

THE HISTORY OF LAY INVOLVEMENT IN THE ADMINISTRATION OF JUSTICE IN NORTHERN IRELAND

Richard the Lionheart in 1195 commissioned certain Knights to preserve the peace in unruly areas. They were responsible to the King for ensuring that the law was upheld and were known as Keepers of the Peace.

An ancient Act of 1327 referred to 'good and lawful men' to be appointed in every county in the land to 'guard the peace' and was first referred to as Conservators or Wardens of the Peace. They were appointed for life.

In the reign of King Edward III the 'peace' to be guarded was the King's peace and currently the Queen's Peace. Justices of the Peace today still use the powers conferred on them from the Justice of the Peace Act 1361. Women were not allowed to be JP's until 1919. The first female JP was Ada Summers the Mayor of Stalybridge who was a JP by virtue of her office.

The office of JP was established in the Island of Ireland in the fourteenth century. JPs in England and Wales act as full-scale Magistrates. In NI their powers were and still are severely limited. They never enjoyed the same powers as that of their brethren in Great Britain. In Ireland the JPs were first mentioned in an Irish Statute of 1449 although the office was already in existence prior to this. The role had developed out of the ancient office of Keeper or Conservator of the Peace as prevailed in England.

JPs were granted power to bind a person to the Peace and/or be of good behaviour. Various laws were passed however to extend the powers and duties of Justices of the Peace in Ireland which included the authority to arrest and judge those who broke the law in their own county.

Following the partition of Ireland in 1921 the office of JP continued to exist in the Province. From that time until 1935 the Justices received no formal training for their role. They exercised extensive powers while sitting alone in petty sessions dispensing justice. Under the Summary Jurisdiction and Criminal Justice Act (NI) 1935 the right of JPs to sit in petty session was removed. They were confined to sitting in 'Special Courts' such as remands or committal proceedings.

JPs also exercise out of court functions such as issuing criminal summonses and arrest warrants. They also signed summonses on a civil

complaint and official documents such as passport applications and affidavits.

Things were to change again in 1942. Legislation dictated that lay panellists (known as Children's Guardians) were required to sit with the Resident Magistrate in criminal cases involving juveniles in the juvenile courts. The panellist role was limited. They could ask questions of witnesses but were not involved in decision making.

The Children and Young Persons Act (NI) 1950 legislated for the court structure as it is known today. The legislation provided for a panel of two laypersons to sit on each occasion of the then justice or welfare courts with the RM. The lay panellists were given full judicial powers and where opinion differed among the panel the decision of the majority applied. The juvenile court which heard criminal matters later became known as the Youth Court.

One of the recommendations of the Criminal Justice Review of 2000 and incorporated into the Justice (Northern Ireland) Act 2002 created a new judicial post of Lay Magistrate. The post came into being 1 April 2005. A magistrate is a judicial officer exercising a summary jurisdiction in criminal and more recently non-criminal or civil matters. Lay Magistrates are not normally legally qualified. 'Lay' comes from the Greek word *laos* which means 'people'. Lay Magistrates were appointed to represent the wider community within the justice system.

By Schedule 1 of the Justice (NI) Act 2002 'Lay Magistrate' is listed as a judicial office. This Act also added the family proceedings court work to the functions of Lay Magistrates. All functions previously carried out by the Lay Panellists together with the criminal functions previously carried out by the JPs are now performed by Lay Magistrates. LMs must retire on reaching their 70th birthday. JPs on the other hand were appointed for life.

The proposed new office of Lay Magistrate therefore did not sit easy with Justices of the Peace. Some JPs were also lay panellists in the youth courts across the Province. Others only performed the duties designated to JPs. These duties were jealously guarded and carried out with pride. The new Lay Magistrate posts were to be advertised widely across the Province. Those JPs not already lay panellists could apply for the new role with the hundreds of applicants. Some did - most did not.

Consequently from 1 April 2005 the ancient and honourable office of Justice of the Peace in NI effectively came to an end. Those who had been formerly appointed retain the designation but have been stripped of all criminal functions. Most if not all of the civil functions require a signature by a Lay Magistrate effectively rendering JPs redundant in Northern Ireland. It is doubted that anyone will be appointed to this office in future unless there is another legislative change. The face of justice in Northern Ireland changed once again.

Former panellists or JPs resolutely sat in the Northern Ireland Courts during the previous years and throughout the 'Troubles' sometimes at great personal cost for their own safety, with no remuneration other than mileage expenses if claimed. There was little or no security provision made for these office holders unlike the remainder of the judicial process in Northern Ireland. A sixty nine year old Justice of the Peace for more than thirty years Robert Mitchell JP was shot after two IRA men held his two elderly Sisters hostage. He was killed by a single shot to the head in his home in 1977.

The new Lay Magistrates in Northern Ireland were remunerated as follows. A full day court sitting fee of £162.50 was paid increasing to £164 (wef 1.11.07). The half day court sitting fee will similarly be increased from £81 to £82 (wef 1.11.07). A daily fee for attendance at training events will be increased to £65.50 (wef 1.11.07) while a new half day fee is also being introduced - £33 (wef 1.11.07).

The Lord Chancellor has additionally agreed that these fees may be reviewed annually in line with approved annual average increases to judicial salaries. The Honourable Sir Brian Kerr Lord Chief Justice for Northern Ireland has agreed that Lay Magistrates may use the suffix 'LM' in appropriate circumstances.

Lay Magistrates/JPs in Great Britain are not remunerated. It must be remember however that LMs in GB sit in the Magistrates Courts as a panel of three without any legal input on the bench. Legal advice comes from the legally qualified Clerk of the Court.

With effect from 30 April 2007 the Honourable Sir Brian Kerr Lord Chief Justice for Northern Ireland has agreed that Lay Magistrates may use the suffix 'LM' in appropriate circumstances.

It is anticipated that Northern Ireland legislation as opposed to Orders in Council (*a consequence of Direct Rule from Westminster*) will quickly emanate from the new Northern Ireland Assembly which was restored on 8 May 2007. This is to be welcomed as justice for all.

Rosemary Craig JP LM BA LLB LLM MHSM LCIPD PGCHEP ©