestershire commission of this year had seven members.

The commissions of 28 February 1384 were modelled on those first issued on 20 December 1382, shortly after the great revolt.²⁷ In them the justices lost the power to determine felonies and all trespasses except extortion and some economic offences. Full determining power was not restored to them until 1389. The power of inquiry over extortion, livery and maintenance, and those riding armed in conventicles, given first in 1380, remained. Because of the change in the powers of the justices the quorum was placed in the inquiry clause. The commission of this date for Gloucestershire was the third issued within a period of eight months to practically the same group of men.²⁸ The reasons for so many are not apparent. The commission of 28 February 1384 had thirteen members and a quorum of nine.²⁹

The three remaining commissions, 18 June 1394, 27 July and 12 November 1397, represent a return to the type issued before 1382.³⁰ In addition to the three peace statutes, Winchester, Northampton and Westminster, there were included all labour statutes passed at Westminster and Cambridge and all other ordinances and

²⁶ *infra* pp. 79-82; *CPR* 1377-1381, 46; *Rotuli Parliamentorum*, III, 83-85. Commissions of the 1377 type are in print in Putnam, *Proceedings*, pp. 203-205; Kimball, *WS*, pp. 3-5.

²⁷ *CPR* 1381-1385, 347. Commissions of this type, dated 20 December 1382, are in print in *Life Records of Chaucer*, part IV, ed. by R. E. G. Kirk (Chaucer Society, 2nd series, no 32, London, 1900), 259-261; Kimball, *WS*, pp. 152-154; dated 8 February 1386, *Little Red Book of Bristol*, I, 127-129.

²⁸ 2 July 1383; *CPR* 1381-1385, 346; 26 January 1384; *ibid.* p. 347.

²⁹ Patent Roll, 7 Richard II, part I, m. 43d.

³⁰ *CPR* 1391-1396, 436; 1396-1399, 234, 228. A commission of this type, dated 10 May 1395, is in print in Kimball, *WS*, pp. 67-70; dated 3 February 1413, in Putnam, *Proceedings*, pp. 87-91.

statutes for the maintenance of the peace. The inquiry clause was broadened to include beggars, vagabonds, hunters, sheriffs and other officials. As full powers of hearing and determining had been restored to the justices in 1389 there was in the commission of 18 June 1394 a quorum for determining felonies, trespasses and forestallings and in the later commissions a quorum for all offences. The earlier and later Gloucestershire commissions had eleven members each; the second had nine. In all of them four men were named to the quorum.³¹

Commissions of the peace for the county of Gloucester did not, after 1373, include jurisdiction over the borough of Bristol. In that year Bristol received a charter which made it a county and gave the mayor and sheriff the powers of justices of the peace.³² In spite of its prominence Bristol had not previously had separate justices of the peace and only once, in 1332, had its mayor and bailiffs been especially designated to serve in this capacity.³³ Strangely enough, however, in 1386 the crown appointed justices of the peace for the county of Bristol, apparently infringing on the charter. Since the commission of the peace was copied into the *Little Red Book of Bristol* the town officials seem to have taken no exception to this action.³⁴ Possibly the same thing had been done a few years earlier, as in 1381 Bristol was listed among the counties having justices of the peace.³⁵ Perhaps it was the mayor and sheriff to whom reference was made. In any case Bristol was within the jurisdiction of the Gloucestershire justices of the peace during the period of the earliest commission whose records are printed below, but not during the period of the later ones.³⁶

³¹ Patent Roll, 17 Richard II, part II, m. 21d; 21 Richard II, part I, mm. 25d, 27d.

³² *Bristol Charters*, ed. by N. D. Harding (Bristol Record Society, *Publications*, I, Bristol, 1930), p. 131.

³³ *CPR* 1330-1334, 290. On commissions of the peace issued to towns see Kimball, *WS*, pp. xxii-xxx.

³⁴ *CPR* 1385-1389, 82; *Little Red Book of Bristol*, I, 127-129.

³⁵ *CCR* 1381-1385, 13.

³⁶ For a presentment made at a session under this commission by a Bristol jury see Roll I, no. 67. Offences committed in Bristol

When considering commissions of the peace it is pertinent to raise the question as to how and to whom commissions were delivered, or, in other words, how the justices were informed of their appointment. From such scattered material as is available it appears that one copy of a commission with writs to the sheriffs fixing the date of the first session, and ordering the summoning of the juries, was sent out by messenger to groups of adjacent counties. Presumably the commission was delivered to the *capitalis iusticiarius*, if there was one, or to the most prominent member resident in the county who could be expected to see that the other justices were notified of their appointment and of the date of the first session.³⁷ Precise evidence of the delivery of the Gloucestershire commissions between 1361 and 1397 is very scanty. The commission of 2 July 1377 was sent out on 30 July, though to whom is not known.³⁸ About the commission of 1376, not here included, there is more information. If the statement in the Exchequer Accounts is to be trusted a writ was sent not to the sheriff but to each member of the Gloucestershire commission, and also to the members of the Herefordshire and Worcestershire commissions.³⁹ The fact that only the justices in these three counties were said to have received such writs, as well as the fact that it is not known that individual writs were sent out for other commissions, makes this statement somewhat suspect. If it is true, undoubtedly there were special circumstances that made individual writs necessary on this occasion. The fact that commissions were generally acted on promptly, is testimony to the efficiency of a system that depended for its enforcement on the interest

were sometimes presented by juries from other places; Roll II, no. 49.

³⁷ On the delivery of commissions see Putnam, *Proceedings*, pp. lxxxiv-lxxxv; Kimball, *WS*, pp. xx-xxii. On the *capitalis iusticiarius* see Putnam, *Proceedings*, pp. lxxxv-lxxxvi; Sillem, *LS*, p. xxv.

³⁸ On this date two writs were sent to the sheriff of Gloucestershire. There is no mention of a copy of the commission but presumably one was sent to Gloucestershire as to other counties; Exchequer Accounts, bundle 317/40, m. 47.

³⁹ *ibid.* m. 21.

of local men in the maintenance of law and order, rather than on elaborate machinery.⁴⁰

While the commissions of the peace constitute the most important source of information about the powers of the justices of the peace they are not the only source. After the accession of Richard II there were passed in parliament an increasing number of statutes especially committed to the justices of the peace for enforcement, but never incorporated in their commissions. Copies of these statutes were sent to the justices and they also received supplementary instructions in writs and letters close.⁴¹ The latest Gloucestershire roll contains some information on the enforcement of a statute of 1394, not mentioned in the commission, which confirmed earlier legislation whose purpose was to prevent the destruction of young fish, particularly salmon, by means of weirs and other machines placed in rivers. The justices of the peace were made conservators of rivers to survey and search for weirs and to punish those who had built them. They were to inquire regarding offenders both through sub-conservators appointed by themselves for this purpose and through the regular hundred juries. Violators of the statute were to be punished by fine and imprisonment.⁴² At the session of 10 March 1395, the first of which there is record in Gloucestershire after the passage of the statute, the justices of the peace heard indictments under it.⁴³ Thus

⁴⁰ During Richard II's reign men appointed as justices of the peace often complained that they had not been notified of their appointment; Putnam, *Proceedings*, p. lxxxiv. It is a question whether the commissions were never delivered in the county or whether individuals were not informed of their membership on them.

⁴¹ Putnam, *Proceedings*, pp. xxix ff.

⁴² 17 Richard II, c. 9. See also 13 Edward I, st. 1, c. 47; 13 Richard II, st. 1, c. 19. See *infra*, pp. 40-41. This statute was not included in the justices' charge to the jurors, c. 1403-1404, printed by Miss Putnam; Putnam, *Proceedings*, pp. 10 ff. It does appear in the charge printed in W. Lambard, *Eirenarcha* (London, 1602), pp. 429-430. An enrollment on the close roll of 1395 seems to indicate that special commissions were appointed to administer this statute in Yorkshire, Lincolnshire, Nottinghamshire and Derbyshire; *CCR* 1392-1396, 393. I have not found the appointment.

⁴³ *infra* p. 143-146.

information concerning their new power had been sent them within a year of the date of the statute, if not earlier. Furthermore, powers not included in the commissions seem to have been distinguished from powers which were included. In the margin of each indictment there is often a designation of the offender as a felon, a trespasser or an accessory. The indictments of offenders against the statute on salmon were marked *articulum*, probably to show that the authority for hearing them rested on special articles instead of on the commission.⁴⁴

III (B) THE PERSONNEL OF THE COMMISSIONS

There were in all thirty-nine men appointed or associated to the six Gloucestershire commissions of the peace under which the sessions whose records are printed in this volume were held. Of them the larger number, twenty-three, belonged to the class of country gentlemen, eight were peers of the realm, seven were lawyers and one was a burgess of Gloucester. The first three classes were always found on county commissions of the peace; the inclusion of a burgess was less common.⁴⁵

The peers on the Gloucestershire peace commissions were either national figures or members of the local nobility. JOHN OF GAUNT (1340-1397), duke of Lancaster and most powerful of the uncles of Richard II, was named on the Gloucestershire peace commissions of 1394 and 1397. There is no record that he sat for the county; indeed during much of this period he was in France on business connected with the duchy of Aquitaine or with Richard's second marriage.⁴⁶

THOMAS OF WOODSTOCK (1355-1397), earl of Buckingham and duke of Gloucester, constable of England and youngest son of Edward III, was appointed to the commissions of 1384, 1394 and 1397, being on the quorum

⁴⁴ *infra* pp. 144 ff.

⁴⁵ Putnam, *Proceedings*, pp. lxxxii ff; Kimball, *WS*, p. xxx.

⁴⁶ These brief biographies, particularly in the case of the peers, make no pretence at being complete. They have been compiled to show the sort of persons appointed as justices of the peace in the period of these rolls. On John of Gaunt see Putnam, *Proceedings*, p. 148.