

THE MANX BAR – THE HISTORY and DEVELOPMENT of a UNIQUE LEGAL PROFESSION
(Barr Vannin-Shennaghys as Aase Lught y Leigh Er-Iheh)

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Acknowledgments

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CHAPTER 1

Introduction

The Isle of Man is a largely self-governing Crown dependency which, like the other Crown dependencies,¹ has an ancient legal system whose origins can be traced to before 1066. Manx laws have been adjudicated by Manx courts and enforced by Manx officers. The courts, and those who appear before them, are assisted by a distinct legal profession – that of Manx advocates.

The history of the legal professions in the United Kingdom has received deep and continuous study however there is a dearth of information on the development of the Manx profession.

This is the first sustained discussion of the history of the Manx Bar before the 20th century. My study covers the period from the latter part of the 17th century to several years after the Second World War. This thesis represents the first evidence of individuals practising as advocates in the Isle of Man. It documents the beginning of a new phase in Manx legal practice when a distinct body of men became recognised as lawyers and where law and legal practice in the 20th century become increasingly globalised; particularly for a jurisdiction which later seeks to generate economic benefits (such as growth as an International Finance Centre) on the back of legal autonomy. As well as drawing on primary sources of Manx law across the period, I was given unprecedented access to the Minute Books of the Isle of Man Law Library Society and the Isle of Man Law Society, from 1825 to 1956. These Minute Books are the property of the Isle of Man Law Society,

¹ The Bailiwick of Jersey, The Bailiwick of Guernsey and the Isle of Man.

rather than in the Manx National Archives or the Manx Museum and have never been subject to scholarly consideration.

This thesis argues that the emergence of the Manx advocate as a distinct, and enduring, legal profession was shaped by three key factors. Firstly, the development of the Manx legal profession as a subject for state regulation - and in particular a development led from the centre by the small Manx state after the Revestment of 1765. This development, with a particular focus on the role of the state in regulating admission to the Manx Bar, is discussed in broadly chronological order in Chapter 2. Secondly, the development of the Isle of Man Law Society, and the Isle of Man Law Library, particularly during the nineteenth century. This, along with broader issues of the formation of a profession with a distinct identity and community, is discussed thematically in Chapter 3. Thirdly, the development and increased formality of becoming educated for, and qualified at, the Manx Bar. This, along with the interaction with legal education for non-Manx legal professions is discussed thematically in Chapter 4. This Thesis concludes with the major reasons as to why the profession originated and the key findings from this project - that the Manx bar into the twentieth century was shaped by state control, a complex relationship with the English legal professions (and in particular with English legal education), and the pervasive influence of the Isle of Man Law Society.

Context - Brief background History

The Isle of Man is an Island located in the North and Irish Sea almost equidistant from Ireland and England. The modern Manx name is Ellan Vannin – the Island of Man or Ellan Vannin Vegve - the dear little Isle of Man. Its greatest length from the Point of Ayre to Spanish Head is 33 Miles. Its greatest breadth from Maughold Head to the Sound is 25 miles but its direct breadth east to west is 13 miles. Its total area is about 300 miles

Its present population is approximately 86,000² but at the beginning of my study in the 1700's it had a population of approximately 20,000³ and at the end of my study the census of 1951 showed a population of 55,253⁴. It is said that the first Celts settled in the Isle of Man in 6500 BC. The language that they developed is described as Manx Gaelic and according to the 2021 census 1005 people speak Manx on the Island.⁵ The last known Manx native speaker died in 1974. ⁶

The Manx people were converted to Christianity in the 5th Century by Irish missionaries sent by St Patrick. By the 9th Century the Isle of Man was invaded by the Vikings who came to dominate life on the Isle of Man until 1266. It is said that the

² Isle of Man Census Report 2021. GD 2022/014

³ Moore, A.W. 'A History of the Isle of Man', Manx National Trust. 1992 Page 646

⁴ Isle of Man Census 1951, Manx Museum Archives

⁵ Ibid

⁶ This was Edward Maddrell who died aged 97. Manx Museum Archives

Islands first Parliament met in 979, and now called the Tynwald meeting place. In 1266 the King of Norway sold the Island to Scotland and King Edward 1st conquered it in 1290 though its possession did often change hands between England and Scotland. The ownership was finally settled under Henry 4th and the Island has remained an English crown dependency ever since. It is not part of the United Kingdom as it is not under the direct control of the Sovereign, the Sovereign is described as the Lord of Mann. The Isle of Man was under the direct control of the Stanley family from 1405 until after the death of James Earl of Derby in 1736 when the line of Stanley's ended the lordship and passed to the Scottish family of the Dukes of Atholl who descended of the female line from the 7th Earl of Atholl. Under the Revestment Act in 1765 the United Kingdom Government bought the feudal rights from the Duke of Athol

Methodology

The central thesis is to examine how the profession of advocates on the Isle of Man originated as the island's legal history is distinct from other jurisdictions in the British Isles.

I have approached answering this question through the use of conventional legal historical legal methods, applied to the Isle of Man in the work of Edge.⁷ It is purely paper

⁷ His major work on Manx Law is Edge, P. *The British Influence over Manx Criminal Law 1765-1993*.

But has also written numerous articles on the Manx legal system and Constitution

Edge, P. 'The Codification of Manx Criminal Law' The Journal of Legal History, Vol 15 Issue 2, P 109-130

Edge, P. 'Lisvane's Legacy? Constitutional reform in the Isle of Man.' Legal studies Vol. 40, Issue 1

Edge, P. 'Lawyers Empires: The Anglicisation of the Manx Bar and Judiciary' J. Legal prof. Vol 19 P 29

Edge, P. 'The development of the lord Bishop's role in the Manx Tynwald', The Journal of Ecclesiastical History, Vol. 57 Issue 3 p 494-514

Edge, P. 'Foreign Lawyers practising National Law: Temporary Counsel in small jurisdictions'. International Journal of the Legal Profession., Vol 20. Issue 3 p 285-314

based in that I have I have examined Minutes, original and copy letters, historical accounts, some written centuries ago, books and articles both ancient and modern, and Petitions and Deeds. As most of the early documents were in manuscript I had to quickly become adept at reading a variety of handwriting and early English spellings. The only technology which has been useful to me are the digitised Manx newspapers. As a major part of my research involved original documents it often meant that I had sources, which to my knowledge had never been examined before. The reading of these documents changed some of my preconceived ideas, but my research questions did not alter. Those who have, like myself, pored for many hours over manuscripts only to be disappointed will understand the pleasure when one finds amongst dozens of documents evidence which supports and adds to one's research.

It is an historical study with the aim of understanding the circumstances which led to the Manx Bar being unique. I am conscious that the study of legal history is relatively new but that I am using an accepted methodology⁸ and is a sociological study of a specific group in a particular period of Manx History

From my analysis and interpretation of the various sources I have put forward reasons why the Manx Bar is unique and was not influenced by the legal professions in the neighbouring jurisdictions.

The only person who has written substantially on Manx law is Professor Peter Edge, but he has not undertaken any in depth research into the origins of the Manx legal profession.⁹ I

Edge, P. 'The use of Foreign Models in the Commonwealth: A case study of Criminal legislation in the Isle of Man (1800-1993).' Commonwealth Law Bulletin. Vol.2, issue 2 p 671-684

Edge, P. 'Doctrinal effects of smallness: The authority of English decisions on the Common Law in the Manx Courts'. N. Ir. Legal Quarterly. Vol.46 p 34

Edge, P. 'Sovereign Lord? The enduring Legal Importance of Revestment'. Columbia Legal Review. Vol 87, p 93

⁸ Musson A. and Stebbings Chantal, 'Making Legal History', Cambridge University Press, 2012 p2

⁹ His major work is Edge, P. *The British Influence over Manx Criminal Law 1765-1993*

had originally concluded that my main source of material would be the archives at the Manx Museum Library. However, my research was almost immediately influenced by the fact that shortly after I started my project, I was contacted by a member of staff at the Isle of Man Law Society who asked whether I would be interested at looking at some boxes which had been found in the attic of the Law Society offices. The Law Society was moving to a new building and was disposing of old records. To my astonishment, the boxes contained leather bound books which contained handwritten minutes of the Law Library Society and the later Isle of Man Law Society. The first volume started in 1825 and the final volume ended in 1958.

The minutes not only gave an account of the development of the Manx Bar but also gave me an insight into the issues and events which most concerned the Manx Bar as it grew both in numbers and status.

The minutes gave little information as to how the Bar was originally created, however the main sources for this part of my study were certain statutes enacted by the Manx Parliament, Tynwald, in the mid and later part of the 18th century. The preamble to the statutes were extremely useful as they detailed the purpose of the statute and often 'the mischief' it was intended to address.

I also gained access to numerous books about the Isle of Man; several gave historical accounts of the Island in the early 18th century which referred to Deemsters and the courts. Many of these were written by non-Manx writers who had either spent time on the island or who had visited the island or written an account of their visit. The earliest relevant book I found was an account of the Isle of Man by William Sacheverell, written in 1702. An extremely valuable source was The Manx Society which was founded in 1858 and which published a number of books and articles useful to my research. Another source was

Proceedings of the Isle of Man National History and Antiquarian Society. The materials I used had either had been written from personal knowledge or from research undertaken by the writers. I also consulted many books and articles written on the history of England and other jurisdictions to ascertain how their professions had evolved. These were useful in a comparative sense, particularly with regard to the development of the English professions.

The archives in the Manx Museum were as I expected an invaluable source of original documentation. In particular, letters written by various Manx officials and individuals communicating between themselves and the Governor and the Dukes of Athol when they were Lords of Mann, and after Revestment, with the Governor and Whitehall. Following the establishment of the Law Society there was a lot of correspondence between the Society and the Governor, Whitehall and members of Parliament in relation to a number of issues which were often detailed in the minutes. The archives also contained details of Petitions and Memorials sent to the Governor and Lords of Mann, many of which were original..

The archives of Manx newspapers, which are available at the Manx museum were a source for contemporary information. They were particularly useful for personal information on Manx advocates and the public's view of statutes and the Bar.

Whilst the minutes end in 1958 I decided to stop at 1956 for two reasons: firstly, this was the year of the last statute affecting Advocates in that period; secondly and more importantly it seemed likely that there could be persons alive who actually knew the persons to whom I was referring.

Professionalism and legal professions

In this Thesis I chart the development of how a disparate group of untrained people purporting to be lawyers became an internationally recognised legal profession having gradually evolved to meet all the criteria of a profession. I will discuss briefly the growth and diversity of what are described as professions in the West and what sets them aside from other occupations. In essence the two terms, profession and professionalism are intertwined. My understanding¹⁰ is that a profession is the institution to which a professional belongs, and professionalism is the method of practice, the adherence to certain standards. In this chapter I will make a brief review of relevant literature to chart how the concept of professions developed and achieved their higher status in comparison to other occupations.

What is a profession? What is professionalism? A profession is an occupation. Some occupations are called professions, others are called trades and what are considered as the lowliest occupations are usually described as jobs.

The literature on professions which I refer to below illustrate how professions have developed and managed to gain and maintain their superiority. There are also numerous definitions of what a profession is but there appears to be a general consensus in the literature that they are exclusive. In the following pages I will discuss the question by examining some of the literature written on the subject.

Larson states that "[P]rofessions are occupations with special power and prestige."¹¹

¹⁰ See references to relevant literature below

¹¹ Larson, Magali Sarfatti, 'The Rise of Professionalism, Monopolies of Competence and Sheltered Markets'. Transaction Publishers, New Brunswick, New Jersey, 2013 p xx

Friedson is of the view that sociologists have seen professions "[A]s occupations especially distinguished from others by their orientation to serving the needs of the public through the skilled application of their unusually esoteric knowledge and complex skill."¹² Whereas Moorehead says: "While there are many definitions of professionalism, few of which are the subject of consensus, the basic theory behind the professional project is that professions gain market privilege in return for regulating their members' ethics and competence."¹³ Moorehead also describes a profession as being "[G]ranted a form of cartel that enables them to charge more than would arise in a free market."¹⁴

All professions claim jurisdiction over a certain area of work. This would encompass: "...absolute monopoly of practice and of public payment, rights of self-discipline and of unconstrained employment, control of professional training, of recruitment and of licensing..."¹⁵ Johnson has a very similar list which he calls traits. From the work of twenty-one authors, he has identified twenty-three 'elements' which have been mentioned in the work of these authors to identify professions. He has narrowed these to six and these are: (1) skill based on theoretical knowledge; (2) the provision of training and education; (3) testing the competence of members; (4) organisation; (5) adherence to a professional code; and (6) altruistic service. What I find interesting is his mention of 'altruistic service' as this may have applied to clergyman, lawyers and doctors but I doubt whether it would apply to most professions. However, he accepts that the trait approach is inadequate, and he admits that he has in mind medicine and law. He appears to accept that his list may not describe other professions.¹⁶

Those occupations which are described as professions have , training and examinations and normally enforce a code of ethics or behaviour; a vital factor for many is monopoly over their 'specialised area of work' such as lawyers and medical practitioners.

¹² Friedson, Elliot, 'Professionalism Reborn, Theory Prophecy and Policy'. University of Chicago Press. Polity Press 1994 p 13

¹³ Moorehead, Richard, *Avrom Sherr, Alan Patterson 'Contesting Professionalism: Legal Aid and Non Lawyers in England and Wales'*, *Law & Society Review* volume 37 No.4 2003, p 765

¹⁴ Ibid

¹⁵ Abbott, Andrew, *'The system of professions, an essay on the division of expert labour'*. University of Chicago Press 1988 p 59

¹⁶ Ibid page 24

Abbott, quoting Theodore Caplow, says a vital feature which binds all professions together is that they want the protection of the State in relation to their sphere of work and influence, and entry. However, whilst they want the protection of the law to stop those who do not belong to their institute/organisation providing their services they also want little or no interference from the State over their affairs. It is autonomy which gives them the monopoly power which they all crave.

The granting of exclusivity and monopoly by the State is the most important asset of the professions. An important protection in the UK is that the use of certain titles is prohibited and unauthorised use by unqualified persons can result in a criminal offence. These include Advocate/Barrister/Solicitor, Biomedical Scientist, Occupational Therapist and General Practitioner when referring to a doctor. Interestingly the description 'nurse' is not protected but 'Registered Nurse' is. This exclusivity is gradually being eroded in most of what are regarded as the original professions. In this I include Law, Medicine and Architecture and what in historical terms can be classed as a fairly new profession, accountancy. The description Advocate is protected in the Isle of Man.

Before one can understand professions in the West one must understand how they developed. Abbot, again quoting Caplow states: "Professions begin with the establishment of professional associations that have explicit membership rules to exclude the unqualified."¹⁷ They also take other actions to assert their monopoly and obtain legislative protection; set up a code of ethics to regulate members and obtain further legal recognition by criminalising those undertaking unauthorised work within their sphere of influence.¹⁸ The conferring of jurisdiction is the foundation of all professional bodies. These professional bodies obtain and maintain their exclusivity by the legal system conferring the control of the work upon them. In most cases it is the professional Institute which lobbies for the legal protection to exclude other workers providing the service.

The industrial revolution also influenced the development of new professions in Europe. A basic difference between the professions in the UK and Europe is that European professions were more distinctly seen as part of the apparatus of government. In

¹⁷ Andrew Abbott, *The system of professions, an essay on the division of expert labour*. University of Chicago Press 1988 p 11

¹⁸ *Ibid*

Germany, the professions emanated from the civil service structure. Occupations, such as clergymen, lawyers, teachers and many doctors, were paid by the State and those who were not employed by the state were viewed as inferior. The State certified professionals and private organisations. The German Universities controlled and set the content of study and examinations and even when professional associations were set up the university professors continued to dominate the State examinations and the new professional associations.¹⁹ Interestingly of these groups it was the clergy in Germany who were the first to organise in 1892.²⁰

During the same period the system in France did not initially follow the German pattern until the end of the 19th century in that they did not have a system of universities dealing with professional courses. This was probably because the French economy was still dominated by agriculture until the late 19th century.²¹

The French state dominated both secondary and tertiary education which was under the control of the Ministry for Public Instruction. This included training for medicine, law, letters and science under what was called *Universite Imperiale (or Royale) de France*. The training of the professions of medicine and law closely followed the German system in that the state controlled both the content of the courses and the professional associations.²² The state in France maintained, and still maintains, a strong control over the professions as it grants the many certificates and licences required to practice various occupations. Whereas "It was, and is, a characteristic of the development of the professions in the UK that the professional associations retained responsibility for professional education."²³

I apply the insights I have outlined above into the Manx context in the following chapters and in particular Chapter 2 which chronicles the first full description of the development of the Manx legal profession

¹⁹ Andrew Abbot, *The System of Professions, An Essay on the Division of Expert Labour*, The University of Chicago Press, 1988. page 198

²⁰ Ibid page 197

²¹ Graves N. J. 'Technical education in France in the nineteenth century: I, The Vocational Aspect of Secondary and Further Education', 1964, p 148 Taylor Francis online

²² Andrew Abbot, *The System of Professions, An Essay on the Division of Expert Labour*, The University of Chicago Press, 1988 p 199

²³ Neal, Mark & Morgan, John. 'A Professionalization of Everyone: A Comparative study of the Development of the Professions in the United Kingdom and Germany' *European Sociological Review* Vol. 16 No. 1, 9-26, page 18

Chapter 2

The Development of the Manx Legal Profession

In this chapter I chronicle the legislative history of the Manx legal profession and the statutes which created it, from the first statute enacted in 1747 to shortly after the end of the Second World War.

Following the passing of an Act in 1777²⁴ Manx advocates unlike lawyers in England, did not have any competitors. This Act restricted representation in courts to those who had been licensed by the Lieutenant Governor. In the Isle of Man those licensed could appear in any court, whereas in England, legislation originating in 1292 and 1403 required that attorneys could only appear in certain courts which maintained their own roll of authorised 'practitioners'. This practice continued into the early 20th century.

The reason why Lawyers in the Isle of Man have had very little competition is because a succession of statutes set down very clearly the work which could only be undertaken by a Manx advocate. In essence all legal work, in the Isle of Man must be carried out by advocates. In recent years English solicitors have been allowed to do limited categories of work

Unlike England where Solicitors lost the conveyancing monopoly, advocates never did have a monopoly over conveyancing, though it appears that there was only one unqualified person in the last fifty years who undertook paid conveyancing. This was an ex-conveyancing clerk who started his own business in the 1980's until the early 1990's. Whilst a person can do their own conveyancing there is now in effect a complete bar

²⁴ An Act for the Appointment of Attorneys, and for the fixing of their fees. 1777 Vol 1

bécause since the introduction of land registration the Land Registry will only accept applications for registration from advocates as the applicant, has to guarantee title and be suitably insured.

It will be seen that the profession of Manx Advocate closely followed the continental system in that the State set the examinations and licensed practitioners.

The Manx legal profession is the only true Manx profession, all other professions practising in the Isle of Man are examined and certified by organisations not related to the Isle of Man. The majority if not all of the other professions on the Island such as Accountants, Chartered Surveyors, Medical Doctors, Estate Agents and Bankers take examinations set by organisations who are based in the United Kingdom and many of which are incorporated in the United Kingdom or are Chartered Bodies having received a Royal Charter. The Isle of Man Law Society is the only profession on the Isle of Man which has been incorporated by a Manx Statute.²⁵

The Manx Bar is a fused profession, sometimes called a unified body. A Manx Advocate acts as both Barrister and Solicitor and therefore has the right of audience in all courts, whereas in the United Kingdom and Northern Ireland and in most other common law jurisdictions the legal profession is usually split between the Barristers, often referred to as the upper branch, and the Solicitors, referred to as the lower branch.

Unlike England, the history of the Manx legal profession is not well documented, and it is not clear when the profession of lawyer originated in the Isle of Man. Judges or Deemsters as they are called in the Isle of Man are of ancient origin, whereas the history of lawyers in the Island, Advocates, is clouded. I will endeavour to explain the chronology of how and why Manx Advocates gained the status of a profession.

The legal system in the Island is unique and Peter Edge is of the opinion that by 1266 the Island was heavily influenced by the Scandinavian model and that it was during the reign of

²⁵ An Act for the Incorporation of the Isle of Man Law Society 1859 Vol 11

the Stanleys as Kings of Mann that Manx customary law developed.²⁶ The system of civil arbitration and the means of dealing with disputes on the Island now follows the established patterns in the British Isles. The civil and criminal law now also closely follows English legislation with similar statutes being enacted, usually several years after England, though there are still substantial differences in land law.

However, the administration of law did not follow England. It is evident that the legal system in the Island from the point of view of representation appears to have been quite primitive until the early 19th century. The head of the Judiciary, until Revestment in 1765, was the Lord of Mann but he did not visit the Island very often,²⁷ and whilst being the sole arbiter in most disputes it was the Governor as the representative of the Lord of Man who acted on his behalf. Following Revestment the Governor held that role on behalf of the United Kingdom Government. The Lord of Man, when he sat, and the Governor were assisted in their judicial role by the by the Deemsters who initially sat as assessors.

George Waldron, who was a Commissioner for the British Government and resided on the Island for several years wrote a History of the Island. Writing in 1726, when referring to the Chancery Court he states that "...the Governor is the sole Judge..."²⁸ The Lord of Mann's judicial jurisdiction included both civil and criminal matters. However, the Governor had no influence in relation to what was considered to be an ecclesiastical matter and it was the Lord Bishop assisted by the Vicar General and the Archdeacon who were the Judges in the ecclesiastical courts.²⁹ The ecclesiastical courts did not lose their final jurisdiction over testamentary and matrimonial matters until 1883³⁰ and the Governor did not finally lose all his judicial powers until 1921.³¹

There had also existed several ecclesiastical and baronial courts, but these were abolished when the monasteries were dissolved during the reign of King Henry VIII.³²

²⁶ Edge, Peter, 'The British influence on the making of Manx Customary Laws and Procedure'. DOI. 10.178631/CAM.19686

²⁷ The Lord of Mann was originally titled King of Mann

²⁸ Waldron, George, 'The History and Description of the Isle of Man', London, Temple – Exchange, Paffage, Fleetstreet, second edition 1744 page 79

²⁹ There were also Baronial and Manorial Courts

³⁰ An Act for the Better Administration of Justice and for the Constitution of the High Court of Justice in the Isle of Man 1883, Clause 46. Vol 5

³¹ Criminal Code 1921 Section 3, Vol. XI

³² He reigned from 1509 to 1554

Deemsters were not originally lawyers but were drawn from the ranks of the Members of the House of Keys, (MHKs) when a vacancy arose in the ranks of the senior judiciary. The House of Keys was until 1867 a self-electing body chosen from the members of the prominent families on the Island.³³

At this time the inhabitants of the Island were in the main, except for the landed families, extremely poor and it is doubtful whether they could have afforded assistance in the courts. Most of the cases involved a jury which was usually enrolled from the local parishioners. They would have intimate personal knowledge of the particular area and the plaintiff and defendant. There were juries for particular matters: The Great Enquest appeared to carry out a similar function to the Grand Jury in the United States and consisted of 12 men; the Trespass Jury of four men dealt with trespass and damage to trees, crops and fences; the Coroners Quest consisted of seven men and dealt with suspicious deaths.³⁴ The lack of sophistication would not have been a noticeable factor because neither the Governor who presided in all the major courts nor the early Deemsters were lawyers.

The latter part of the 17th Century and 18th Century

The first reference I could find to person who was considered to be a lawyer was a John Parr who became a clerk in 1670 to John Tyldsley, the Comptroller and Clerk of the Rolls.³⁵ He was 20 years of age when he started his clerkship. He wrote an Abstract of Manx laws, 'Deemster Parr's Abstracts of the Laws of the Isle of Man', which, is an important source of Manx Law dating from the late dating from the late 17th century.³⁶

The Clerk of the Rolls was at that time mainly an administrative role and as the title indicates, he looked after the records and as Comptroller also supervised the income from

³³ The first general election was held in 1867.

³⁴ IM 1586 S126 Isle of Man Public Records Office

³⁵ Moore, A.W. "Manx Worthies" Douglas, Isle of Man, 1901 page 83

³⁶ MMA MS 03176C.

the tithes and customs duties which were due to the Lord of Mann, though the position did have some judicial powers which gradually grew.

John Parr did become a Deemster in 1693 and whilst he had been appointed an MHK in 1687, we know that he was considered to be a Lawyer because, in 1817, the then Attorney General, James Clarke³⁷ refers to him as "...a great and learned man of the Bar".³⁸ Later records indicate that the term 'clerks' to the Clerk of the Rolls referred to men being trained in law. Their duties would have included attending the courts and writing up the proceedings and a major duty was the recording of Deeds of various kinds such as Deeds of Mortgages, Sales, and Contracts of marriage and Conveyance. Fees were charged for these entries and in 1735 the recording of these documents cost 6 pence per entry and three pence for a copy. The cost for copying a short statute was also threepence.³⁹ Other duties included administering oaths for which a fee of two shilling and sixpence was made.⁴⁰ In relative terms these fees were quite expensive as a labourer in 1734/35 earned between 6 and ten pence a day⁴¹.

Henry Sacheverell, (1674 – 1724), whose father William was the Governor of the Island between 1693 and 1696, wrote an account of the Isle of Man in 1702.⁴² It is likely that he obtained the information for his book during his father's period as Governor. He was a graduate of Magdalen College. He was ordained as an Anglican Clergyman in 1695 and was a notorious fiery preacher. In his book he quotes from Lord Coke's Fourth Institute, "Lord Coke when referring to the Isle of Man wrote "...saith that the Isle of Man has such laws the like whereof are not to be found in any other place, where every man pleads his own cause without counsel or attorney, or any person that can gain by strife..."".⁴³

There were two cases from the Isle of Man which reached the Privy Council in the 16th Century, both dealt with the constitutional position and succession of the Island following

³⁷ Often referred to, incorrctly, in some publications as John Clarke

³⁸ Manx Society, Volume X11, page xv, Douglas, Isle of Man, 1866

³⁹ Fees Act 1735 Vol 1

⁴⁰ Ibid

⁴¹ Moore AW, 'A History of The Isle of Man' (T. Fisher Unwin 1900), page 35

⁴² Sacheverell, Henry 'Account of the Isle of the Isle of Man, 1702,

⁴³ Ibid , page B2

the death of the Earls of Derby. The first was in 1522⁴⁴ and the second was heard in 1598. Coke was the Attorney General in 1598, and he attended the hearing, apparently at the command of the Queen.⁴⁵ So, he would have been in a prime position to comment on the lack of sophistication of the Manx Courts and Judicial system.

Whilst there were various Ordinances setting laws and regulations, the knowledge of Manx Law lay with the Deemsters, of which there were two, and the House of Keys. The Deemsters along with the Governor and the House of Keys, of which there were, and still are, 24 members, made and administered the laws.

The reasoning for choosing the Deemsters from the ranks of the House of Keys appears to have been, that as the Keys made the law, they were best suited to administer the law. However, in time the Keys role in the courts diminished and the Deemsters became the major arbiters of the law and were considered to be the repositories of the customs and traditions which constituted the common law, the so called 'breast law'. Person who could be described as qualified lawyers were not appointed as Deemsters until the late 18th Century.

Whilst it seems improbable that by the late 17th century, lawyers (or people who took on that role) were appearing in the Manx courts such persons were appearing in the courts by the early 18th century. A contemporaneous source is Bishop Wilson (1663-1755). He was appointed to the See of Sodor and Man in 1697 and was still holding the post when he died aged 91 in 1755. He was an Englishman born on the Wirral in the Northwest of England and was only 34 when appointed to the post of Bishop. He had spent the previous years as personal Chaplain to the Lord of Mann, William Stanley, Earl of Derby. The Earl had the power of appointment of the position of Bishop so it was likely that he saw Wilson as a person he could trust and who would safeguard the Earls interests.

Bishop Wilson wrote a celebrated history of the Island in 1721⁴⁶ and when referring to lawyers he wrote -

"In all the courts of this island, ecclesiastical and civil, both men and women usually plead their own causes, except where strangers are concerned, who, being unacquainted with the laws and language, are forced to employ others to speak for them. It is but of late

⁴⁴ Manx Law Reports 1522-1920 page 2

⁴⁵ Footnote on page 3 Manx Law Reports 1522-1920

⁴⁶ The History was not separately published but was inserted in the second edition of Camden's Britannia.

years that Attorneys, and such as gained by strife, have even forced themselves unto business; and, except what these people get out of the people, law suits are determined without much charges. " ⁴⁷

So, it does seem there were persons who were representing litigants in the courts but the Bishops view is that they cause delay in proceedings. He appears to have a particular dislike of lawyers and when giving a sermon to Tynwald "...he expresses a hope that the Government will be awakened 'to regulate at least, if not to silence them, and to bring us back to our old constitution, where every man plead his own cause' ".⁴⁸

This is further reinforced, for when referring to ecclesiastical courts, Bishop Wilson states -"As for civil causes that come before these courts, they are soon dispatched, and almost without any charges (Attorneys and Proctors being generally discountenanced), unless where litigious persons are concerned, who can find ways to prolong law suits even against the will of the Judge, whose interest is to shorten them as much as may be, as getting nothing by their length, but more trouble; besides what is transacted in open court, the Vicars-General compose an infinite number of differences at their own houses, which makes that office very laborious and troublesome..."⁴⁹

The extracts I quote above and below support my argument and show quite clearly that there are persons representing litigants in the Manx courts during that period and, notwithstanding the criticism they must be meeting a need.

George Waldron, supports the bishops opinion, writing in 1744, and when referring to law and lawyers, writes in a similar vein to Bishop Wilson –

"As to their Law-Suits, they are neither expensive nor tedious, but that draws on a misfortune as bad, if not worse consequence than either of the others;⁵⁰ which is, that the Over-cheapness renders them frequent."⁵¹

⁴⁷ Manx Society, Volume XVIII., Isle of Man, 1871 Page 117

⁴⁸ Manx Society Volume 11, MDCCCLXIV, page 114

⁴⁹ Ibid, 6

⁵⁰ He is referring to the Criminal and Ecclesiastical court procedures.

⁵¹ Waldron, George, 'The History and Description of the Isle of Man', London, Temple – Exchange, Passage, Fleetstreet, 1744, second edition, page 78

He describes that all a person needs "...to commence a Suit against his Neighbour."⁵² is to purchase a Token for two pence from the court. This is a piece of slate marked with the Governors or Deemsters name on it and served as a Summons. It would be delivered to the Defendant personally by the Coroner of the Parish. ⁵³

Further echoing Bishop Wilson, Waldron continues –

"Every Man being allowed to plead his own Cause, there is no Occasion for Counsellors, Attorneys or Sollicitors. The Ignorance, however, of Speaking for themselves in publick, have given an Opportunity to some Men to set up for a kind of Lawyers, who take fees, and argue on both Sides, as in Courts of Justice elsewhere."⁵⁴

A criticism of the Islands lawyers is also made by David Robertson, who spent a number of years on the Island, as a Custom Officer for the British Government. In 1794 he wrote an account of the Island in which when referring to litigants and lawyers wrote –

"The Manks have a culpable propensity to trifling litigation. A rash word, a choleric action, or a wound which the hand of friendship might easily have healed, is by the malicious industry of those who batten on the follies and errors of mankind, swelled into an intolerable offence."⁵⁵

Robertson goes further, and echoing Bishop Wilson in his dislike of lawyers, he continues in a later paragraph –

"Surely such an encouragement of idleness, malevolence, and perjury, ought to be checked. Trifling disputes ought to be crushed in their infancy; and the litigants punished: while the professional promoters of this infamous traffick ought to be banished from society, as enemies to social concord and happiness."⁵⁶

It is however interesting to note that at the end of the chapter he states –

"Even in this Island I could mention some gentlemen, who sensible of this dangerous tendency of the trifling litigations so frequently agitated at Ballasalla, confine their

⁵² Ibid page 79

⁵³ This is a position similar to an English Bailiff.

⁵⁴ Ibid 47, page 79

⁵⁵ Robertson, David, 'A tour through the Isle of Man.' printed by E. Hodson, Bell Yard, Temple Bar, London, 1794 page 44,

⁵⁶ Ibid page 46

pleadings to the courts of common law and chancery.⁵⁷ There appears to be some Advocates he admired for their probity.

There is further evidence of persons acting as lawyers, a case heard in the Chancery Court in 1751, *Livingstone v Stevenson*, concerned a claim for unpaid legal services.⁵⁸

It is interesting to see Bishop Wilson and George Waldron, use descriptions which were used in England at that time: attorneys, solicitors and proctors to describe Manx lawyers.

Some 20 years after Bishop Wilson's death, Sir Wadworth Busk was appointed by the Crown as the Islands Attorney General in 1774 and served until 1797. Busk was not a Manx Advocate but a member of the English Bar and practised in England in the Northern circuit. He was the second Attorney General appointed after Revestment. It has been said that he took the position because of his poor financial position. It appears that his friendship with Alexander Weddeburn (an English Solicitor who became the UK Attorney General and later Lord Chancellor) was influential in his appointment to what was considered, at that time, to be a politically sensitive post.⁵⁹ He must have been considered as a person who would ensure the British Governments' interest as there was still a lot of resentment on the Island against Revestment.⁶⁰ When giving evidence to the Commission⁶¹ which had been set up by the British Government to enquire into the Manx constitution and legal process, he was not very complimentary about the people or the legal system. He initially gave the impression that lawyers were not practising on the Island. Perhaps the fact that he was an English Barrister may have coloured his view of the ability of Manx Lawyers. He was similarly disparaging when referring to Manx judges. He wrote three letters of evidence to the Commission and in his final letter dated 6th December 1791 he wrote quite long and detailed account on the courts, both on their jurisdiction and the judiciary. Early in the letter he wrote,

"Jurisprudence was not attended to as an art, by a people little acquainted with any higher employment than that of steering a fishing smack or turning the earth with a spade.

⁵⁷ Ibid page 46

⁵⁸ MMA, MSS 4708

⁵⁹ Dolley, M, 'Procurator Extraordinary – Sir Wadsworth Busk (1730-1811) Proc IOMNH & ASoc VIII 3 pp207/245 1980.

⁶⁰ Ibid page 208

⁶¹ The Commission started on the 21st of September 1791 and reported on the 21st of April 1792. It was composed of 6 persons a British MP, a British judge, a British Barrister, a Canadian judge and two British Commissioners of Customs.

Having no lawyers,⁶² the rustic sailors alone managed their own contests and those of their neighbours; and disputes thus rudely conducted, juries and judges almost illiterate as the parties, terminated by a hasty decision with little regard to principles or forms.⁶³

I initially found his comments rather perplexing because he was appointed to the office of Manx Attorney General in 1774 so he should have been aware of the contents of an Act passed in 1777 during his tenure as Attorney General. This Act, to all intents and purposes placed the appointment and registration of advocates under the control of the Governor. As Attorney General, Busk was a member of Tynwald, and as the legal advisor to the Governor and the Governor's Council he would also have been involved in drafting the statute. He should also have been aware of the earlier 1763 Act which barred unlicensed persons from appearing in the courts. However, near the end of the letter he refers to "The business of Attorney, which before was undertaken by any person however ignorant and unqualified, was constituted a sort of profession, by rendering the Governor's licence a requisite to the practice of it".⁶⁴ He has therefore, though somewhat grudgingly, accepted that there is a Manx legal profession to which admission is controlled by the Governor.

Later in the letter he refers to the fact that the Clerk of the Rolls and the Deemsters should be Manx speakers, (this is because the language spoken by the majority of the inhabitants was Manx) and he says they should also be lawyers.⁶⁵

Based on the written accounts of Bishop Wilson, George Waldron and the comments by Busk it is clear that by the first half of the 18th century, lawyers, or people undertaking that role, were appearing in the Manx courts. However, as can be seen from the complaint of Bishop Wilson litigants may have been represented earlier in the in the latter half of the 17th century, but I can find no evidence of that and bearing in mind that Sacherverell when quoting Lord Coke was writing in 1702 it would seem that litigants were not represented in the 17th century. Whilst it be can be seen that my historical sources are limited Bishop Wilson states above "...it is but of late years that Attorneys, and such as

⁶² The authors underlining.

⁶³ Report of the Commissioners of Inquiry for the Isle of Man 1792, Appendix (C.) No.3

⁶⁴ Ibid

⁶⁵ Until the middle of the 19th century, the language used in the courts was Manx.

gained by strife, have even forced themselves unto business..."⁶⁶. This appears to support to support the fact that persons are acting on behalf of litigants.

But the statutory evidence is strong. An Act was passed in 1747 to prevent champerty.⁶⁷ The Act states that it is –

'For the discouragement of Law-Suits which are or may be fomented and carried on within this Isle by Champerty, be it enacted by the Most noble and Puissant Prince James Duke of Athol, Lord Strange, Lord of Mann and the Isles ,&c. the Governor, Council, Deemsters and the Keyes in this present Court assembled, and by the authority of the same, That from henceforth no Pleader, Attorney, Solicitor or other person shall take up, move, or maintain any Plea, Cause or Suit in of the Courts of the said Isle or before any Judge or Magistrate thereof by way of Champerty..."

Champerty is an arrangement in which a person with no previous interest in a lawsuit finances it with a view to sharing the proceeds if the suit is successful. Financing it enables a person who could not afford a lawyer to take the matter to court. From the details of the Act, it would appear that 'lawyers' on the Island were litigating cases for no immediate fee on the basis that they would share in any monies or property awarded by the court if their succeeded in their case.⁶⁸

Again, English descriptions, "Attorney" and "Solicitor" are being used to describe lawyers. It is not surprising to find English descriptions because of the connection with England. It is much later that the title Advocate comes into use.

It is of significance that the Act also contained a provision that the offence of Champerty was a criminal offence and convicted persons could be barred from practising -

"... and if any do, and be he therefore lawfully convicted, he or they so offending shall be fined and imprisoned, and be declared incapable of practising the Law at any Time afterwards..."⁶⁹

There was a time limit on the Act, and it was to remain in force for only three years.⁷⁰

⁶⁶ Ibid 33

⁶⁷ An Act to Prevent Champerty 1747, Vol. 1 page 248

⁶⁸ Champerty was also illegal in England but is now allowed under what is called a 'conditional fee arrangement'. Such arrangements are not allowed in the Isle of Man.

⁶⁹ Ibid 65

⁷⁰ It appeared to be the practice at the time to give Acts a limited life span.

The first Act which controlled and licenced persons to appear in court on behalf of others is an Act passed in 1763. The Act did not exclusively deal with lawyers. The Act dealt with a number diverse of matters, these included the draining of Loughs, Stagnant water, and Stone Boundary walls this was not unusual as Tynwald met intermittently). It consisted of twenty clauses and Clause 11, headed, 'Attornies not to practise until duly authorized by Governor &c.', concerned lawyers.

The clause reads -

'Whereas much Litigiousness and Contentions are fomented and carried on by several ignorant and evil-minded Persons who provoked Law Suits and pretend to practice as Attorneys therein, though altogether unqualified, to the great Trouble and Perplexity of the several Courts....and also to the Inconvenience and Detriment of the Public in general...no Person after... the Publication of this Act, may plead in any Suit or cause whatsoever or act in the Character of an Attorney, (except in his own cause) until he first duly be approved of and admitted by the Governor, Officers, Deemsters and Keys, or a committee of them and afterwards sworn in the Court of Chancery, "⁷¹

The Act specifically makes an exception for the Attorney General and the Keys "...who are not to be affected or restrained..."⁷² Whilst it follows that the Attorney General should not have to be approved to appear in court the Act does appear to allow members of the Keys to appear in court on behalf of others. This is curious in that why would MHK's want the right to appear in court on behalf of litigants. It can be seen when I discuss the incorporation of the Law Society in Chapter 3 that members of Tynwald had apparently represented litigant before the emergence of 'lawyers'. This understandable as they would have knowledge of the law and it would have been requested for assistance from their constituents. In the Act to incorporate the Law Society both the Legislative Council and the House of Keys gave themselves the right to become members of the Society.⁷³ Was this harking back to a the previous custom which the members of Tynwald wished to retain?

⁷¹ An Act for the draining of Loughs and Stagnations of Water, and also for making Stone Wall-wall Boundaries, and for other Purposes 1763 Section, Vol. 1

⁷² *ibid*

⁷³ An Act for the Incorporation of the Isle of Man Law Society 1859 Vol. II

The reason for the Act is quite clear, there are persons representing clients in the courts who are not considered to be lawyers and apparently provoking lawsuits. The Act gives the impression there are persons who are accepted as being lawyers. Though this was made clear by the terms of the 1747 Champerty Act which could declare persons "...incapable of practising the Law at any Time afterwards..."

This is not unusual in the history of professions. Most other professions developed in the same manner from persons who had a particular knowledge or expertise. Those involved in crafts and trades sought ways to exclude those who they thought were not sufficiently expert by forming associations and often obtaining statutory protection by arguing that that was in the public interest to exclude persons who could harm the public by their activities.

The attempt by the Manx authorities to regulate those appearing on behalf of others in courts is not unusual. In the very early 18th century, the UK Parliament attempted to regulate Lawyers. In 1701 and 1706 "...bills were promoted to regulate and limit the number of attorneys and solicitors, but they failed." ⁷⁴

This 1763 Act was to expire after 5 years. It also repeated the clause in relation to Champerty which was contained in the 1747 Act. This was because the provisions of the 1747 Act had expired.

The 1763 Act was followed fourteen years later in 1777 by an Act which in the same way as the 1763 Act dealt with several unrelated issues. Chapter XV was titled 'An 'Act for the Appointment of Attorneys, and for the fixing of their Fees'⁷⁵. This Act placed further controls on the admission to the Manx Bar. ⁷⁶

This second Act was passed because the 1763 Act had a five-year limit and it had expired in 1768.⁷⁷

The preamble to Chapter XV of the 1777 Act states:

⁷⁴ Sugarman, David. 'Bourgeois collectivism, professional power and the boundaries of the State', International Journal of the Legal Profession, Vol .3, NOS. 1/2, 1996 page 86

⁷⁵ I will deal with Advocates Fees as a separate section.

⁷⁶ Interestingly Section 7 of the 1777 Act brought in an early form of legal aid by amending the rule against Champerty.

⁷⁷ There is a note on page 294 in Volume 1 of the statutes stating that the Act had expired.

"Whereas the Custom of permitting Persons not bred to the Profession of the Law to practise as Attorney hath been found greatly to promote a Spirit of Litigation, and the Want of a proper Table of Fees hath been the Occasion of frequent Instances of Imposition upon Clients, be it enacted by the Authority aforesaid,"

Section 1 of the Act set out the rules in relation to the commissioning of lawyers, it reads

"That hereafter no Person shall Plead in any Court (except in his cause) or sue out in any process or act in the Character of Attorney or Advocate before any Court, Judge or Magistrate until he be first approved of and commissioned to act by the Governor or Lieutenant Governor of this isle under his Hand and Seal, and until he shall have publicly taken Government Oaths as also the following one: "I, A. B. do swear that I will truly and honestly demean myself in the Practice and Knowledge of an Attorney to the best of my Ability."

This is the first time that the description 'Advocate' appears in a Manx Statute.

Section 1 of the 1777 Act follows to a great extent the conditions for admission contained in the 1763 Act except the authority to admit persons to practice is now solely in the hands of the Governor or Lieutenant Governor. The Act is also significant in that it also contains an oath to be taken by the person being commissioned - "I, A. B. do swear that I will truly and honestly demean myself in the Practice and Knowledge of an Attorney to the best of my Ability."

This oath is very similar to one the contained in a UK Act passed in 1728⁷⁸ which was required to be taken by those being admitted as solicitors in England, the difference being that the English Act finished with the words "So help me God."

What is interesting is that whilst the oath as written in the statute did not contain the words 'So help me God'. But when I examined the record of those taking the oath, the oath written on the Roll was exactly the same as the UK Act.⁷⁹

It is also significant is that the 1777 Act brought in for the first time a schedule of the fees Advocates could charge. This provision dealt with the second mischief mentioned in the preamble to the Act – "the Want of a proper Table of Fees".

⁷⁸ Attorneys and Solicitors Act of 1728 (2 Geo, c23) (Parl.t)

⁷⁹ Oath of Advocates with signatures, 1777 – 1819, MMA, MS09864, GR1/35

It was the custom in the Isle of Man for various officials to swear an oath and sign the Liber Juranturem⁸⁰ and in September 1777, two months after the Act was promulgated seven persons signed the Roll and took the new oath.⁸¹ These were the first accredited Manx Advocates on the Island, though there may have been persons who were sworn to the oath in the 1763 Act, but I could find no evidence of any previous swearing or signatures. However, the 1763 Act required the swearing to take place in the Chancery Court and I have not examined the Chancery records in detail. When I examined the Roll which contained the oaths it had been incorrectly archived as containing only oaths and signatures from 1783 to 1815. However, it did contain all the admissions from 1777. The first person to sign the Roll was William Callow who must have been previously recognised as a Manx Lawyer as a George Moore wrote a letter to him dated 25th February 1775 and addressed him as 'Attorney at Law'. George Moore, was a Manx merchant who when in London writes to Callow requesting him litigate for him in the Manx Chancery Court.⁸²

However, Dolley, when referring to the formal proclamation of Revestment at Castletown on 11 July 1765, writes "...Governor Wood (1721-1777), a Scot appointed by the third Duke in 1761, chose to have read the proclamation a Manx lawyer, John Quillin" (d.1768).⁸³ It is possible that John Quillin may have been sworn and admitted under the 1763 Act as he is clearly being recognised as a lawyer. He had been appointed as the Islands Attorney General in 1764 and served until 1768 when he died aged 35. All later Attorney Generals were English Lawyers until the appointment of Manx Advocate James Gell in 1866.⁸⁴

It was seven years after the first cohort were enrolled before the next swearing's took place. This was in January 1783 when the eighth advocate signed the Roll, and the ninth Advocate took the oath in November 1783.

The establishment of a formal Bar in 1777 led to the appointment of Advocates to judicial posts and the first recognised advocate to be appointed to a judicial position was John Lace, who was appointed Deemster in 1793, having taken the oath and signed the Advocates Roll in 1777. This was followed by Mark Hyldesley Quayle, who had signed

⁸⁰ "I swear by the book".

⁸¹ *ibid*

⁸² *Miscellaneous Papers.*, MMA, MS 420/29.C

⁸³ Dolley, M, 'Procurator Extraordinary – Sir Wadsworth Busk (1730-1811) *Proc IOMNH & ASoc* VIII 3, 1980, page 208

⁸⁴ Since James Gell's appointment all Attorney Generals have been Manx Advocates.

the Roll in 1793, he was appointed Clerk of The Rolls in 1797. John Crellin was appointed First Deemster in 1812, having signed the Roll in January 1783. It will be recalled that Deemsters had previously been appointed from the ranks of the Members of the House of Keys.

The Regulation of the Profession in the 19th Century

The profession of what is now called a Manx Advocate was from 1763 controlled by the State through the Governor who granted the licence to practise. The situation in England was completely different for at this time admission to the various legal professions was controlled by the professions and the Judges. The Manx legal profession has continued to be controlled by the State though it is the First Deemster, not the Governor, who now grants the licence to practise.⁸⁵

The next significant legal event in the Island was in 1825 when a large number of Advocates met to organise a law library. The account of the library and what followed will be dealt with in chapter 3.

It appears that matters concerning Advocates were fairly settled until 1826 when a further Act regulating Advocates was passed. This Act had the same title as the 1777 Act, 'An Act for the Appointment of Attorneys, and for the fixing of their fees'. This Act was the first of only two Acts that Tynwald enacted that year.

The preamble to the Act refers to the provisions of the 1777 Act which was passed nearly half a century earlier and amended the earlier Act. This is a very important Act as it contains Sections which set out very detailed rules as to the admission of an Advocate. In brief these were:

1 - Clerks must serve a clerkship of five years to the Clerk of the Rolls or to an Attorney, solicitor or advocate.

⁸⁵ The Advocates Act 1995 as amended.

2 - Clerks will be required to be examined by the Governor or Lieutenant Governor "...by such ways and means as he may think proper, touching his fitness and capacity to act as an attorney solicitor or advocate". It also states "...that no person shall be permitted to take the oath, or be authorised so to act, until he shall have attained the age of twenty-two years."

3- The Articles of Clerkship must be recorded in the Rolls Office within 21 days of it being signed.

4 - The Clerk of the Rolls may not have more than four, and advocates not more than two, articulated clerks at a time.

5 - If the master dies or the contract is ended by mutual consent the residue of the term can be served with another advocate without entering into new articles or contract.

Clause 1 is the first referral to clerkship or articles, though persons who may been 'articled' with lawyers previously could have been considered to have been apprentices and conformed to the laws relating to apprentices.

Clause 2 uses the term 'examined' by the Governor. Previous statutes had merely expected the Governor to 'approve' applicants. This is the first reference to 'examinations' and I detail in Chapter 4 how students were examined.

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Section 6 is illuminating in that it requires a newly commissioned Advocate to pay "...the sum or duty of fifty pounds British, over and above the fees payable by law,...into the hands of the Clerk of the Rolls..."This is a very large sum of money for the time.⁸⁶ As a comparison a male farm labourer in the Island received a wage between £10 and £12 a year plus lodgings.⁸⁷

Clause 6, continues and states that twenty-five pounds "...shall be applied to the funds for making highways and bridges within this Isle, and the remaining sum of twenty-five

⁸⁶ The equivalent of £50 is approximately £5,000 today.

⁸⁷ Moore, A. W. 'A History of the Isle of Man', Fisher Unwin, London 1900, Vol 2 , page 554

pounds to be...applied and expended in the purchasing of books and publications suitable for the law library, for the use of the students and practitioners of the law..."

This is quite momentous as the State was subsidising what was a private library and was contributing to it by allocating part of the licence fee to stock it. I would suggest that this indicates the influence of the two Deemsters, the Clerk of the Rolls and Attorney General who were all members of Tynwald and also members of the law library. In fact, the Clerk of the Rolls had been elected as the first President of the Law Library Society. It is also interesting that the other half of the fee is to be spent on maintaining highways and bridges.⁸⁸

The penultimate section, section 7, gives the power to the Governor to allow any clerk articulated before the commencement of the statute to serve less than five years and it gives the Governor the discretion to waive the fee.

The final section also gives the Governor the authority to license "...any English barrister to practise as an attorney, solicitor or advocate..." by merely paying the fee. This particular provision was highly disliked by the Manx Bar and there were protests whenever an English or Irish barrister tried to take of advantage of this rule.⁸⁹

This Act has very similar provisions to those contained in the UK Solicitors Act of 1728,⁹⁰ in that there is a prescribed oath, and clerks must serve 5 years articles. In England it is the Judges who examined the candidate whereas in the Isle of Man it is the Governor who will examine them. The words in Section 2 of the Manx Act which I have quoted above are almost identical to the words in Clause S-VI of the UK Act in relation to the oath.

Whilst the Governor was the main link with the Crown. After Revestment, the Attorney General, who was an English Barrister, also became an important link between the Island and the Ministers in Whitehall and would have been heavily involved in the drafting of

⁸⁸ Under the provision of Section 6, Attorney Act 1826, the remaining £25 was paid to the Highway Fund for the repair of highways and bridges.

⁸⁹ The subject of 'foreign lawyers' is dealt with in Chapter 3.

⁹⁰ Attorneys and Solicitors Act of 1728 (2 Geo, c23) (Parl.t)

Manx Acts⁹¹ A major change was that whilst previously the Lord of Mann had been the final arbiter on Manx legislation this right now lay with the Crown. The Attorney General at this time was James Clarke (1816-1844)⁹². He had been the Recorder of Liverpool prior to his appointment; this was a crown appointment, and it is very likely that he would have been aware of legislation which had been passed in the UK Parliament to regulate solicitors.

This Act also set the procedure for admission to the Manx Bar. There is no direct reference to lawyers in any of the statutes until 1859 when Tynwald passes the Act to incorporate the Law Society.⁹³ The background to the 1859 Act is chronicled within chapter 3 and I will only describe here briefly the effect of the statute on the profession. It will be seen in chapter 3 that the passing of the Act was the result of almost twelve years of lobbying for incorporation, firstly by the Law Library Society in 1847 and later in 1850 by the Isle of Man Society of Advocates. The two societies ran in parallel for six years and amalgamated in 1856 to form the Isle of Man Law Society

The incorporation Bill had been drafted by the Advocates, so it is not surprising that the preamble to the Act begins by recording that the first organisation of Advocates in the Island took place when they formed the Law Library Society in 1825 and later the formation of the Law Society which represented the interests of whole of the Manx Bar. The preamble also refers to the fact that the sum of twenty-five pounds of the admission for Advocates was paid to the Clerk of the Rolls for the use of the Law Library.

The Bill contains 13 sections, some are detailed in content, and others are broad. For instance, it names Mark Hildesley Quayle, the Clerk of the Rolls as the first President of the incorporated Society and also names the members of the first Committee but leaves the drafting of the Byelaws to the members of the Society.

It is interesting to note that when the Bill was being considered by the Legislative Council, the Council inserted a section stating that members of the Legislative Council and the

⁹¹ I use the term 'Whitehall' to refer to refer to the various Government Departments which liaise with the Islands Government.

⁹² Often incorrectly referred to in some publications as John Clarke

⁹³ An Act for the Incorporation of the Isle of Man Law Society 1859 Vol. II

Governor could be members of the Society by merely paying the fee. When the Bill returned to the lower House, the House of Keys also inserted a similar clause allowing them the same rights. However, I could find no record of the right ever being exercised.⁹⁴

The final section, section 13 continued the practice of twenty-five pounds of the admission fee being paid for the maintenance of the library. However, in 1874 Tynwald cancelled the payment to the Highway fund and the full £50 fee was thereafter paid to the law Society.⁹⁵

In England by 1844 there had been many Acts regulating lawyers passed and there had been "...a patchwork quilt of statutes...numbering nearly seventy in all and dating back to Henry III".⁹⁶ Whereas statutes concerning Manx lawyers were infrequent. The Law Society Act 1859 had incorporated the Society, but it did not amend any of the previous statutes relating to examination and admission to the Bar.

Fifty-eight years passed from the passing of the Attorneys Act in 1826 until 1874 when the Advocates Fees Act was passed. This Act set down the rates which could be charged by Advocates to clients and also regulated the taxing of their Bill of costs by the Deemsters.

The final section of the 1874 Act, Section 13 appears to be an afterthought as it has no relevance to the previous 12 sections. This section allows person holding specified degrees from certain Universities to only serve three years articles as opposed to 5 years articles before admission to the Manx Bar. This concession applies to "...any person having taken the degree of Batchelor of Arts or a Bachelor of Laws in the University of Oxford, Cambridge, Dublin, Durham or London or in the Queens University Ireland or the Batchelor of Arts, Master of Arts, Batchelor of Laws or Doctor of Laws of any of the Universities in Scotland..."

⁹⁴ Ibid Section 2

⁹⁵ Highways Act 1874 Section 88, Vol. IV

⁹⁶ Sugarman, D. 'Bourgeois collectivism, professional power and the boundaries of the State', International Journal of the Legal Profession, Vol .3, NOS. 1/2, 1996 page 96

A similar concession had been given by the English Law Society in 1843 to articled clerks who had graduated from the Universities of Oxford, Cambridge, Dublin, Durham and London.⁹⁷

These similarities between the English Acts and the Manx Acts must be more than a coincidence. I referred to the likely influence over the 1826 Act by the English authorities and this appears to have continued for the reasons I outlined above.⁹⁸ This influence can be clearly seen in the Manx Criminal Code 1872 which relied heavily on earlier English legislation.⁹⁹

Regulation of the Profession in the first half of the 20th Century

In the years following 1874 Tynwald enacted a lot of social legislation and a number of Judicature Acts modelled on the Acts of the same name in England were passed however no legislation concerning Advocates passed through Tynwald until after the Great War, or First World War which ended in November 1918. Various administrative changes for the admission to the Bar took place in that period, but these were dealt with by discussion between the Governor and the Law Society and I detail this in the chapter 4 which discusses examinations taken by candidates for the Bar.

The next significant statute affecting the legal profession was passed forty five years after the 1874 Act. This was the Attorneys Act 1919 which was a direct consequence of the First World War. Twenty five percent of the practising Manx Bar had enlisted for service in all the branches of the armed forces and all the Students at Law¹⁰⁰ either enlisted or were called up. Eight students and ten advocates served in the forces in WW1. One of the students, John Bell Nelson, who had been articled to the Attorney General was awarded a Military Cross in August 1918 and was tragically killed less than a month later on the 20 September in Palestine.¹⁰¹

⁹⁷ Solicitors Act 1843 (6 & 7 Vict.) CAP. LXXIII (Parl.t)

⁹⁸ It has long been the practice that where legislation is going to be enacted for the Manx draftsmen to look at UK legislation and copy it with appropriate amendments

⁹⁹ Edge. Peter, 'Public Law', Isle of Man Law Society, 1997, page 136

¹⁰⁰ McDonald Terence P. 'Soldiers of the Law' Douglas, Isle of Man Law Society 2018

¹⁰¹ ibid

The Act contained five sections and amended the 1826 Act. In essence it gave the power to the Governor to reduce the period of articles for any person " ...who has served for any period in His Majesty's army, navy or air force since the fourth day of August, 1914. " ¹⁰² This applied to any person who had been articled prior to enlisting or was articled after service in the armed forces. When the Bill was discussed in the Legislative Council the Attorney General said the intention was to reduce the term of articles from five to three years¹⁰³ but the Act gave the Governor complete discretion as to the number of years he could reduce the articles.¹⁰⁴

One of the striking features of the Manx Bar is that it did not admit its first female until 1973. I could not find any specific legal reason why women had not been admitted to the Manx legal profession.¹⁰⁵ Women in many countries had difficulty in joining the professions and it was not until the passing of the Sex Disqualification (Removal) Act 1919 did females become lawyers in the United Kingdom.¹⁰⁶

However, what is significant is that in 1921 Tynwald passed the Sex Disqualification (Removal) Act which allowed woman to join professions. This Act was an almost complete copy of the Act of the same name passed in England in 1919¹⁰⁷. This Act removed the disqualification by sex or marriage of any person from holding any public function which included civil and judicial offices and membership of professional bodies. The Manx Act contains a specific section, section 2, which entitled a woman "...to be admitted and enrolled as an advocate solicitor and attorney after serving under articles for three years **only** ¹⁰⁸ if either she has taken such a university degree as would have so entitled her had she been a man..."

This section takes cognisance of the fact that whilst many women had attended and taken University courses, they had not always been entitled to be awarded a degree. The UK

¹⁰² An Act to Amend the Attorneys Act 1919, section 3 Vol. X

¹⁰³ Hansard, Legislative Council Friday 20th December 1918, page 146

¹⁰⁴ An Act to Amend the Attorneys Act 1919, section 3 Vol. X

¹⁰⁵ I discussed the issue with the first female to become an Advocate, Clare Faulds, and her view was that no female had requested to become articled before her.

¹⁰⁶ In Canada the first female became a Lawyer in 1874, but it required an Act.

¹⁰⁷ The Sex Disqualification (Removal) Act 1919 (Parl.t)

¹⁰⁸ Authors underlining and emphasis.

equivalent Act made a significant step for woman in England to be become lawyers and in 1922 the first UK female solicitor and barrister were enrolled whereas the Isle of Man had to wait 51 years for its first female lawyer. However, my reading of the section is that on the Isle of Man a woman could not become an advocate by taking the 5 year article route but needed a degree to be articulated. This still gave men an advantage and was a direct discrimination. This is rather ironic as one the reasons for the passing of the Acts in the UK and the Island were to recognise the contribution which women had made to the war effort.

This specific point was raised in in the House of Keys during the final reading of the Bill.¹⁰⁹ One of the members, Mr S. Norris asks – “Does that mean that a woman, before she can become a lawyer, has to take a degree.” He is told by the Secretary to the House – “It places her in the same position as a man. Under the present rules, if a man holds a degree, he need only serve three years articles instead of five.” Mr Norris is still not satisfied, he requires clarification, and he replies, “I am only anxious that woman shall be in the same position as men in regard to the admission to the Manx Bar. It looked as if a woman had to take a degree before admission to the Manx Bar. They are in the same position as men.” I interpret his last sentence as a question not a statement. Another member R. B. Moore replies “yes”.¹¹⁰ Mr Moore’s answer not clear, was he saying ‘yes’ to the first part of the question or to the second part? In the years that followed I would suggest that it was interpreted to mean he is saying ‘yes’ to the first part and ignoring the second part of Mr Norris’s question. Though history eventually proved me wrong.¹¹¹

There was no discussion on the Bill when it got to the upper house, the Legislative Council, other than it agreed with the lower house to exclude women from sitting on juries. However, the first woman to become a Manx Advocate did not have a degree and served the usual term of articles.

In the intervening years between the wars, other than the two Acts mentioned above, there were no further Acts passed which made changes to the rules of admission to the

¹⁰⁹ House of Keys, 2 November 1920 Hansard

¹¹⁰ The following year, 1921, R. B. Moore is appointed Attorney General.

¹¹¹ However, the first female did not have a degree and served 5 years as a Student at Law, qualifying in 1972

Bar. The Governor did pass Orders, later called Government Circulars concerning exams and admission to the Bar which I deal with in chapter 4.

In February 1946 the Law Society Committee discussed a new Advocates Bill and a subcommittee was formed to draft it. A draft was present to the Committee on the 30 July 1946 and whilst there was discussion in 1947 between the Law Society and Tynwald with regard to a new Advocates Act. An Act was not passed until 1956 and it only had one significant clause, clause 2, which extended the number of universities whose degrees would be accepted as qualifying degrees and reaffirmed that graduates need only serve three years articles rather than five.

In the two hundred years between 1747 and 1947 the Manx Legal profession had progressed from what Busk describes as 'a kind of lawyer' to a well-regulated profession.

But my account shows that the profession as soon as it emerged it was almost immediately controlled by the State which determined who was admitted to be an advocate and as will be seen in later chapters also laid down the fees that could be charged and set examinations for entry.

Chapter 3

THE ISLE OF MAN LAW LIBRARY AND THE ISLE OF MAN LAW SOCIETY

This chapter sets out how Manx advocates emerged as a professional community, able to represent their professional interests and, during the late 19th century, obtaining a measure of independence from the state alongside a powerful influence over the state's approach to the legal profession. The development of the Isle of Man Law Society is not considered in the existing literature. The charting of this key development draws upon materials which not only have not been subject to sustained academic consideration, but until this project were not available for research purposes. Much of the material that follows, in sharp contrast to the previous chapter, is not available even to archival researchers at the Manx Museum and the National Archives. Accordingly, to prove the points made in this chapter it is necessary to not only analyse, but describe, key meetings and resolutions of the Law Society Library and the Law Society. Because of the complexity of the relationship between Society and Library, and the role of non-officers at key junctures, this includes even attendance at key discussions and votes.

Isle of Man Law Library

On Thursday 7 April 1825 a very significant event took place on the Isle of Man. A group of Advocates and members of the Judiciary met to form a law library. It is highly likely that they met in the George Hotel in Castletown. Castletown was at that time the capital and the centre of government and the major law courts were also situated there. That day was a Thursday and at that time the Chancery court was held on a Thursday and most Advocates would have been in the town for the Chancery court. This meeting was the genesis of the of the Manx legal profession because it brought together for the first time persons who whilst having a common aim had not in any way been organised.

There is no explanation as to what had led up to the meeting. The Report and minutes of that meeting are headed 'A meeting of the subscribers to the Isle of Man Law Library held on the 7th of April 1825' and are contained in a leather-bound book which has printed

upon it in gold script "Isle of Man Law Society Minutes". This book, which I shall refer to as volume one, contains handwritten minutes from that date until 19th March 1879. Whilst the minutes are original, the leather binding must have been done later as the term 'Isle of Man Law Society' was not used until many years later. These minutes must have been bound together after the Law Society had been formed.

There is no preamble except for the heading above and the heading is followed by a resolution "That the following Laws and Regulations be adopted for the Government of the Institution". The regulations refer to various matters. There must have been some preliminary meetings because the minutes set out the Regulations and it is very doubtful whether that first meeting would have compiled such detailed rules at a single meeting. This indicates a measure of coordination between the Advocates because up to this date there is no indication of them being in any way an organised body.

The first regulation stated –

"That the affairs of the Institution be conducted by a committee consisting of five members: a President, Treasurer, Secretary, and two assistant members to be chosen annually at a meeting of the Subscribers to be held on the Thursday before Easter in each year..."¹¹²

The other Regulation dealt with various issues including the conduct of the General and Extraordinary Meetings and the calling of meetings of the Committee which was to determine what books were to be purchased.

The Secretary was instructed-

"...to keep a book of the different meetings and to write down and keep an account of the income and expenditure. To take care of all accounts, papers and documents belonging to the library, to mark all books as belonging to the library in the words "Isle of Man Law

¹¹² LS Minutes Vol. 1, page 1

Library”, to keep correspondence with such book sellers as shall be employed by the Society...”¹¹³

It is interesting to note that the descriptions ‘Institute’, ‘Society’ and ‘Subscribers’ were used interchangeably throughout the early minutes. For several years, the General Meetings were described as ‘Meetings of the Subscribers’. In 1829 the description changed to ‘Meetings of the Members of the Isle of Man Law Library’ or ‘Meetings of the Members’.

Regulation 7. stated -

“That each member shall pay into the hands of the Treasurer the sum of Two Guineas and an annual subscription of One Guinea by two equal payments on the 7th day of October and the 7th day of April in each year, and each new member shall on admission pay into the hands of the Treasurer the sum of Two Guineas”.

¹¹⁴

A guinea was one pound and one Shilling, a hundred and five new pence and the value today would be approximately £100. This seems a very high sum to pay. A Manx farm labourer in 1830 earned between £12 and £14 per year,¹¹⁵ which puts the income of advocates very high if they were able to pay such a fee.

The payments of annual subscriptions were a contentious issue throughout the existence of the Law Library and was the subject of many Resolutions at most, if not at all, of the Committee and Annual General Meetings and eventually lead to the demise of the Law Library Society and its amalgamation with the Advocates Society.

Regulation 8 laid down.

“That any person wishing to become a new member shall signify the same in writing to the Secretary whose duty shall be to give notice in writing to each

¹¹³ LS Minutes, Vol 1, page 3 & 4

¹¹⁴ Ibid page 5

¹¹⁵ Moore, A.W. ‘A History of the Isle of Man, T. Fisher Unwin, 1900, page 554

member of the Committee of the person so proposing himself and the Secretary at the following Meeting of the Committee shall lay such application before them upon which the Committee shall proceed to a Ballot and in all cases of Ballot two blackballs shall exclude".¹¹⁶

This is an excellent example of the term 'blackballed'. i.e. refused membership. However, there is no record of any person actually being refused membership of the Law Library.

The final Regulation laid down that if any subscriber lost a book it had to be replaced by a new edition or the value be paid to the Treasurer. Later minutes indicate that there were problems with the return of books and a fine was eventually levied for books not returned within the required period.

The final page of the minutes contains thirty-one signatures of the subscribers present at the meeting. There are twenty-six advocates and five members of the judiciary who signed the original minute. The minute indicates that Advocate John Kelly chaired the meeting. Two years later, on 12th April 1827, two advocates signed agreeing to the resolution and on the 16 April 1829 two more advocates signed the minute making a total of thirty advocates and the Judiciary.¹¹⁷

There appeared to be no restriction on who could be a member, but all members were either advocates or students at Law, though Justices of the Peace were allowed to be members in 1849. It became the practice for newly qualified advocates to join the society on their admission to the Manx Bar.

I have examined the list of Advocates, prepared by Professor Peter Edge which is contained in his thesis¹¹⁸ and calculated by year of admission those who were likely to have still been practising and did join the Law Library at the first meeting or shortly after. I counted those who had been admitted as Advocates from 1800 to 1825, though two who signed had been admitted in 1793 and another in 1794. I calculated that there were 52 Advocates who may have been practising and this indicates that as many as twenty

¹¹⁶ LS Minutes, Vol 1 page, 5/6

¹¹⁷ Ibid page 8/9

¹¹⁸ Edge, Peter 'The British Influence over Manx Criminal Law (1765-1993) MMA Thesis MS 14852

four advocates had not signed the first list of subscribers, though two signed as subscribers in 1827. One of the signatures I deciphered was G.W. Dumbell¹¹⁹ who had been admitted the previous year in 1826 and another two signed in in 1829, one of these signatories being J. C. Bluett, who had qualified as an Advocate in 1825 and J. C. Stephen who had qualified in 1828.¹²⁰

It is significant that of the first five Committee members who were appointed, four were members of the judiciary: Clerk of the Rolls, John M' Hutchin, the Water Bailiff, and the High Bailiffs of Peel and Douglas, Mr Quirk and Mr Llewellyn, there being only one Advocate Mr C. Geneste. Until the late 19th century with few exceptions the President of the Society was usually a member of the judiciary or the Attorney General. The involvement of the judiciary and the the Attorney General in the law library society shows the value they placed on the necessity for law books and training.¹²¹ Whilst records were kept of judicial decisions these were not accessible to Advocates who had to rely on their own memories. The Manx Law Reports were not published until 1985.

The formation of a library indicates the growing sophistication of the Bar in that they realised that they required a greater knowledge of law rather than relying on their memories and those of the Deemsters for precedent. However, as the library was eventually composed mainly of English Law Reports it must have had a deleterious effect on breast law, the Manx customary law, if the courts began to take note of English cases.¹²²

There were no further meetings in 1825, and the next meeting took place a year later. It was a meeting of the Committee which was held on the 15 March 1826. At this meeting rules were set down for the Librarian. He was to attend the library every day except Sunday. The meeting also agreed that the Librarian would be paid three guineas per annum and appointed a Mr William Craigie as Librarian. Mr Craigie may have been a student at law, but he was never admitted as an Advocate.

¹¹⁹ He founded Dumbells Bank in 1853 which crashed spectacularly in 1900 and led to numerous bankruptcies among local businessmen.

¹²⁰ Both played an active part in the Law Library and Law Society and J.C. Bluett wrote the first account of Manx cases.

¹²¹ The Attorney General did not get his own Law Library until 1921

¹²² This aspect is examined by Professor Edge in his Doctoral Thesis

The meeting agreed further rules: the names of borrowers were to be recorded , Members were allowed to borrow one book, though "...Members residing at a distance of six miles or upwards from Castletown shall be allowed to have two books at the same time.¹²³" Books had to be returned at the next Chancery Court, and if not returned a fine of half a crown would be levied. This was an eighth of a pound, the equivalent of a week's wage for a labourer at the time.

The date of the Annual General Meeting was agreed as the date of the last Chancery court before the summer vacation. The first meeting was held on the 23 March 1826 at Castle Rushen. It was not initially clear where the library was situated but it must have been in Castle Rushen, because later minutes indicate that the permission of the Governor had to be obtained for alterations to the library.¹²⁴

The General Meeting passed four resolutions. The first resolved "That the Resolutions passed on the 7 April 1825 be and are hereby declared to be the Rules of the Institution."

¹²⁵

The second resolution re-appointed the Committee as for the ensuing year. Mr. Geneste was appointed as both Secretary and Treasurer. The third resolution asked the subscribers to pay in advance the half-year subscription." *The meeting also that Mr Geneste, the Treasurer should attend an auction of law books which was being held two days after the meeting. And he was given authority to purchase books. .* ¹²⁶.

It is interesting that the books were going to be sold at auction, and it is therefore likely that these books belonged to a deceased advocate because it seems to be the practice for the law books of deceased advocates to be sold at auction. An examination of Manx newspapers of the time contains several adverts for the auction of the law books of deceased advocates. This is an interesting fact it shows that some advocates were, prior to the setting up of the law library, already using, presumably, English law books. .

¹²³ LS Minutes, Vol 1, page 11

¹²⁴ The Courts were held in the Castle

¹²⁵ Ibid page 3

¹²⁶ Ibid page 13

The General Meeting was adjourned until the next day but did not take place and there were no further meetings in 1826. The next meeting took place a year later on the 12 April 1827. This was a meeting of the Committee and following a ballot the meeting agreed that Thomas Gawne Snr, G.W. William Dumbell and Arthur C Quayle be admitted as members. No other business took place. This may have been because a General Meeting of the "Subscribers" took place on the same day as the Committee meeting.

The minutes record that many of the subscribers were in arrears, and it was decided that the auditing of the accounts be postponed until the 13th day of June and the meeting was adjourned until that day. However, the auditing of the accounts was further adjourned until the 26 September. That meeting did not take place and no meetings were held until a General Meeting on the 3rd April 1828, seven months since the last meeting. This General Meeting at Castle Rushen was also described as a meeting of the "Subscribers".

The Secretary was asked to write a letter to those subscribers who were in arrears to asking them to pay their subscriptions. It was also agreed to hold the adjourned General Meeting on Wednesday 4th June 1826.¹²⁷

This meeting was followed by the Annual General Meeting. There were four resolutions; the first resolution re-appointed the President and the Committee. The second resolution stated, - "That all subscribers paying a duty of £50 British on their admission to the Bar for which £25 is payable to this Library be exonerated from the entrance money on being admitted members of this Institution".¹²⁸

The third resolution asked the Treasurer and the Secretary to take action to obtain the arrears of subscriptions from members who were in arrears. The final resolution authorised the Secretary to order "...The Mirror of Parliament, The Edinbro' and Quarterly Review" and "The Jurist" to be sent to the library and pay for the same out of the subscriptions."¹²⁹ Thirteen attendees signed the Minutes.

¹²⁷ LS Minutes, Vol 1, page 15

¹²⁸ The remaining £25 was paid to the Highway for the repair of the highways.

¹²⁹ LS Minutes Vol 1, page 16

The Committee next met on the 6 May 1829. The only item of business was for the Secretary and Treasurer to immediately order a number of books for the library. In all, eighteen titles were purchased and in some cases several volumes. As well as books, English Reports of Common Pleas and Chancery were also ordered. However, it is difficult to decipher all the handwriting because the ink has faded.

No further meetings were held in 1829. The next meeting was the General Meeting held on 5 May 1830, but that meeting was adjourned until the following day. This gives credence to my believe that the Chancery Court was held over more than one day and out of town Advocates probably lodged in Castletown.

The meeting was not held and the next meeting, which was also a General Meeting, took place exactly a year later, 5 May 1831. At that meeting the a committee of five was appointed which included the Clerk of the Rolls, as President the Water Bailiff and the Attorney General . Nine signatures of those who attended were appended to the end of the Minutes which was about a third of the members.

No further meetings were held that year. The next meeting was a Committee meeting on 5 January 1832. The only item of business was the ordering of a tremendous number of books and Law Reports. The purchases totalled forty-two titles, some of which consisted of several volumes. Again, because of fading ink it is difficult to decipher but I could identify ` Law Reports, Bingham Vol 5, except part 1,2 & 3, Jacob Walker Vol. 2 except 1, 2 & 3, FL Holt 1 vol, and books which included Chitty on Bills of Exchange, books on the subject of Bailment, Bills of Exchange, Ecclesiastical Law, Libel and Defamation, Shipping, Arbitration, Debt and Creditor law, Lunacy , Wills and Codicils, Equity, Landlord and Tenant, and a law dictionary.

There were no other meetings in 1832, 33, or 35 and the list of officers is blank for 1832-33, 1833-34, 1834-35, 1835-36.¹³⁰ This is intriguing because there is a Minute of a meeting which is described as "... A meeting of the members" held on the 3 April 1834 which dealt with only one item of business, which was to appoint F L Gelling as

¹³⁰ The first three pages of the Minutes contain the names of the members of the Committee for each year.

"...Secretary to the Library for the ensuing year".¹³¹ The Minute was signed by eight members. Does the lack of meetings indicate a lack of interest in the library? A lot of books had been ordered in 1832, perhaps there were no reasons for a meeting.

What happened in the intervening years? There is no explanation in the minutes as to why meetings had not been held. There was a Cholera outbreak on the Island which started about July 1832 and lasted well into 1833. The Governor Cornelius Smelt (1805-1832) died of Cholera in 1832 and five Advocates also died. Again, the explanation may be that there was perhaps no reason for meetings. This was a law library society not a law society, its only reason for being was to run a law library. However, the economic situation on the Island was poor and there was a depression from the late 1820s until 1840¹³² and a substantial portion of the population migrated to America and Canada.¹³³ This may have been a factor which affected the profession.

A further three years passed before another meeting was held. This was a General Meeting held on the 10 August 1836 and was held in the Law Library. The meeting passed four resolutions. The first resolution appointed the committee which included the Water Bailiff, and Advocates J.C. Bluett, W. Kinley who had both been members in 1834. This minute also stated that the Annual General Meeting should now be held on the first Wednesday after the Chancery Court in August. The minutes were signed by the Clerk of the Rolls, Mr McHutchin, as President and the minutes appear to indicate that there were seven members of the Committee whereas the rules stated that there should be five.

A further Minute dealt with the perennial matter of the arrears of subscriptions and the Secretary was once again asked to make efforts to collect the subscriptions and report to the next Committee meeting at which the discussion would be held as to how to deal with defaulters.¹³⁴

¹³¹ LS Minute Vol. 1, page 23

¹³² Moore AW, *'A History of The Isle of Man'* (T. Fisher Unwin 1900), page 554

¹³³ Richardson M. *'Unlocking the Past – A guide to exploring family and local History on the Isle of Man'*. Lily Publications, 2011 page 7

¹³⁴ LS Minute Vol.1, page 24

Another resolution requested the Water Bailiff to make a list of those who had defaulted in returning books. The meeting was adjourned until 6th October, but no meeting took place.

There were no meetings in 1837, 1838 or 1839, and the list of committee members is blank except for 1836-37 which lists the Committee as consisting of seven members.

Four years passed before the next meeting which was a General Meeting and was held on the 6 July 1840. The minute stated that it was held in Castletown. It also stated that "His Honourable High Bailiff Quirk in the chair"¹³⁵. James Quirk was the High Bailiff of Douglas. There was no explanation as to why no meetings had been held for four years. There may have been unofficial meetings but as the list of Committee members is blank for those missing years this would appear to indicate that little had taken place. However, someone must have arranged this General Meeting. It may have been James Quirk as he chaired the meeting, but he had not been a member of the Committee when it was last appointed in 1836.

The meeting made up for lost time and a total of ten of resolutions were passed dealing with a variety of issues James Gell¹³⁶, was appointed as Librarian at "...a salary to be set by the Committee of Management".¹³⁷ The second resolution decided that the library was to be fitted with bookcases and a table suitable for the room, six chairs and floor cloth be purchased. During the period six persons had become Advocates, half of their admission would total £150, therefore a fair sum of money would have been received by the Society. The meeting also resolved "That His Excellency the Lieutenant Governor to be asked to become Patron of the Law Library."¹³⁸

There was also a resolution that the property of the Isle of Man Law Library be treated in Trust" and that the Clerk of the Rolls and First Deemster and the Water Bailiff. Be the trustees."¹³⁹

¹³⁵ Ibid page 25

¹³⁶ James Gell was admitted to the Bar in 1845 and held the roles of High Bailiff, Attorney General and First Deemster and Clerk of the Rolls and was also knighted.

¹³⁷ LS Minute Vol. 1 page 25

¹³⁸ Ibid page 27

¹³⁹ Ibid page 27

It seems rather remiss that an organisation consisting of lawyers had not put their minds sooner to how the property of the Law Library was to be held.

The final resolution appointed J. M' Hutchin, the Clerk of the Rolls as President, and six committee members interestingly the the positions of secretary and Treasurer had been separated. . Up to this date the roles had been held by the same person. The reason for this may have been because of the problem of collecting subscriptions and by separating the roles could increase the collection of fees.

The meeting was adjourned until 21 July 1840. However, that meeting was not held, and the next meeting of members was held in Castle Rushen on the 21 April 1841. The President presided at the meeting. The only business conducted was a request to the Librarian to make a list of the books missing from the library and for the list "... to be advertised in one of the Insular Newspapers".¹⁴⁰ It is not surprising that books were missing as it does appear that the Society is not being efficiently administered and is in some disarray.

There are no further no meetings in 1841. The list of the Committee members indicates that the persons appointed at the AGM in 1841 continued as members of the committee until 1843 when a meeting of Members was held in Castletown on the 3rd day of August 1843 and J. C. Bluett was in the chair. At that time Bluett had not been member of the committee since 1836. Was he taking unilateral action because of his concern at the poor situation that the library was again descending into?

Several Resolutions were passed at that meeting on various issues, one being that it was agreed that all future General Meetings be held on the first Thursday of August. This meant that he meetings had returned to the same day as the holding of the Chancery Court. The meeting also agreed to re-appoint the Committee. The remainder of the Resolutions dealt with missing books and the matter of arrears of subscriptions. It was agreed that all subscriptions be paid in advance and Members were requested to send into the secretary suggestions as to what books should be purchased and that a special

¹⁴⁰ Ibid page 28

general meeting be held in the first week of November solely for the purpose of choosing books. .¹⁴¹

The final resolution imposed a fine of Two shillings and Sixpence for each offence in relation to the non-return of books. This was the same value of half a crown which had been imposed in March 1826 for late return of books. Not a token sum in 1843. The meeting appointed the Librarian as 'Collector of Subscriptions'. This was the first time the title of 'Collector' was used, and a specific person appointed to collect the subscriptions. This would appear to indicate the concern at the level of arrears by appointing a specific person to collect subscriptions.

The Committee met on 10 October 1843 in the library with the President in the chair. The only business conducted was the ordering of Law Reports and books from Saunders & Benning, London. These included Russell & Ryans Crown cases reserved 1799 to 1824; Moody's Crown Cases Reserved 1824 to 1830; Bingham's Reports and King's Bench, Common Pleas, Nisi Prius, Ecclesiastical, and Admiralty Reports. In total, 22 different titles were ordered.

A meeting of members took place at Castle Rushen on 2 November 1843, which was the first Thursday of the month. This meeting had been designated to choose books, but no business was conducted, and it was adjourned until Thursday 7 November 1843, but that meeting was not held.

The Committee met in the library on the 18 June 1844 six months after its last meeting. The only business conducted was the ordering of further books and reports. They were mainly precedents. They included - Chancery, Queen's Bench, Common Pleas, Nisi Prius, Admiralty, Ecclesiastical, the Crown Cases Reserved and Privy Council reports. There were 31 different titles chosen, some of them were several volumes. These were ordered from W Cannell, book seller, but there is no address. As Cannell is a Manx name, it is highly likely that he was a local bookseller. Later minutes recorded that books were ordered from a bookseller in Douglas.

¹⁴¹ Ibid page 29

It is noteworthy that the final books ordered were "Genestes Manx Statutes" and "Jeffcotts Manx Statutes", these being compilations and both authors were Manx Advocates. This is quite significant as up to this point there had been no mention of anything Manx being purchased. The meeting also agreed to insure the library books in the sum of £650, which is approximately £60,000 in today's currency. Quite a considerable sum.

The Committee met again on 1 August 1844 at Castletown. The President was in the chair. The only business transacted was to resolve "That Edward Caryl Fleetwood Esq., Advocate having been balloted for is duly elected as a Member of the Law Library".¹⁴² He had been admitted to the Bar in 1839, 5 years before he applied to become a member of the library.

The Annual General Meeting was held on the same day, 1 August 1844 at Castletown. The first Resolution confirmed that the accounts were correct, and the two following resolutions elected Deemster Christian as President, and Deemster Heywood as a member of the Committee. This is the first time that both Deemsters were together involved in the administration of the library.

The final Resolution¹⁴³ rescinded the regulation which allowed a member to transfer his membership to a son who was articled as a Student of Law. This had been one of the original resolutions passed at the inaugural meeting of the Society.

There is note at the bottom of the minute which states that "Thomas Cheslyn Callow who was admitted a Member of the Bar on the 26th November had become a member of the library two days later and had paid a half years subscription."

The Minute book then lists the names of the members as at the 1 January 1845 and the date of their admission as members.¹⁴⁴ There are 23 named. When one considers that since 1829, 31 persons had been admitted to the Bar and bearing mind that in 1825 thirty advocates and five members of the judiciary were members. Notwithstanding several

¹⁴² Ibid page 34

¹⁴³ Ibid page 35

¹⁴⁴ Ibid

members had probably died in that period, it does appear that membership of the library does not seem to be relevant to a large number of Advocates.

There is a note at the top of the next page "Castletown 16th January 1845, James Gell who was admitted as a Member of the Bar this day became a Member of the Law Library paying his subscription for the current half year. This must have been heartening to the members as he was newly qualified, and he became a stalwart of the library."¹⁴⁵

This was followed by a minute stating-

"At a Meeting of this Committee of the Law Library this day 6th Feby 1845 Charles Richard Ogden Esq, Attorney General¹⁴⁶ and John Kelly Jnr Esq.,. Advocate having been balloted for were duly admitted as Members of the Library".¹⁴⁷ Ogden and Kelly had been admitted to the Bar a year earlier in 1844.

A meeting of the Committee held on the 17th April 1845 dealt with one matter which reads: - "The Committee of the Library do hereby authorise the Librarian to pursue the continuation of the Reports now in the Library this 17th April 1845"¹⁴⁸ This indicates the importance that the members placed on being up to date on case law in England.

The next meeting was the Annual General Meeting, which was held at the George Hotel, Castletown on 7 August 1845. The High Bailiff of Castletown, John Kelly, chaired the meeting. He had not been a member of the Committee since 1828. The only item of business was a resolution to re-appoint His Honour Deemster Heywood President and the committee for the ensuing year. The meeting was adjourned to the following Wednesday at ten o'clock. There is a note near the bottom of the page stating, "N.B. The adjourned meeting was not held".¹⁴⁹

¹⁴⁵ He had been appointed librarian in 1840 shortly after being articulated.

¹⁴⁶ Charles Richard Ogden had been appointed Attorney General in 1844. He had been Joint Premier of the Province of Canada in 1842. He became an English Barrister in 1844 and shortly after became the Islands Attorney General until he died in 1866.

¹⁴⁷ LS Minutes Vol 1 page 37

¹⁴⁸ Ibid

¹⁴⁹ Ibid page 38

There is a further list of members dated 1st January 1846 which contains 24 names.¹⁵⁰ The names of James Quirk and William Kinley which were on the 1845 list are missing from the 1846 list but there three new members, James Gell, James John Kelly and the new Attorney General, Charles Richard Ogden.

The next meeting was not held until the following year when a meeting of the Committee was held on 5 February 1846. There was only one item of business transacted and this was to admit the recently appointed Lieutenant Governor Charles Hope (1845-1860) as a member. His application for membership is perhaps an indication of his support for the library.

The next meeting was the General Meeting held six months later on the 6 August 1846. F. L. Gelling the Treasurer was in the chair. The meeting was adjourned, and it was agreed that the Committee remain. On the 11 August a meeting of the Committee was held. The meeting resolved that Exchequer and Common Pleas Precedents be purchased and "...that J.C. Bluett (being about to proceed to London) be requested to purchase the following works and also to get such of the Reports of the House of Lords as he may judge best and that he do obtain the best discounts preferably exceeding 13½ percent - the price of the whole not to exceed One Hundred and Twenty Pounds."¹⁵¹ This was a substantial amount of money and is the equivalent of thirteen thousand pounds today The Treasurer was also asked to "...provide suitable bookcases and other requisites for the library."¹⁵² Notwithstanding that many of the members were still in arrears with their subscriptions, the finances appeared quite healthy.

This was followed by the adjourned Members' Meeting which took place in the Library with J.C. Bluett in the chair. This was the second time that Bluett had chaired meetings even though he was not a member of the Committee, it was Deemster Heywood who had been appointed President at the previous General Meeting. The fact that the Treasurer chaired the earlier Committee meeting and a person who was not even a member of the Committee was chairing the General Meeting does seem to indicate further disorganisation.

¹⁵⁰ Ibid page 39 It also showed the year of membership.

¹⁵¹ Ibid page 41

¹⁵² Ibid

The Minutes stated that the accounts showed the sum of 127 Pounds 17 Shillings and 4½ pence. This would soon be depleted if Advocate Bluett spent £120 on literature on his visit to London.¹⁵³

The final resolution appointed the committee and George Quirk, the Water Bailiff as President for the ensuing year.

Whilst there is nothing in the Minutes to indicate any disputes there does appear to be some contention in the organisation because attached by sealing wax to page 42 of the Minute Book is a letter sent by of the First and Second Deemsters, Deemster Christian and Deemster Heywood. This letter is dated the 4 February 1847 and is addressed to the librarian James Gell, the letter states -

“Mr James Gill, With our subscriptions to the Law Library, due on the 1st January last, which we now hand over to you, we beg to say that as the Library is now well stocked with Law Books, and as we think the fee of £25 payable by Gentlemen on their admission to the Bar is ample sufficient to supply the Library with the Reports, we decline making any longer Subscriptions to the Law Library.”

A note at the bottom of page 42 states that Deemster Christian and Deemster Heywood resigned on 4th Feb. 1847. It seems strange that the Deemsters should resign over the issue of fees, especially as Deemster Heywood was one of original subscribers in 1825 and they had both held the position of President. One would have thought that they would find the library useful and a loss to them. A second note states, “John M Hutchinson Esq., Clerk of the Rolls died 14th March 1847”.

There were no further meetings in 1846. The next meeting was held on 1 April 1847 in Castletown and is described as a ‘Special Meeting’. It had been called because the Bishop of St Asaph, the Right Reverend Thomas Fowler Short had presented to the library a number of books. He had previously held the position of Bishop of Sodor and Man. He

¹⁵³ There is no note that Bluett purchased any books.

had sent 26 books to the library which are listed in the minutes¹⁵⁴. They were not strictly law books, and in the majority were history books. These included the history of Wales, documents relating to the history of Scotland and Privy Council proceedings. The meeting resolved to send a letter of thanks to the bishop and a copy of the letter and his reply is contained in the minutes.¹⁵⁵

Following the Special Meeting the Committee met and dealt with one item of business and that was to resolve to insure the books and furniture "... in the name of Fred. L Gelling Esq. in trust for the members in the sum of Six Hundred and Fifty Pounds."¹⁵⁶ The minutes were signed by J. C. Bluett who was only a committee member so he must have chaired the meeting. The Minutes of the Committee meetings did not, at this time usually list the members of the Committee who attended though the name of the person chairing the meeting was usually mentioned and he signed the minutes.¹⁵⁷

The application to Tynwald to Incorporate the Law Library Society and Members Fees

No further meetings took place until 5 August 1847 when the Annual General Meeting was held in the library. The Vicar General, Thomas Arthur Corlett chaired the meeting, although George Quirk was President and Corlett was not a member of the Committee.

The meeting elected the Clerk of the Rolls, Mark Hildesley Quayle as the President, and a committee of five¹⁵⁸ The meeting dealt with various issues and passed a number of resolutions. The most significant was that it resolved "that it is desirable that the members of the Library should be incorporated" and that application be made to Tynwald for an Act for the purpose of incorporating the members, and that John Courtney Bluett, Lawrence Craigie and James Gell Esq be a Committee for the purpose of conveying this Resolution into effect – ".¹⁵⁹

¹⁵⁴ LS Minutes Vol1, page 45

¹⁵⁵ Ibid pages 43/44/45

¹⁵⁶ Ibid page 46 The first trustees who were appointed in 1840 were the Deesters and the Water Bailiff

¹⁵⁷ Later minutes do list who attended the meetings.

¹⁵⁸ The title 'esquire' was after this date used extensively in the minutes when referring to Advocates by name.

¹⁵⁹ Ls Minutes Vol 1 page 46/47

This was the first mention of incorporation, and I wonder whether the previous Minute in relation to the books being insured in the name of a Trustee had made the members consider the legal position of the organisation and brought about this Resolution for incorporation?

Also of significance was that it was resolved that if members' subscriptions were in arrears for three months "...he shall be deemed to have withdrawn from the Institution and shall cease to be a member thereof".¹⁶⁰ The arrears were clearly becoming a problem, and it is noteworthy that no books had been purchased since June 1844. However, there should have been sufficient monies to purchase books as since 1844 six students had been admitted to the Bar which would have remitted £150 to the library. There may have been some problem with the accounts as the meeting appointed two of their members as auditors "...for the purpose of examining the accounts of the Treasurer for the past years."

¹⁶¹ At the bottom of page 47 it records that on 6th August 1847, the auditors "...have examined the various vouchers and documents for the past year produced by F. L. Gelling Esquire and find the same correct and that the sum of £75 four shillings and six and a half pence remained in the hands of the said treasurer to the credit of the members of the Law Library."¹⁶² I may be being too analytical but the auditors were asked to examine the accounts for the 'past years',¹⁶³ but the note states '...have examined the various vouchers and documents for the past year.'¹⁶⁴ The Treasurer for the last seven years had been F. L. Gelling, rather a long time, whereas the secretary had changed on a number of occasions.¹⁶⁵

The Incorporation Committee met on 3 February 1848 in the 'Court House' at Castle Rushen six months after the resolution to incorporate. It seems quite a long period between the decision and the meeting but two of the committee James Courtney Bluett and Laurence Craigie¹⁶⁶ had their chambers in Douglas whereas James Gell had his chambers in Castletown. The only opportunity probably for them to meet was if they all

¹⁶⁰ Ibid page 47

¹⁶¹ Ibid page 46. Auditors had not been appointed before this date.

¹⁶² Ibid page 47

¹⁶³ Authors underlining

¹⁶⁴ Authors underlining

¹⁶⁵ F.L. Gelling remained as Treasurer until 1858

¹⁶⁶ In 1851 Laurence Craigie is detained in the Debtors Prison in Castle Rushen

attended the courts at Castletown at the same time, 3 February was the first Thursday in the month, so it is likely they were attending the monthly Chancery Court.

Whilst the committee may not have met in person, they must have been communicating because at the meeting they decided to present a Petition to Tynwald requesting that the Society be incorporated. The petition detailed the history of the Society from its inception in 1825.¹⁶⁷

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The Petition gave a history of the Society and stated that £25 of the £50 newly qualified advocates paid was given to the library for the purchase of books which was now of considerable value and therefore it was felt that to ensure the continuance of the library it should be incorporated. The Petition is reproduced in the Schedule.

As a member of the House of Keys would have to present the Petition it was agreed that That George Augustus Woods Esq be requested to present it with Advocate John Quayle Esq.¹⁶⁹

The Incorporation Committee met again 23 February 1848. This was a Wednesday and was likely to be the day of the quarterly sitting of the Common Law Court which took place in February.

The Minutes stated –

“That in case Leave be given by the Honourable House of Keys for the introduction of a Bill for the purpose of incorporating the members of the Library a Bill containing the following provisions be submitted to the House”.

There were seven clauses -

¹⁶⁷ LS Minutes Vol 1 page 48

¹⁶⁹ LS Minutes Vol 1 pages 50/51

1. "That His Excellency the Lieutenant Governor and such other persons or have formed themselves into and are now members of the Society or who shall at any time hereafter become members thereof shall be a Body Politic and Corporate by the name of "The Society of the Isle of Man Law Library" by which name to have perpetual succession and a Common Seal to use and the said, to hold and enjoy the Library and the present property of the Society, to purchase any Goods and Chattels and also messuages lands which may be necessary for purposes of Library and to sell and dispose of the same and to act in the concerns as any of the Subjects of the Realm may or can in their respective concerns -
2. Power to any Persons or Bodies Politic or Corporate or otherwise competent to grant and convey messuages to Society for the purposes thereof-
3. Affairs of Society to be directed and managed subject to the Bye Laws and a Council consisting of a President, a Treasurer, a Secretary and such other member or members as may be declared in Bye Laws -
4. General Meetings of Members to be held from time to time, that all General Meetings and at meetings of the Council the majority of members present and having the right to vote to decide on the matters providing the person presiding to have in case of an Equality of members a casting vote -
5. Power to make Bye Laws and regulations for government of Society, for the admission of Members, for the management of the Estates Goods and Business of Society and in determining the manner of electing officers and the period of their continuance in office which bye laws not being repugnant to the Act or the Laws of the Island which being bye laws not being reduced to writing and the Common Seal of the Corporation affixed to be binding on the Members Officers and Servants – Proviso that the first General Meeting be held within six calendar months from the Promulgation of the Act, and that the Bye Laws be made within twelve months from Promulgation – And that until the Bye Laws be made Society be governed by the present Rules and regulations.

6. Service of Notices – Insurances or Processes on secretary to be good service on Corporation
7. The Attorneys Amendment Act of 21st December 1826 as to payment of duty of Fifty Pounds on admission of Attorneys to be amended – and the whole sum to be paid to the Treasurer of the Corporation¹⁷⁰

It is interesting and perhaps significant that the first clause mentions that the Lieutenant Governor is a member of the Society. In July 1840 the then Governor Colonel Lord Ready (1832-1845) had been asked to be Patron of the Society. In 1848 the post of Governor was held by Charles Hope who had become a member of the Society in February 1846 and must have continued to be the Patron of the Society. Having the head of Government as the Patron should have been an advantage to the Society in their request. However, as events later showed it appeared to be of no advantage to the Society as it did not assist with incorporation of the Society.

The minutes were signed by J.C. Bluett as chairman of the meeting. There then followed a note on the following page (there is no date) which stated "Memorandum, The Petition to the Honourable House of Keys for the Incorporation of the Members of the Library was presented to the said House by the said George Augustus Woods and John Quayle Esq on 25th February 1848 and Leave was given for the introduction of the Bill – the Bill was introduced in the said House on the same day and ordered to be printed.¹⁷¹

The Committee met six weeks later on the 6 April 1848; the Secretary was in the Chair. The Committee passed five resolutions and G.C. Woods was thanked "... for his handsome present of copies of "The Advocate's Notebook" for the use of this library" which had been written by Advocate J. C. Bluett.¹⁷²

¹⁷⁰ Ibid pages 51/52

¹⁷¹ Ibid page 53

¹⁷² The Advocates Notebook by J.C. Bluett was an important publication as it was the first compilation of Manx cases

The Committee also resolved that as the House of Keys had requested it, the Bill for incorporation should be printed .It was also agreed that additional shelves should be placed in the library and that a Special General Meeting be convened to thank J.C Bluett for his gift to the society of his book entitled the 'The Advocates Notebook' which was reports of the cases he had been in involved with. It was also agreed that the library's furniture and books be insured with the Norwich Union Insurance Office in the sum of £800. This is equivalent to approximately £80,000 today.

The Special General Meeting was held in the Law Library on 3 August 1848 and J. C. Bluett was initially in the Chair. He was not a member of the Committee; the President was Clerk of the Rolls. A number of resolutions were passed, including the appointment of auditors and what was perhaps surprising was that when the new President was elected it was George William Dumbell, up to that date the President had always been a member of the Judiciary. But as we have seen the two Deemsters had resigned the previous year and perhaps the Clerk of the Rolls did not wish to continue. E.C. Fleetwood who had been elected to the committee was also requested to act as Collector in the place of James Gell who had resigned that position though he remained as Librarian. G. W. Dumbell took the Chair in place of Bluett and a resolution was passed to thank J. C. Bluett "...for his unwearied exertions in collecting the cases published in his notebook."¹⁷³

There was no further meeting in 1848, and the next meeting was held on 1 February 1849 and was a meeting of the Committee. At that meeting Alfred Walter Adams was elected as a member of the library, he had been admitted to the Bar in the latter half of 1848, so it was the first opportunity for him to become a member. There was a vote of thanks to George Augustus Woods for his present of two copies of the Statute Laws of the Isle of Man published by James Gell. The meeting also agreed to order Reports of Chancery, Smith's Leading Cases, Cox's Equity Cases, Plowden's Reports from 1547-1603 two volumes, Kenyon Reports from 1753-1754 two volumes, Hardwick Reports and Haddock's Chancery Practice. Most interestingly there was also a resolution that the Collector of Funds should list those members who were in arrears and that they should be reminded that they could barred from using the library ¹⁷⁴It was also resolved "that a list of

¹⁷³ LS Minutes Vol 1 page 54

¹⁷⁴ Ibid page 55

Subscribers' names be affixed to the wall of the Law Library in some conspicuous place and that none, but members be admitted."¹⁷⁵ It seems that non-members had been entering the library and taking advantage of the books. The meeting also appointed a sub librarian until the next General Meeting. Was the appointment of a sub librarian made in an effort to control access to the library? These resolutions show the lack of control over the finances of library and as will be seen the main reason for its eventual disintegration.

There were only two meetings in 1849, the second being near the end of 1849 when a General Meeting was held on the 9 October 1849. This was a General Meeting. The first resolution was to appoint two members which included James Gell, to audit the accounts. This was followed by a resolution to appoint J.C. Bluett as President. Two of the two committee members appointed were G. W. Dumbell, who had been President the previous year and the Clerk of the Rolls, Mark Hildesley Quayle. The meeting dealt with a number of issues: the Librarian was again authorised to appoint a sub librarian; (there is a side note on in the minutes noting that Henry Corlett Gill, student at law was appointed sub librarian); and that any Justice of the Peace be eligible to become a member of the library. It is significant that they allowed Justices of Peace to be members. One could speculate why, perhaps they wanted more members to increase the income, It was also agreed

that the annual meeting of the members be in the future held on the first Thursday in July. The resolution passed in August 1843 was to hold the Annual General Meetings on the first Thursday in August. No explanation is given for the change, but it is likely that court dates had been altered. The final resolutions were for the Incorporation Committee to report on how the application was proceeding and for enquiries be made to the Governor as to whether the library could be enlarged. The request to enlarge it had been made two years before in August 1847.

Less than a month later a further meeting of the members was held on 1st November 1849, a number of members protested at the level of arrears and proposed that the members who had not paid their subscriptions should be refused access to the library. For a second meeting of the members to take place so quickly indicates the concern as to the arrears of membership fees and the reason to ban members from using the library.

¹⁷⁵ Ibid page 56

Whilst accepting the importance of the matter the Meeting decided to postpone any decision until the report of the Incorporation Committee was received.¹⁷⁶

There are also two notes in the minutes, the first note states that "...Mr Henry Corlett Gill, Student at Law appointed sub librarian 9 Oct 1849" and the second is a note signed by J.C. Stephens dated the 4th July 1850 stating that he and James Gell, who had been appointed auditors at the meeting in August 1848 had examined the Treasurers records and "...found them to be correct and that the sum of 23 pounds and 12 shillings and 3 and half pence were¹⁷⁷ in the hands of the Treasurer to the credit of the members of the Law Library." ¹⁷⁸

There is no further meeting in 1849, and the next Minute is simply headed 'Law Library 4 July 1850' and reads –

"The undersigned being the Members of the Committee appointed on the 5th August 1847 to carry into effect a Resolution that Application be made for an Act for the purpose of incorporating the members beg leave to report to the members of the Library that the said Committee having prepared a Bill containing clauses for the incorporation of the members and the management of their affairs, and also to make the whole duty of Fifty Pounds payable on admission of members of the Bar payable to the Library, present a Petition to House of Keys for leave for the introduction of the Bill and it was accordingly introduced into the said House on the 25th February 1848 when the Bill was ordered to be printed – That the Bill having been printed it was passed by the House in the 18 January last, the clause as to the Duty of Fifty Pounds having been struck out by the House. That the Bill now lies before His Excellency the Lieutenant Governor and the Honourable Council but we have taken no steps to press the consideration of it owing to a Committee of the members of the Bar having been appointed to revise the law relating to the Bar and the Library" ¹⁷⁹

¹⁷⁶ Ibid page 58

¹⁷⁷ Ibid page 59

¹⁷⁸ Ibid page 59

¹⁷⁹ Ibid paged 59/60

The note was signed by two members of the Incorporation Committee, J. C. Bluett, the President and James Gell. When originally reading this, I had no idea of what that Minute meant but it later became clear that there had been meetings of the Manx Bar on the 25th of February and the 7th March 1850 to protest that persons who were not members of the Manx Bar were being appointed 'to official situations'.¹⁸⁰ The Minutes of these meetings had been written later in the Minute Book. Once I had read these Minutes it appeared that the furore which had taken place in 1847 when William Leece Drinkwater, an English Barrister from Liverpool had been appointed as Second Deemster had reignited, and the Manx Bar had met and decided to form 'the Society of Advocates' ¹⁸¹ to protect the interests of the Manx Bar. It was therefore being suggested by the Incorporation Committee that any further action on being incorporated be suspended as the Bar was forming itself into a Society.

However, the two Societies ran in parallel for several years until they merged and at this point, I will continue with the account of the Law Library Society

The above report of the Incorporation Committee was presented to the Annual General Meeting held in the Law Library after the committee meeting.¹⁸² The meeting passed a number of other resolutions - The new officers were appointed, John L Stephen was appointed President, Henry Corlett Gill, the sub librarian was made the Collector of Subscriptions. It was also decided that he be allowed a commission of five percent on the subscriptions he collected. Was this being done to encourage him to collect the subscriptions?

The final resolution of that meeting was significant - "That the consent of the members be given to any arrangements which may be effected by the members of the Bar with respect to their incorporation; so far as the same may affect the Library and for vesting the Library in the Advocate's Society when incorporated". ¹⁸³

¹⁸⁰ Ibid page 73

¹⁸¹ Ibid page 76

¹⁸² Ibid page 60

¹⁸³ Ibid page 61

A meeting of the Committee took place on the 9 October 1850, at which only two items of business were discussed. James Burman applied for membership. He had been admitted to the Bar the previous year 1849. The second matter was for the Secretary to arrange for the previous Collector of Subscriptions "...to hand over as soon as possible the subscription lists to the new Collector" ¹⁸⁴

There had only been two meetings in 1850, a committee meeting and the Annual General meeting, although there had been several meetings of the Manx Bar. The next meeting did not take place until the 1 July the following year, 1851, which was a General Meeting. The first item of business was to appoint two advocates as auditors and the second item was to appoint the Vicar General as President,. It is interesting to note that glued into a page of the minutes is a Form, titled 'CENSUS OF GREAT BRITAIN 1851 A Return of the several Particulars, in accordance with the Act of 13 & 14 Vict., cap. 53. to be returned respecting the under mentioned LITERARY OR SCIENTIFIC SOCIETY' ¹⁸⁵

There were nine questions on the Form. One question asks how many volumes in the library and how they are classified, etc. and the answer was '700 volumes in law subjects.

The final question asked the number of members belonging to the Institution at the time of making the return. It was divided into males and females. The answer was "23 males" The return was dated 31st March 1851. There had been 31 original subscribers in 1825 and by 1829 there were 35 members. The number of members had decreased, new members had joined so it appears that about a third of the membership had not renewed their membership or died, it is more likely that they had not renewed their membership.

There were no further meetings during 1851, and the next meeting was the Annual General Meeting on 1 July 1852, which was adjourned until the following day. That meeting was also adjourned. The first meeting had been chaired by George W. Dumbell who was not a committee member, the Vicar General was the President. The signature for the minute of the meeting on 2nd of July was not decipherable but it was not Dumbells'.

¹⁸⁴ Ibid page 62

¹⁸⁵ Ibid page 63

I can only surmise that few members attended the meetings, not sufficient to conduct business.

The next meeting was held seven months later on 3 March 1853, a General Meeting, again chaired by George W. Dumbell. It should be borne in mind that the problem with meetings was that they were held in Castletown and attendance must have depended to a great extent on whether Advocates who operated in the other towns had court business in Castletown. The meeting elected George W. Dumbell as President and re-elected Frederick L. Gelling as Treasurer, he had held that post since 1845.

There was only one other resolution passed. This was in relation to subscriptions – "That the Subscriptions be regularly and punctually collected from the 1st of January last and that Members who have paid up subscriptions since the inst day of January 1849 be entitled to credit for each payment on account of the current and future subscriptions."

¹⁸⁶

This resolution appeared to allow members who paid their subscriptions since 1849 exemption for future years.

A meeting of the Committee was held in the library on 25 March 1853. At that meeting James Gell was reappointed as Librarian and he was "...Requested to write to Messrs Stevens and Moreton Booksellers London and order the various Books stated in the list this day prepared, according to the reduced prices stated in No. 1 of the "Law Publishing Circular" of February last, and also to ascertain upon what terms the additional numbers wanted to complete several volumes of Reports can be obtained."¹⁸⁷ There is no indication of the books ordered, but since the last order of books in 1849 four Advocates had been admitted which would have resulted in £100 being received by the Society. It is notable that even though the Society was in difficulty it continued to carry out its core function of being a library.

¹⁸⁶ Ibid page 65

¹⁸⁷ Ibid page 66

The meeting also resolved that the resolution passed at the previous meeting in relation to the refund of the subscriptions be printed and sent to the members "...with a note of the Amount of Subscriptions (if any) due by such member".

The final resolution was "That the Committee of the 'Isle of Man Society of Advocates' be requested to address a memorandum to the Lieutenant Governor and Council, praying that in case any difficulties should arise in passing the Act for the incorporation of the Bar, that the Society may be heard by Counsel before his Excellency and the Council in support of the Bill."¹⁸⁸

Does this resolution indicate that the Law Library Society is not continuing with its application for Incorporation and is supporting the Advocates Society in accordance with the resolution passed on the 4 July 1850. It will be seen later that it does not indicate this as a year later a special Committee was formed to present a new Bill for incorporation.

¹⁸⁹

There is a meeting of the Committee in April 1853. F. L. Gelling, the treasurer chaired the meeting. They discussed a letter from booksellers in London in relation to the order of books made at the last meeting and decided to accept the price offered and that they be bound in calf leather. They also resolved to insure the Library for Eight Hundred Pounds.

There were no meetings in 1854, and list of the Committee members is blank for 1853-54 and 1854-55, though James Gell alone is listed as Librarian for those two years. A General Meeting took place on the 28 March 1855. The Clerk of the Rolls, Mark Hildesley Quayle was in the chair, and was elected President. He had been President 1847 but all the intervening Presidents had been Advocates. This was perhaps a good sign that a member of the judiciary had agreed to be President.

The meeting then passed a resolution appointing James Gell and John Jeffcott "... as a Special Committee for the purpose of ascertaining the position at present of the Bill before

¹⁸⁸ Ibid page 66

¹⁸⁹ See next page

the Legislature for the incorporation of the Law Library and if necessary, place a new Bill to be submitted to a General Meeting to be hereafter called.”

Why was this resolution passed as the Committee of the Society at a meeting held on the 25 March 1853, two years earlier had agreed to support a Bill for incorporation submitted by the Society of Advocates? It was even more intriguing when one considers that the original application for incorporation had been made to Tynwald eight years before in 1847 and the last time it had been discussed was 25 March 1853. However, the resolution appears not to have been acted upon.

It will be seen later that whilst the Law Library Society had been moribund for several years, the Advocates Society had been very active. There are no further meetings of the Law Library Committee or members until the 22 September 1856 when a joint meeting of the Committees of the Advocates Society and the Law Library is held in Castle Rushen.

The meeting resolved to call an Extra Ordinary General Meeting of Library members to consider amalgamating with and transferring the library to the Society of Advocates.

It is at this point that the Law Library Society ceases to exist as a separate entity.

The second and final resolution of this joint meeting was that a general meeting of the members of the Bar including the members of the Advocates Society be called to consider the matter of court dress. I will deal with this as a distinct issue below.¹⁹⁰

The organising of the Manx Bar

It will be seen in the following pages that the Advocates Society and the Law Library Society had been operating with a number of common members. The meeting detailed below is in the same minute book as the minutes of the Law Library Society but had been recorded leaving several pages blank in which minutes of the Law Library Society were recorded. As I said earlier this was initially confused me as it was then followed by minutes

¹⁹⁰ See Chapter 3

of the Law Library Society. It then became clear that the same minute book was being use by both Societies to record minutes of meetings of the Manx Bar and the Library Society.

The minute records that on the 23 February 1850 a meeting of the Manx Bar was held in the Law Library.

J. C. Bluett chaired the meeting and it was agreed that Notice be circulated to all members of the to meeting at the George Hotel in Castletown after the Chancery Court to discuss "...matters of great importance to the Profession".¹⁹¹

That meeting was held on the 7th March 1850 and the members resolved "that a Memorial from the Bar be presented to the House of Commons complaining of the injustice done to the Members of the Profession by the appointment of persons not members of the Manx Bar to official situations in this Island that such Memorial be forwarded to an influential Member of the House of Commons for presentation and that copies be forwarded to other members who may be expected to support the same AND also that the member who presents the memorial be requested to move for the production of all memorials and correspondence on the subject of the appointment of William Leece Drinkwater Esq as Deemster."

The meeting formed two committees, one to draft the Memorial and the second to prepare a revision of fees.

The letter from Deemster Heywood to J.C. Bluett which had, it appears, started the protest, was read to the meeting. There is a copy in the Minutes of Deemster Heywood's letter which is detailed below

"Hentaugh" 26 Feby 1850.

My dear Sir,

¹⁹¹ Ibid page 72

There is no truth whatever in the Report you mention in your Letter received late last night as I have neither made any application for leave to retire nor have any intention of doing so at present, but I may mention to you that an application was lately made to me by a member of the English Bar, to know if I was disposed to do so, and from what I can learn I believe that there are many of the same Bar ready to apply for any Vacancy which may occur in our situations.

I beg you will convey to the Gentlemen whose sentiments you so kindly communicated to me, my best thanks for their expressions of feeling towards me, and assure them that should circumstances occur to induce me at any period to send in my Resignation of the Office of Deemster I will most willingly give the Bar timely intentions of the same, as it would be anything but agreeable to my feelings to see our offices filled up from any Bar but our own.

I am dear Sir very truly yours,
J.J. Heywood." ¹⁹²

The Committee which was set up must have worked very quickly because on the 4 July 1850 the Bar met again in the Law Library and the Committees recommendation was that a Society of Advocates should be formed and a Society should be incorporated entitled The Isle of Man Society of Advocates, The Vicar General was elected President along with a Secretary.

The resentment which had been simmering since the appointment of William Leece Drinkwater in 1847 had been brought to the boil by the rumour ¹⁹³that Deemster Heywood was to retire which had emanated from the fact that a he had received a letter from a member of the English Bar enquiring about his resignation. The Deemster makes it clear in his letter to the Law Society that when he retires the Manx Bar will be informed and he

¹⁹² Ibid pages 74/75

¹⁹³ See letter on this page

is of the view that his successor should be a Manx Advocate. The matter has resulted in the formation of a society to represent the Manx Bar.

A draft Bill was also presented to the meeting consisting of 26 clauses dealing with the formation and administration of the Manx Bar.

One clause recommended the repeal of the Acts of 1777 and 1826. Further clauses recommended that only persons who had been admitted to the Society could act as an Advocate.

Other important clauses stated that:

Applicants had to be at least 22 years of age, and they had to serve a studentship of five years, however English, Irish barristers or Scotch Advocates need only do a studentship of three years. (This concession also applied to those with a BA or LLB from Oxford, Cambridge, Dublin, Durham or London Universities if articled within eight years after taking the degree);

the Attorney General could be admitted without taking a studentship; the Clerk of the Rolls was allowed to have four students and other advocates two students at once; articles had to be recorded in the Rolls Office;

the Council would set the mode of examination; (this is a significant clause as it will be seen in Chapter 4 that the Governor decided on the mode of examinations) there could be an appeal to the Council in case of refusal to admit;

the full admission fee of Fifty Pounds had to be paid to the Society;

the Council could suspend or expel members (the power at this stage lay with the Governor).

The penultimate rule was Rule 25 referred to the fact that the members of the Law Library had already consented to the transfer of the library to the Society of Advocates..¹⁹⁴

¹⁹⁴ Ibid pages 76-86

The Bill was discussed by the lower house of Tynwald, the House of Keys, on the 16th July 1850, within twelve days of the resolution being passed. This seems amazingly quick. The fact there were a number of Advocates who were members of the House may have been a reason for its speedy consideration. The House discussed the Bill and decided to 'hold the previous Bill over' while it considered this Bill. The previous Bill must have been the Bill presented by the Law Library Society. The new Bill was, with several amendments, passed by the House of Keys. A meeting of the Bar took place at the Royal Hotel, Douglas on Monday 9th October 1851, some 14 months after its first reading in the House of Keys and was informed that the Attorney General had suggested certain amendments be introduced to the Bill when it was considered by the Governor and his Council.

It is 20 months before it is discussed again when a meeting again take place at the Royal Hotel in Douglas on Friday the 24 June 1853. The Vicar General was in the chair at this meeting and it was agreed to accept the amendments suggested by the Attorney General and a fresh Bill be dated and laid before of the Lieutenant Governor and Council. ¹⁹⁵

There is a note at the bottom of page 86 stating 'that the Bill was finally considered by the Lieut. Govnr. and Council on the 1856 when it was rejected'. The full date was not inserted. There appears to have been a hiatus between the speedy consideration of the Bill in 1850 by the House of Keys and the amendments made by the Attorney General in 1853 when the amendments were made for the consideration of the Council. What had been happening in those years? The Governor throughout the period was Charles Hope, he had been appointed in 1845 and retired in 1860. Was he against the Bill as it would have diluted his powers over the Bar as the minutes below indicate?

There is no further reference to a meeting to discuss the any matter concerning the Society of Advocates or the Bill until Monday the 3 of July 1856 when a meeting of the Bar, meeting was chaired by James Gell, who was now High Bailiff of Castletown, is held in the Law Library to discuss the situation with the Bill. ¹⁹⁶.

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¹⁹⁵ Ibid page 86

¹⁹⁶ Ibid page 88

The Minute states that the chairman informed the meeting of the passage of the Bill by the House of Keys in 1851 but had rejected by the Lieut. Governor and Council on the basis that it was not considered advisable to confer on the Bar the powers it sought to control the admission and expulsion of members of the Bar

The Society in its Bill had sought to control admission to the Bar which had, since 1763 been controlled by the Governor. It is likely that the Governor did not want to relinquish control over who entered the profession on the Island. This is quite a significant power because not only did he control entry, but he also had the power to remove the licence to practice. This was a significant issue as unlike other jurisdictions in the British Isles the Manx Law Society had no control over who was admitted to the Bar which was a striking feature of the Manx profession compared to other jurisdictions in the British Isles and contributes to it being unique.¹⁹⁷

The chairman also referred to the fact the Law Library Society had become disorganised by the lack of funds through non payment of subscriptions of members .

This is very strong language but over the years the matter of unpaid fees was a continual problem.

The meeting went on to pass a number of Resolutions: the first was that the new society would continue to maintain and extend the library; appointed a student at law at the Rolls Office as librarian; that membership would be open not only to advocates but also to the Governor and the judiciary, though Justices of the Peace were excluded¹⁹⁸; they appointed a Committee of five with the High Bailiff of Castletown being President and also committee to draft a Bill to incorporate the new society. The final resolution was to set the membership fee at ten shillings and sixpence a year. ¹⁹⁹.

¹⁹⁷ Today the admission is granted by the First Deemster on the recommendation of the Law Society

¹⁹⁸ Justices of the Peace had been allowed to join the library by a resolution passed in October 1849. This decision would appear to prevent them using the library.

¹⁹⁹ LS Minutes, Vol 1, pages 89/90/91

This is a very important occasion as this new Society is making a strong effort not only to take control of the Law Library and the Bar by continuing with the proposal for incorporation but also making a strong effort to assert influence over the affairs concerning advocates by wresting control from the State.

It is also interesting to note that the meeting also decided to appoint a student of law, James Llewellyn, as Librarian at a salary of £5 a year. James Gell, who is now President had been appointed librarian when he was a student in 1840 and had held the post until the present meeting 16 years later. This indicates his strong support for the library.

A meeting of the Advocates Society Committee was held a month later in the office of the President in Castletown on Wednesday 13th August 1856. Present at this meeting were the President, the Treasurer, the Secretary, and J.M. Jeffcott Esq. The President said he had met with His Excellency and given him a copy of resolutions and the Governor had informed him verbally that -

"As to the Library – His Excellency felt a difficulty in making Regulations as questions might arise with reference to the interest or supposed interest of such former Members of the Library Society as was not excluded by any formal act or resolution of the Society or Committee in books purchased with the Subscriptions of members, and he recommended that the Committee should take such steps as would remove any difficulty on the subject. He also wished that the Committee would draw up Regulations and submit them to him for approval, but he had also stated, "that until the Regulations were finally adopted and the Society fully organised no order would be given for payment of the money in the hands of the Clerk of the Rolls." ²⁰⁰ This had cut off a main source of income to the Society and it was therefore important to draft the regulations.

The Meeting then decided that before they could deal with the Law Library a General

²⁰⁰ Ibid page 92

Meeting would have to be held and it was agreed to call a meeting of the existing members of the Law Library to discuss passed the following resolution.

“...that all the persons who were members of the Isle of Man Law Library at the time of the disorganisation thereof be requested to sign an instrument in writing appointing the Committee and officers of their Society the Committee and Officers of the said Library in order that such Committee may be enabled to take steps in calling a special Meeting of the Members and for authorise winding up the affairs of the Library”²⁰¹.

The President also reported that the Governor had at last agreed to alterations, at public expense, to enlarge the library. The original request to enlarge the library was made in August 1847, now 9 years from the original application the Governor had given permission for the library to be enlarged at his expense. . It seems strange that he should now agree to the library being enlarged and pay for it, however, it could also be seen as support for the new society.

A meeting took place on the 22 September 1856 at Castle Rushen. It is described as a meeting of the Advocates Society Committee and Law Library Committee. The minute records there had been a meeting of the Library Society and that the officers and committee of the Advocates Society were appointed as the committee for the Library Society. The Statement had been signed by all the members except E.G. Head, J. Kelly, R.J. Moore and C.R. Ogden Esq.,.

The Minutes contain a Statement which is glued into the minute book and states – “Whereas the affairs of the Society of the Isle of Man Law Library instituted on the 7th day of April 1825 had become disorganised by the discontinuance of the Annual General meetings the Committee of the Society of Advocates should become the Committee for the Law Library and that Committee and take over the powers of the Law Library Committee.”²⁰² The statement is signed by 19 persons, the first signature being that of the Governor, Charles Hope. This meeting took place only 9 days after the meeting of the

²⁰¹ Ibid page 94

²⁰² Ibid page 95

Advocates Society and to all intents and purposes abolished the Law Library Society. The Statement had been signed by all the members except E.G. Head, J. Kelly, R.J. Moore and C.R. Ogden Esq.,.

The meeting resolved that an extraordinary general meeting of the members of the Library be called to formally agree to the transfer of the library to the Society of Advocates. ...²⁰³ A further resolution called for a meeting of the Bar to discuss court dress.²⁰⁴ This was interesting resolution as it suggests that someone was aware of the importance of appearing to be different, to stand out, a 'uniform'. Was this resolution an attempt to show the public that Advocates were different, were a profession, and an attempt to give them status. Court dress would distinguish them from other persons in the court and would immediately identify them as lawyers. It would also identify them with the other lawyers in the British Isles, all who wore court dress.²⁰⁵

A joint meeting of the Advocates Society and members of the Law Library was held in the Library on Thursday 2nd October 1856 and it was agreed that that the Societies should be amalgamated under the name of "The Isle of Man Law Society and that the Isle of Man Law Society would consist of those persons holding the respective officers of Governor, Lieut. Governor, Deemster, Clerk of the Rolls, Water Bailiff, Vicar General, other judicial appointments (except that of Justice of the Peace) and of the members of the Bar heretofore and hereafter to be admitted who may choose to become members of the Society and shall continue to be members thereof in terms of the Rules or Regulations which may be adopted for the government thereof " ²⁰⁶

It was also agreed that the funds of both Societies²⁰⁷ were to be placed in one common fund and that regulations for the government of the Society be drawn up and submitted to an adjourned meeting which was to be held after the Chancery Court the following

²⁰³ Ibid page 99

²⁰⁴ Which is discussed later

²⁰⁵ The literature on professions indicates that a uniform, dress can indicate a profession. Though there are few civilian professions today, other than lawyers and the medical professions, who can be identified by their dress.

²⁰⁶ LS Minutes Vol 1 page 100

²⁰⁷ The Advocates Society had agreed in July 1856 to have a yearly subscription of ten shillings and sixpence.

month on the 6th of November. The Secretary was also to find out before the November meeting those persons who are eligible and willing to become members of the Society.

There is glued into the minutes a Statement headed 'Isle of Man Law Society' which recites that - "We the undersigned persons eligible to be Members of the 'Isle of Man Law Society' formed on the 2nd October 1856 by the amalgamation of the Society of the Isle of Man Law Library ... and the Advocates Society ... do hereby become Members of the said Law Society..."²⁰⁸ They agreed to continue pay a subscription of 10 shillings and sixpence for the current year until July 1857. It is signed by 32 persons and the first three signatures are those of the Governor, Charles Hope, and the Clerk of the Rolls, Mark Hildesley Quayle and the Second Deemster J. C. Stephen

The Society of Advocates and the incorporation of the Manx Bar

I intend in the following pages to change the format of my description and be brief with some of the details of the Minutes of the Law Society. A thematic approach is more suitable at this point. This is because when discussing the issues which concerned the Law Library Society, I felt it was important to give direct quotes to give an indication of the language used. A second reason is that the Law Library Society met infrequently whereas the Law Society Committee met more often, at least once a month. A lot of the issues discussed by the Law Society Committee were routine and basically on in relation to admission of members, fees and the purchase of books. Whereas the Law Society now dealt with a multitude of issues and whilst I may refer to routine matters when relevant I will only deal with the major issues which affected the Society.

The first meeting of the Law Society Committee was held on the 5 November 1856. All the Committee members attended, and it was agreed that until the Incorporation of the Society the society should abide by the that the 'Laws and regulations of the Library Society' with suitable variations and amendments.²⁰⁹

²⁰⁸ LS Minutes Vol 1 Page 95

²⁰⁹ LS Minutes Vol 1 page 106

The meeting also decided that until the Annual General Meeting is held, all the new Laws should not take effect until approved by the Governor. There then followed further regulations: the annual subscription would be £1.1 shilling this was to be payable on the 1 July; students were to pay an annual subscription of ten shillings and sixpence; a significant rule being that Members who were in arrears with subscriptions would be excluded from the library. The final resolution requested the President to draw up regulations and put them to the Governor before the adjourned meeting arranged for the following day 6 November. One can only surmise that the President expected to be able to get the Governors approval before the meeting which was likely as the Governor was a member. However, as it transpired, he did not obtain the approval of the Governor until 31 January 1857 when in a letter to the Society he said that he approved the Regulations and directed that the monies in the hands of the Clerk of the Rolls arising from the duties payable by Advocates on admission to the Bar be applied and expended in the purchasing of books and publications suitable for a Law Library. He also said that the rooms now used for the purposes of the Library at Castle Rushen could also be used by students. This was rather strange as one of the main reasons for the library was to assist students in their training. They were allowed to be members, though paying a lower fee than advocates.²¹⁰

The Committee met on three further occasions in 1857, on the 25 April, 7 May and 1 July. The meeting in April decided to purchase numerous books of Precedents and law books, in all 163, all to be bound in calf skin. The funds of the Society had been increased by the decision of the Governor to release the money held by the Clerk of the Rolls. The meeting in July drafted a Report which was presented to the General meeting the following day. It recounted recent events including the issue of arrears of subscriptions.

The final part of the report informed the members "*...that the right of the Members of this Bar to appear before the Judicial Committee of Her Majesty's Privy Council as being recognised on the recent hearing of the appeal of Avison v Quayle in which case Mr James*

²¹⁰ Ibid pages 110/111

Gell appeared for the Respondents"²¹¹ This appears to have been the first time that a Manx Advocate had appeared before the Privy Council.

The Committee did not meet again until the 30 June 1858 when they drafted a Report for the General Meeting to be held the following month, 2 July. At the General Meeting the Report was given on the activities of the committee for the previous year including that no progress had been made with the incorporation of the Society. The meeting decided that another Bill for incorporation should be submitted to Tynwald.

The Committee had two further meetings in 1858 on the 8 August and the 23 October. At the October meeting the Committee considered the proposed clauses for the Bill for the incorporation and James Gell was requested to prepare a draft Bill for presentation to the General Meeting to be held on the 4 November.

The General meeting was held, and the draft was passed. It contained 14 clauses which were similar to the clauses in the previous bill, however Clause 12 proposed that subscriptions and fines due by members "...shall be considered as debts and be collected as such....".²¹² This would allow formal legal proceedings to be taken against members for unpaid fees.²¹³

At the Committee meeting on the 14 February 1859, the Chairman stated that the Bill approved by the Society on the 4th November 1858 had been introduced to the Council of Tynwald and that the Governor and Council would discuss it on the 16 February.²¹⁴ It was decided that the Governor should be requested to allow Counsel to present the Bill and that this should be James Gell.

The Committee met on the 21 March. James Gell chaired the meeting and informed the meeting that the Petition for the Bill was presented on Wednesday 16 March, and he was given leave to appear as Counsel and the Bill was approved on Thursday 17 March by the Governor and Council with several amendments. These were that the Society would have

²¹¹ Ibid 119

²¹² Ibid page 134

²¹³ It will be seen later that this power was refused

²¹⁴ Ibid page 135

to receive the approval from the Commissioner of Woods before buying any real property. Clause 12 allowing the Society to sue members for unpaid fees and fines was deleted. Council also inserted a clause stating that the Members of Council could become Members of the Law Society if they wished.

At the Committee meeting on 4 July 1859 James Gell informed the committee that the Bill was presented to the House of Keys on the 24 March who made further amendments. They deleted the clause relating to the purchase of real property completely which meant that the Society could only rent premises.²¹⁵ They also inserted a clause similar to that of the Council in that any member of the Keys could join the Society.²¹⁶ At this first meeting Henry E Gelling, who had become an advocate in 1858, was admitted as the first new member of the Society.

The Committee met again on the 7 July when it was reported that the Act was promulgated on the 5th July at the annual open air Tynwald ceremony.

The speed that this Bill went through Tynwald is astonishing.²¹⁷ The Law Library Society had presented its Bill for incorporation in 1850. Whereas this Act had only taken 12 months to pass all its stages. It may have been of significance that the Governor resigned the following July. Had he planned to resign which may have affected his decision to not to veto the Bill? In fact, the Act gave few powers to the Law Society as in essence it basically only gave it corporate status, as the Governor still retained power over the Bar.

A General Meeting of the newly incorporated Society was held on the 20 September 1859 to finalise the Byelaws, and it was agreed to send them to the Governor for approval.

The Committee did not meet again until the 2 February 1860 when the meeting was informed that the Librarian, James Llewellyn had died. John Quayle also a student in the Rolls Office was appointed in his place at the same salary of £5 per annum.

²¹⁵ The deletion of this clause created a problem when the Society purchased a building in 1932 without legal authority to do so.

²¹⁶ There is no record that any members of Council or the House of Keys became members of the Society.

²¹⁷ The speed it went through Tynwald may have been influenced by the fact there were 5 Advocates sitting in Tynwald as well as 4 members of the judiciary.

At meetings held on the 1 March and 6 July 1860 it was agreed to approve the purchase of a Seal which would be inscribed in the centre with the words in Manx 'Yn Loam Leigh Loam Aggair'²¹⁸ and encircled with the 'The Isle of Man Law Society 1859'. A Report was prepared for the General Meeting on the 8 July. At that Meeting the members were informed that Governor had not approved the Byelaws, and he had also announced his resignation.²¹⁹ The Clerk of the Rolls, Mark Hildesley Quayle was re-elected as President. The final minute stated – "After the meeting of the Society the Deemsters, Clerk of the Rolls and Bar dined together according to annual custom at the George Hotel."²²⁰

The Committee met six months later on 11 January 1861 when members were informed that the new Governor and Council had considered the Byelaws on the 10 August 1860 and had deleted 5 clauses. All these clauses related to membership procedure. The Tynwald Members wanted no restriction on them becoming members of the Society. The Law Society must have tried to change the provisions of the original Act to exclude members of Tynwald. at at a Special General Meeting held on the 2 May 1862 The byelaws were confirmed by members

The Law Society after the Incorporation

Following the incorporation of the Law Society the second half of the 19th Century saw several major events take place in relation to the seat of Government and the location of the courts which influenced the Society. These were: the Governor moved his residence to Douglas in 1861; Douglas was recognised as the capital from 1869 and the courts and the Law Library moved from Castletown to Douglas in 1874.²²¹

The Incorporation of the Law Society resulted in a semi-fixed agenda for meetings and a much more varied agenda as the Society was, unlike the very narrow sphere of the Library Society, now involved with all matters affecting the Manx Bar.

²¹⁸ It would appear to translate as 'Your uncovered law, your uncovered wrong' or 'The bare law, the bare injustice'.

²¹⁹ Was his resignation the reason for not confirming the byelaws? Was he leaving the decision to the next Governor?

²²⁰ This hotel is in Castletown and still exists. An annual f Bar lunch still takes place, though not in Castletown.

²²¹ The decision to move the library from Castletown to Douglas had been made in June 1869.

The composition of the Committee was very stable after incorporation, especially for the remainder of the 19th century. The Clerk of the Rolls, Mark Hildesley Quayle, was the President for the first three year, he was followed by the Second Deemster, John C. Stephen, who held the position for two years. At the 1863 Annual General Meeting James Gell, was elected President and he held the position for 35 years until 1898.²²² H.C Gill was elected Secretary in 1860 and held the position for 9 years and following him R.S. Stephen took the position in 1869 and held it until 1880. During the same period a Deemster was usually a member of the Committee. In 1898 the new Attorney General, George Alfred Ring was appointed the President and held the position until 1908.

The 20th Century was notable for the fact that the participation of the judiciary in the Law Society diminished and after the resignation of George Alfred Ring the appointment of the President was made from the ranks of the general membership.²²³

The meetings of the committee were usually held at least once a month and the business became routine – payment of invoices, ordering of books and consideration of applicants wishing to become articled or advocates after passing the exams. Other than examinations which I will deal with in Chapter 4, I will chronicle the main issues which affected the Bar before incorporation until several years after the end of the Second World War.

Court Dress

In most jurisdictions the lawyers wear a distinctive dress as it is not only is it seen as a term of professional identity it is also seen as a symbol of authority and to show status and power.

Unlike the English Bar the Manx Bar did not wear a distinctive dress but it appears that by the 1850s they were wearing a black coat and vest and a white neckcloth or cravat

²²² He held the position of Attorney General from 1866 to 1998 when he was made First Deemster.

²²³ The judiciary are no longer members of the Law Society, and neither is the Attorney General, though he is Head of the Bar.

when appearing in court ²²⁴. It is also not clear what members of the judiciary wore in court and in the early 19th Century they may not have even worn gowns. In an article written in *The Gentleman's Magazine* in 1825, the author wrote - ..." The deemsters, or judges wear neither wigs nor gowns and, in every way, seem to want that commanding dignity which is so essentially requisite on the Bench."²²⁵ Nevertheless it appeared that the Attorney General had always worn a silk gown.²²⁶

The matter of court dress was first raised at a joint meeting of the Committees of Advocates Society and the Law Library Society held on 3 July 1856 which discussed the amalgamation and incorporation. The final resolution passed by the meeting had no relevance to the previous business of the meeting, it read:

"8) That it is the opinion of this Meeting that the Members of the Bar should in the Courts wear a distinguishing dress, such as Gowns and Bands, and that the Committee do confer with the Lieut. Governor on the subject and request him to give such directions as His Excellency may seem necessary." ²²⁷

There is no explanation as to why the matter of court dress for Advocates was raised at this meeting, two years after it was last discussed. .

However, it was raised again at a meeting of the Advocates Society Committee held on the on 13 August at which it was reported that - "As to the dress of advocates in court. No notice for the consideration of this subject having been given in calling the Meeting of the 3rd. Ult. His Excellency was desirous that another Meeting of the Bar for the consideration of the matter should be specially called, and that the opinion of the Meeting should be submitted to him. His Excellency expressed himself as favourable to the adoption of a distinguishing dress if the Bar wished to." ²²⁸

On 2 October a meeting was held which is headed as 'A meeting of the Members of the Bar took place on the 2nd October 1856" L. S Gelling, Esquire is in the chair. The meeting

²²⁴ What advocates wore in court was discussed when a deemster took exception to a student at law not wearing a dark coat and when the Vicar General complained of the dress of an advocate who appeared before him inappropriately dressed, See pages

²²⁵ 'Account of the Isle of Man' *Gentleman's Magazine*, August 1825 pages 99/103

²²⁶ LS Minutes, Vol 1 page119/120

²²⁷ LS Minutes, Vol 1 page 89

²²⁸ Ibid page 93

resolved "That it is the opinion of this meeting that the Members of the Bar should in all the courts, (with the exception of the High Bailiff's and Magistrates Court) wear gowns and bands..."²²⁹ The meeting also agreed to ask the Advocates Society "...to confer with the Lieut. Governor on the subject and request him to give such directions herein as to his Excellency may seem necessary."²³⁰

In 1857 it was reported in the *Mona's Herald* that on February 8th at the Chancery court in Castletown:

"The court assembled at eleven o'clock; His Excellency the Chancellor presiding, the Clerk of the Rolls and Water Bailiff in professional robes but without wigs, the Members of the Bar with three exceptions, appeared in their gowns and bands; Messrs Lamothe, RJ Moore and GJ Moore appeared in lay dress.....During the calling of the cause list, His Excellency suggested the desire and ability of uniformity in the dress of the gentlemen of the Bar. Messrs Lamothe and RJ Moore stated their reasons for appearing in their usual dress but said that if His Excellency would make an order requiring the Bar to wear gowns they would conform to that order with much pleasure. The matter was finally dropped with a tacit understanding among the gentlemen of the Bar, that they would consider the express desire of His Excellency as equivalent to a written order."²³¹

This issue was discussed again at a meeting of the Committee of the Society of Advocate held on 1st July 1857 when it was reported that: "...at the Chancery Court held on the 5th November 1856 His Excellency stated to the effect that he commended the resolution of the Bar and that all members hereafter to be admitted must wear gowns and bands, but as to the present members, whether he should make no compulsory order, he trusted they would adopt the proposed dress and appear in it after the Christmas vacation."²³²

It was decided that a 'stuff' gown' would be worn by Advocates but he didn't make it compulsory for present members of the Bar, this caused problems in the courts in later years. The impetus appeared to have come from the Governor, Charles Hope (1845-1860), not only was he a graduate of Oxford University he was also a Barrister in both

²²⁹ Ibid page 106

²³⁰ Ibid

²³¹ *Mona's' Herald*, Wednesday, February 11, 1857,

²³² LS Minutes Vol 1 pages 119/120

Scotland and England. The fact he was a barrister may have been why he was keen on the Advocates wearing court dress.

The issue rumbled on for a number of years, but it appeared to have died down until June 1875, twenty years after the ruling. In a letter to the Governor the Vicar General complained that Advocate Howard had appeared in the Ecclesiastical Court on 26th June 1875 wearing "... a light grey shooting dress and a cap, brilliantly-patterned, chiefly of red, I think. He had neither gown nor bands."²³³ The Vicar General's letter also refers to the order Lieutenant Governor Hope had made in June 1868 that dress should "...with the exception, shall be similar to that worn by the junior Bar in England".²³⁴ He also said that it was his understanding that the exception was that Advocates admitted before the order was made should wear "...black coat and waistcoat and white cravat".²³⁵ He, had because of the manner in which Howard was dressed, refused to hear Howard. The Governor, Henry Brougham Loch (1863-1882) agreed with the Vicar General. Advocate Howard then appealed to the Privy Council who rejected the appeal when Howard refused to pay the fee.

There is a further incident in March 1877 when an article in the *Manx Sun* reported that Advocate Howard had appeared in court, but he did not wear a gown. The report states, " Mr Howard, who did not appear in gown and bands, on attempt to state petitioner's case, was interrupted by His Honour, who stated that he, (Mr Howard) was not attired in professional costume as ordered by the Lieut. Governor's rules of court. Mr Howard replied that he was arranged in his right costume and ones similar to what he wore in court nearly forty years ago, and produced his original commission under the public seal of the island to shew that there was no other condition attached thereto, but that he should faithfully advise his clients as to the law of the island."²³⁶

²³³ MMA GO15/53 (17)

²³⁴ *Ibid*

²³⁵ Thomas Howard had been admitted in 1838.

²³⁶ *Manx Sun*, Saturday, 7 March 31,1877, page 13.

Advocate Howard argued that as he had been called before the rule had been made, and therefor he was not obliged to wear gown and bands. The Deemster disagreed but said he would allow him to continue to address the court.²³⁷

Advocate Howard had apparently, for reasons which were not clear, decided to raise the issue when it appeared to be settled, however it may simply have been because he had not appeared in court for many years. There is an extensive report in the Isle of Man Times of an altercation a month later in the Chancery Court on Thursday 5th April 1877 when Advocate Howard appeared in court with his brother, the Vicar of Onchan. The report stated:

"After the calling of the list had been completed, Thos. Howard, Esq. who had formerly practised as an advocate,²³⁸ rose to address the Lieutenant Governor. Mr Howard was accompanied by the Vicar of Onchan, the Reverend John Howard, and both distinguished themselves by wearing black caps in court. Mr Thomas Howard appeared in an ordinary grey coat, without gown or bands. On his proceeding to address the court, the Governor, speaking to Mr Howard, informed him that the ordinary costume of advocates appearing in court was the gown and bands, but that Governor Hope, in making an order regulating the costume, had excepted advocates admitted before 1856. Mr Howard was thus excepted; but every court possessed the power regulating such matters, and he should require him if he appeared as an advocate, to wear a black coat."

Mr Howard stated that no such requirement had ever been made in former days. "His friend on the bench, the Clerk of the Rolls, when he practised at the Bar wore a green coat. The Reverend J Howard promptly, said, "bottle green". Mr T Howard; Yes – bottle green. The Clerk of the Rolls; I did wear a green coat, but I never appeared in it in court as an advocate."²³⁹

After some discussion by the Bench, it was accepted that as it was a matter concerning his family that Mr Howard appeared for himself, therefore he was a litigant in person, not an advocate and the matter proceeded.

²³⁷ Ibid

²³⁸ Authors underlining

²³⁹ Isle of Man Times, Saturday, April 7th, 1877, page 5

It was not only the dress of advocates which caused controversy. At a meeting of the Law Society Committee on the 6 of December 1867 a letter from Advocate Walter Adams 'was laid before the meeting complaining that Deemster Drinkwater had excluded his articled clerk from sitting with him in the court because he wasn't wearing a black or dark coloured coat.²⁴⁰ The Committee decided to hold a Special General Meeting to discuss Advocate Adams complaint and "...to consider also the advisability of the members of the Bar wearing wigs in courts."²⁴¹ There is no explanation as to why the subject of wigs came up and it is not explained nor discussed in the Minutes.

The meeting was held, and two resolutions were passed. These were-

"Deemster Drinkwater had no legal right to exclude Mr Adams' clerk from the Bar upon the sole ground of his costume and that a copy resolution be forwarded by the Secretary to Deemster Drinkwater."²⁴² and secondly "...that it is not advisable for the members of the Bar to wear wigs in the courts".²⁴³

The rejection of the wig in the Isle of Man was surprising as the wearing of court dress including the wig had been taken up by lawyers practising in most jurisdictions in the British Empire.²⁴⁴

There is no further discussion of court dress or wigs until May 1889 when there was a report in a number of Manx newspapers that there had been a meeting of the Members of the Manx Bar on Wednesday 4th May 1898 and "...it was resolved that in future the advocates shall wear wigs while appearing in court."²⁴⁵ There is a further report in the Isle of Man Examiner that at the Chancery court held on the 13 July 1898 all the Advocates wore wigs except Advocate Thomas Kneen.

There is no reference in the Minutes of the Law Society to any meeting being held to discuss the wearing of wigs. This is very surprising in view of the discussions and resolutions passed in previous years in relation to court dress. It is difficult to understand

²⁴⁰ Deemster Drinkwater was not a popular Deemster as he was from England.

²⁴¹ LS Minutes, volume 1, page 194

²⁴² The Deemster was informed of the resolution, and he replied that he disagreed with the decision in relation to the dress of students.

²⁴³ LS Minutes, volume 1, page 200

²⁴⁴ Yazdani, Daniel. "The Habit of a Judge: A History of Court Dress in England and Wales, and Australia." Talbot Publishing, 2019

²⁴⁵ Isle of Man Times, Saturday, May 07, 1898, page 4

why it was decided to wear wigs without it been having been discussed by the Law Society, although it could be argued that it was decision of the Bar not the Society.²⁴⁶

However, at a Bar dinner held in 1959 to commemorate the 100th year of the incorporation of the Law Society, a speaker said that the wig was introduced because the Clerk of the Rolls, Allured Dumbell had been invited to a dinner at one of the Inns of Court and the Lord Chancellor had expressed great surprise that the Manx Bar did not wear wigs. He may have been embarrassed which is why it was introduced. Apparently, the news was not greeted with overwhelming enthusiasm. A Manx newspaper commented – “Ever since lawyers were invented in the Isle of Man, they have gone bareheaded – if not barefaced – through forests of litigation and their resolve now to wear curly horse-hair wigs is significant of something. The question is, what does it portend? Not increased fees, we hope.”²⁴⁷

There is an interesting reference to court dress at a meeting of the Committee on the 19 April 1915. The Committee decided to issue a circular informing the Bar what Advocates and Students at Law were expected to wear at court: this was black coat, black waistcoat and dark trousers when attending all courts. With regard to the High court, it reaffirmed wig and gown should also be worn but also stated “...whilst it was customary to wear a white bow tie underneath the bands, the wearing of the white bow tie is optional.”²⁴⁸ The wearing of the bow tie may have originated because the dress in the latter half of the 19th century included a white cravat which may have evolved into the white bow tie.²⁴⁹

Advocates Fees

The subject of the fees charged by lawyers has probably been an issue since time immemorial. Fees were one of the main reasons in the Isle of Man for the enactment of the first Act in 1763 which controlled who could appear in the courts on behalf of litigants. Section 12 of the Act set down for the first time a ‘Table of Fees for Attorneys’.²⁵⁰ There were 23 items listed and they varied from the lowest fees which were one shilling and two

²⁴⁶ It was not compulsory to be a member of the Law Society until professional insurance was introduced in the middle of the 20th Century.

²⁴⁷ Isle of Man Times, Saturday, May 07, 1898, page 4

²⁴⁸ Ls Minutes Vol 4, page 93

²⁴⁹ Black Rod (male) wears a white bow tie as part of his parliamentary dress.

²⁵⁰ An Act for the draining of Loughs and Stagnations of Water, and also for making Stone Wall-wall Boundaries, and for other Purposes 1763, Section 12.

pence for 'Drawing a Personal Bond' or 'Drawing a Jurys Answer'; two shillings and eleven pence for a 'Retainer; 'Carrying on a Bill or making a common Motion each Court Day' or 'Drawing a Will', twelve shillings and threepence for attending a Jury trial for a full day. The most expensive fee was when the Lawyer had a 'Journey above twelve miles, and not exceeding twenty miles', this cost seventeen shillings and sixpence.²⁵¹

A variation to fees was made by The Act of Settlement, which was passed in 1777, twelve years after Revestment. It repealed a number of Laws and Ordinances and contained a section amending 'Attorneys Fees.'²⁵² Most fees were unchanged, though a new fee for 'Attendance to receive Instructions' was introduced and this cost three shillings and four pence. Several fees were not listed in the new scale, but others which were not listed may have been under different descriptions. For instance, the fee for a 'Journey...' appeared to have been replaced by 'Attendance on Business' which was one shilling and two pence a mile. Drawing a Jurys Verdict had not increased.²⁵³

An Act entitled The Official Fees Act²⁵⁴ was enacted 36 years later in 1813. This Act as well as setting fees for Advocates in Chapter III also listed in Chapter II the fees which could be charged for services given by the Governor; the Deemsters and other court officials; the Rolls Office, Coroners and Constables.

The cost of a 'Retainer' had increased from two shillings and eleven pence to five shilling and ten pence and 'Drawing Jury's Verdict had increased from one shilling and twopence to two shillings and two pence, both fees doubling in price. A considerable number of fixed fees for drafting various documents were not repeated and a fee for each page was based on the pages containing sixteen lines. The fee depended on the type of document and ranged from one shilling and two pence to three shillings and sixpence per page. This is what may have led to lawyers being described as verbose as it was also the practice in England and the Isle of Man to charge per page or folio.

²⁵¹ Men's wages in the Island between 1765 and 1793 varied from 6d. to 8d. a day, without keep, and they got from £8 to £5 a year, with keep, while women got from 30s. to 50s. Carpenters received from 1s. 6d. to 1s. 9d. per day, and masons from 1s. 6d. to 1s. 9d. Moore, A.W. 'A History of the Isle of Man, Vol. 2 T. Fisher Unwin, 1900

²⁵² Act of Settlement 1777 Chapter XV, Vol 1, pages 337/338

²⁵³ This had been described as 'Drawing a Jury's Answer' in the 1763 Act.

²⁵⁴ Official Fees Act 1813

Dissatisfaction was expressed at the level of fees at a Meeting of the Manx Bar held on the 25th of February 1850. The meeting decided to form a committee to "...revise the law at present effecting the appointment of Advocates and the fixing of the fees²⁵⁵ and other matters relating to the profession, and to draw up a Bill to be submitted to a meeting of the Bar to be held on the next chancery court day".²⁵⁶ However, there is no further mention of fees in the Minutes until 1861²⁵⁷ when at a General Meeting held on the 4th July to finalise the Bye-Laws of the new Society. At that meeting a select committee of two Advocates was formed "...to consider the table of fees payable to advocates and report thereon. "²⁵⁸

The select committee submitted its Report to a Special Meeting held on 9 April 1863 at which the Report was adopted.²⁵⁹ It was also agreed that Bill be drafted for a new scale of fees and it be submitted to Tynwald.²⁶⁰ The Attorney General, James Gell, who was the President of the Society informed a meeting of the Society's Committee in October 1869 that he had met the Governor to discuss the Bill and the Governor had suggested that the Bill be amended to empower a Committee of Tynwald to approve changes to the scale of fees rather than it being presented to a full Tynwald and treated as a Bill.²⁶¹

The next mention of the fees Bill was not until a Special Meeting held on 26 May 1873 at which it was decided that a Petition should be presented to Tynwald requesting "...that speedy consideration be given to the Bill...which has for a long time past been under the consideration of the Legislature..."²⁶² Matters then moved fairly quickly as a letter written by the Attorney General to the Society's Secretary was discussed at meeting held on the 30 October 1874. The letter stated that Tynwald wanted the views of the Society on the proposed scale which he enclosed with the letter. He also wrote that as he was President of the Society and a member of Tynwald, he should not take part in any discussion by the

²⁵⁵ Authors underlining

²⁵⁶ LS Minutes, volume 1 pages 73/74

²⁵⁷ This may have been because in the intervening years the Law Library Society had merged with the Advocates Society which had been negotiating with Tynwald for incorporation status. It may have been thought prudent not to continue with the issue of fees and concentrate on being incorporated.

²⁵⁸ LS Minutes, Volume 1 page 167

²⁵⁹ There are no details of the Report in the Minutes

²⁶⁰ LS Minutes, Volume 1 page 179

²⁶¹ That Committee was formed and still exists in a revised form.

²⁶² LS Minutes, Volume 1 page 264

Society. The meeting decided to approve the scale of fees which accompanied the letter.²⁶³

The Bill was passed in November 1874. It was titled 'An Act to Regulate the Fees of Advocates, and for other purposes in relation to Advocates'. The amendments had taken twenty-four years from when the matter was raised by the Society in 1850 and fifty one years after the previous Act.

The Act "...appointed a committee of five members of Tynwald for the purpose of revising the scale of fees for the time being payable to advocates..."²⁶⁴ This committee was given the power to set the level of fees subject to the approval of Tynwald. Two of the members were the Attorney General and the Clerk of the Rolls. A new scale of fees was agreed by Tynwald in July 1875. The new scale for the first time set different fees for the Superior and Summary courts and High Bailiff and Magistrates courts. It contained definitions: a page now consisted of 80 words or figures and was set at two shillings and sixpence;²⁶⁵ a day consisted of six hours and was set at £3 and 3 shillings and a half day at £1 and eleven shillings and six pence. The cost of a 'Retainer' had quadrupled to £1 and 1 shilling. Attendance at the superior court to file a Pleading or Process cost three shilling and fourpence and at the Summary court it cost a shilling. There was also a miscellaneous section which contained various duties such as writing a letter which cost three shillings and four pence. Interestingly the fee for a 'Journey' above twelve miles, and not exceeding twenty miles', which had cost seventeen shillings and sixpence in 1763 had been altered and for a such a journey to a superior court or any professional inquiry '...within or beyond the island the amount actually and necessarily expended in locomotion is to be allowed'.

The fees list was shorter than in previous Acts and it contained a Section, Section 6 which allowed advocates to make special agreements with their clients which appeared to enable them to charge fees higher than the scale of fees.²⁶⁶

²⁶³ LS Minutes, Volume 1 page 324

²⁶⁴ Section 4, An Act to Regulate the Fees of Advocates, and for, other purposes in relation to Advocates. Vol V, page 345

²⁶⁵ This fee would have been in relation to documents and deeds such as conveyances and mortgages, not letters.

²⁶⁶ An Act to Regulate the Fees of Advocates, and for, other purposes in relation to Advocates. Vol V, page 347

The issue of fees did not arise in the minutes of the Society again until December 1903 when a scale of fees revised by Advocate G.R. Cookson was laid before the Committee. There was no explanation as to the reason for the matter of fees being raised and the issue was continually adjourned until February 1904 when a sub-committee of 4 was appointed which included the Attorney General. The Attorney General resigned from the Committee in March; this was probably because being a member of Council he would be involved in its consideration when it was discussed by Tynwald. The sub-committee held five meetings to revise the scale and at a meeting of the Committee held on 14th October 1904 they reported that they had met the Governor who said that he would consider the issue. The Committee decided to send the revised scale to all the members of the Bar and request their comments. However, it was not distributed until February 1905.

The sub-committee was asked to revise the scale of costs in March 1906. This was probably the result of comments made by members of the Bar. The sub-committee reported to the Committee at its meeting on the 2 May 1906 and it resolved that the revised scale be sent to the Attorney General ... with a view to his communication with the Tynwald Council under the Advocates Fees Act 1874.²⁶⁷

There must have been some difficulty as at a meeting of the Committee on 19th December it was resolved "That the President and the Secretary do see His Honour the Deemster Callow with a view to taking necessary steps to bring the matter before the Tynwald Court".²⁶⁸ On 6 February 1907, they informed the Committee that they had met Deemster Callow who was of the view that the scale would need to be revised and amended before it should be considered by the appropriate committee of Tynwald. The Committee decided to discuss it with the sub-committee. However, when the Committee met a month later one of the committee members, Cyril T. W. Hughes-Games gave notice "...that at the next meeting he would move to rescind the previous resolutions ... to review the existing scale of advocates fee..."²⁶⁹

It would appear that there is some reluctance to continue with the proposal. At the next meeting of the Committee held on 10th April 1907, the matter was adjourned as Hughes

²⁶⁷ LS Minutes, Volume 3 page 273

²⁶⁸ LS Minutes, Volume 3 page 289

²⁶⁹ Ibid page 295

-Games was not present. He was present at a meeting held on 17th July 1907 but it was again adjourned at all the subsequent monthly meetings until the last meeting of the year held on 4th December and the minutes record that on the motion of Hughes-Games which was seconded it was resolved – “That no action be taken by the Committee with reference to the revision of the Scale of Costs in pursuance of a resolution passed on the 19th day of December 1906 for the present. The time not now being an opportune one²⁷⁰ to bring the matter before the Tynwald Court.”²⁷¹ It was also decided to write to the Clerk of the Rolls “...and thank him for the trouble he has taken in the matter”.²⁷²

There is no explanation in the minutes for this decision other than it was not an opportune moment.²⁷³ However, in the early 20th century there was a lot of constitutional dissension as Lord Raglan (1902-1919) had been appointed in 1902 as Lieutenant Governor, “He believed in the superiority of the colonial administration and had a jaundiced view of the ability of the elected members of Tynwald.”²⁷⁴ He had a dictatorial reputation, and it may have been that the Bar may have realised that he would not have been in favour of an increase in fees.

The issue disappeared from the minutes until the Annual General Meeting held on 3rd July 1918 when a letter was read to the meeting which had been sent by Advocate R. B. Moore. It is interesting to note his choice of words.

He asked to the Committee “...to consider if time is not opportune for again raising the question of scale of charges on advocates fees act”.²⁷⁵ It rather strange that he would raise this issue whilst in the middle of a War and why he would think it was opportune and by using this term ‘opportune’ he appears to be referring back to previous occasions when the issue was raised.

The request was referred to the Committee which met after the AGM and formed a sub-committee to review the scale of fees. The sub-committee met on the 16 October 1918

²⁷⁰ Authors underling

²⁷¹ Ibid page 314

²⁷² Ibid page 315

²⁷³ There was a lot of conflict in Tynwald in 1907 between the elected members and the Governor in relation to a number of issues including finance as he did not wish to dilute his financial control, and this may have been the reason for the Law Society to withdraw its proposals.

²⁷⁴ Belchem, John, ‘A New History of the Isle of Man’ Volume 5, Liverpool University Press, 2000, page 111

²⁷⁵ Authors underlining, this was the word used in 1907 when the proposals were withdrawn. See 149

and composed a letter to be sent to the Governor²⁷⁶ informing him that the fees had not been revised since 1875 and that in the same period the scale of fees for solicitors in England had been increased several times and some by 20%. The Committee reviewed the letter at its meeting on 28th January 1919 and set a general scale and also decided that the conveyancing scale be set at two thirds of the English solicitor's scale of fees.²⁷⁷ They also requested that legislation should be enacted similar to section 44 of the UK Stamp Act 1891, this section imposed penalties on person other than solicitors preparing Deeds in relation to property for reward.

In July 1919 the Society drafted and printed a scale of fees which was sent to Tynwald with the support of the Attorney General and Clerk of the Rolls.²⁷⁸ It will be recalled that one the reason for the passing of the Act in 1763 was for the control of Advocates fees. I would therefore suggest that this request indicates the growing confidence of the Bar and a further attempt to exert its influence. It is also interesting that the Society compares its fees with those of England.²⁷⁹

But nothing was heard from Tynwald though in the intervening years the fees for Advocates conducting the elections for Tynwald had been increased. The matter is not discussed again until a general meeting on the 6 August and and .²⁸⁰ at this meeting a scale of fees for conveyancing and drafting mortgages was agreed. A subcommittee was formed which together with the Attorney General was to negotiate with the Tynwald consultative committee which had been set up by the Advocates Fees Act. The Society's Committee was given the power to accept any agreed scale. However, nothing appears to have been agreed as in July 1937 the level of conveyancing fees is discussed by the Committee which requests Deemster Cowley to negotiate with the Tynwald consultative committee. Two years later the Second World War begins, and the matter of fees for advocates diminishes as a matter of importance until after the War.

In February 1946 a new Advocates Bill was discussed by the Committee and the subcommittee which had been formed to draft it laid recommendations to the Committee in July 1946. It recommended the revocation of the 1874 Act and repeated the clause

²⁷⁶ The Governor was still Lord Raglan

²⁷⁷ LS Minutes Volume 4, page 127

²⁷⁸ The scale is glued in the Minute book, LS Minutes Vol 4, pages 130/140

²⁷⁹ The English pound and the Manx pound were not at par. The English pound was of greater value.

²⁸⁰ Interestingly in September 1930 the Isle of Man Society of Architects and Surveyors requested the Society to comment on the scale of fees they intend submitting to Tynwald. The Committee decide not to comment.

that Advocates could charge fees higher than the scale by special arrangement. Another recommendation was that there should be an Advocates Act Committee consisting of the Clerk of the Rolls, the Second Deemster and the Attorney General, presumably to discuss the scale of fees.²⁸¹ It also contained detailed rules in relation to taxation of fees.²⁸² Whilst this Bill was not passed it is highly likely that the fees of Advocates were not unduly affected by the lack of revision as social circumstances and the economy had changed greatly since 1874 and advocates would be undertaking tasks which were not detailed in the scale of fees.

Appointments to the Judiciary; the Attorney General and 'Foreign Lawyers'

Three matters were of major concern to the Manx Bar: these were the appointment of persons who were not Manx advocates to the Manx Judiciary and to the office of Attorney General, and lawyers from other jurisdictions wishing to become Manx Advocates.

Appointments to the Judiciary and the Attorney General

Prior to the passing of the Advocates Act in 1777, the Deemsters had been chosen from the members of the House of Keys but after that Act they were appointed only from the Manx Bar. This continued until the appointment of Deemster Drinkwater in 1847 which is dealt with above. The appointment of Deemster Drinkwater was the only appointment of a non-Manx lawyer to the judiciary during the period of my study. The power to make the appointments after Revestment was held by the Crown but it was the Governor who would make the recommendation to Whitehall. However, whenever a vacancy arose there would be fear amongst the Bar that Whitehall would appoint an English barrister to fill the vacancy.

The appointment of Deemster Drinkwater had eventually led to the formation of the Society of Advocates in 1850. The catalyst was the letter which Deemster Heywood had received about his purported resignation from an English Barrister. This letter resulted

²⁸¹ LS Minute Vol 5 pages 112/118

²⁸² The Advocates Act was not passed until 1966 and only dealt with taxation of advocates costs.

in a meeting of Bar which discussed "...the injustices done to the Members of the profession by the appointment of persons to official situations in this Island..."²⁸³ The meeting formed a committee to draft a Memorial to "...be forwarded to an influential Member of the House of Commons..."²⁸⁴ This Memorial mentioned the appointment of Deemster Drinkwater.

In 1866 the Attorney General Charles Richard Ogden died. He was an English barrister. All the previous Attorney Generals since Revestment had been English Barristers even though on each occasion the Bar had complained. The Law Society immediately sent a Memorial to the Governor asking that a Manx Advocate be appointed to the post. The Governor Henry Brougham Loch supported the Memorial and Advocate James Gell was appointed as Attorney General.²⁸⁵

The Vicar General, whilst not being a Deemster had jurisdiction over what were considered to be ecclesiastical matters until 1921 when he lost his final judicial powers which were over the Bastardy Court. The early holders of the office tended to be clergyman. But from 1824 the role was held by a Manx Advocate, William Roper who held it until 1828. After that date it appears that it was not always held by a Manx Advocate until 1835 when Advocate Thomas Arthur was appointed. He died in 1861 and the Lord Bishop appointed an English barrister, Richard Jebb. There was correspondence between the Lord Bishop and the Law Society Committee which in December of that year sent a Memorial to the Secretary of State Sir George Grey, Baronet complaining about the appointment.²⁸⁶

The memorial recited the history of the appointment and said that in 1845 a salary of £400 a year had been granted to the holder on the basis that a Manx Advocate would be appointed to the post. It also said -

"...That your memorialists submit that such an appointment would be inconsistent with the spirit of the arrangement whereby the British Government when the said salary was granted and that it would be productive of great local inconvenience in as much it would

²⁸³ LS Minutes Volume 1, page 73

²⁸⁴ Ibid

²⁸⁵ Since that date all Attorneys General have been Manx Advocates.

²⁸⁶ LS Minutes Vol 1, page 163.

be impossible for a member of the English legal profession unacquainted by previous practices with the Manx law properly to fulfil his judicial functions..."²⁸⁷

The reply from Lord Grey made it clear that he would not interfere as he considered the appointment was solely in the power of the Lord Bishop. However, in 1884 a Manx Advocate was appointed, and the position was held by a Manx advocate until 2014.²⁸⁸

These fears for judicial appointments continued until late into the late 19th Century for on the death of the Clerk of the Rolls in 1879 the Law Society sent a Memorial to Richard Cross MP, Principal Secretary of State at the Home Office in which it was stated – “

“Your memorialists have been informed that applications for this office have been made by members of the English and Irish Bar. Your memorialists beg respectfully to submit the following reasons for their earnest hope that Her Majesty may be graciously pleased to appoint a member of the Manx Bar to the said office.

The laws and practices of the courts of the Isle of Man are peculiar to itself and require special and continuous study. The island community being too small to justify the expense of publishing reports of cases and precedents. These can only be learned by length in practice in the insular courts, or by very tedious inspection of the records of the island which contain a general collection of cases of varied description heard in the several courts and are exceeding..."²⁸⁹

The Memorial also mentioned the view of the then Attorney General, C.R Ogden had in 1844 recommended that it was necessary for Manx speakers be appointed to the Judiciary. The Memorialists were successful and James Gell, the Attorney General was appointed to the position

Notwithstanding the fears of the Bar, the agitation which had led to the formation of the Society of Advocates had an effect and no foreign lawyer was appointed to the judiciary.

²⁸⁷ Ibid, page 165.

²⁸⁸ In 2015 an English Barrister Geoffrey Tattersal QC was appointed and upon his retirement in 2019 an Anglican Layman was appointed to the position.

²⁸⁹ LS Minutes Vol 2 page 3

Foreign Lawyers

The question of 'foreign' lawyers becoming Manx advocates has been a problem in the history of the Manx Bar. I am using the term foreign lawyers to refer to barristers qualified in the United Kingdom and Ireland who wished to practice at the Manx Bar. I could only find one example of an Irish Barrister applying, all the others were English though the records may not be accurate.

English Barristers were in 1826 given a concession and the Governor could license applicants by them merely paying a fee.²⁹⁰ However, I could find no example where this concession was used until 1930, the circumstances of which I detail below.

The earliest documentary evidence which I could find with regard to applications from foreign lawyers is contained in two bundles of letters in Government papers held at the Manx Museum. The first full letter is contained in the Atholl Papers and is dated 4 February 1814, written to the Duke of Atholl by a Mr Beckett, who may have been the Secretary to the Secretary of State, Home Office, in which Mr Beckett states that he has received letters from Mr A.M. Mills, who had been refused admission as a Manx Advocate, and that Mr Mills believes that "...the grounds on which the Duke acted depended principally upon it's not having been usual to admit to the Manx Bar persons who were not natives of the island as the deemsters are selected from the Bar and the proceedings in their courts are generally in the Mx language, it has been customary to consider the Bar as a school for progressing fit persons to fill the offices of Deemster..."²⁹¹

Mr Mills is an English barrister and there are details of a Memorial dated 7th July 1819 to the Duke of Atholl from an English Barrister, Mark Anthony Mills. He states that he has, with his family taken up permanent residence in the Isle of Man and he hopes that "...His Excellency John Duke of Athol, Governor in Chief Lord Paramount and Chancellor of the Isle of Man etc etc etc. would allow him to become a member of the Manx Bar."²⁹²

²⁹⁰ Section 8, 'An Act for the Appointment of Advocates and for the fixing of their Fees 1826'

²⁹¹ MMA GO 2/8

²⁹² MMA MS 09707/9/1185 (Previously AP145 (2ND) 4)

He was not licensed and his attempts to become a Manx Advocate becomes a saga. There is correspondence between Governor Smelt (1805-1832) and the Bishop of Sodor Man dated 27th December 1821²⁹³ in which the bishop agrees that Mr Mills should not become Advocate because "...of his behaviour", though he does not state what the behaviour is. However, amongst the second bundle of letters is an extract of a letter, written by Mr Mills to the Duke of Athol. The extract is taken by from a letter sent by Mr Mills to the Duke and is dated 13th January 1814. This extract appears to give reasons why he has not been admitted as an Advocate. In his letter Mr Mills refers to 1805, "... when this apprehension of invasion by a foreign enemy – as well as the intrigues of matters at home..." He was asked to assist with the fortification of the Garrison. The handwriting is difficult to read but he writes that he was 'charged with insubordination' and 'his business was placed in other hands'.²⁹⁴ This would appear to be the reason for him being refused admission, bad character.²⁹⁵

There are further letters in 1822 regarding Mills lobbying for entry and in a letter dated 6 January 1823, Robert Peel, who at the time was the Secretary of State to the Home Department asks the Duke of Atholl to admit Mr Mills.²⁹⁶ The Duke replies that Mills will not be licensed but that he had been made a Notary Public in 1817. I could find no further correspondence.

There is correspondence in 1826 between a Mr Carrington and the Home office in which he complains that his son Horatio Nelson, who may have been a Barrister should only serve three years articles rather five years. Though it may also have been because also he had a degree. The records indicate that he did only serve three years articles.

In November 1888 an English barrister, Gordon Portis Price applies to be articled.²⁹⁷ The Committee recommended that he take five years articles as he is not a graduate, and it is agreed but the Governor allowed one year's articles, and he is admitted in 1890.

²⁹³ MMA GO3/40

²⁹⁴ MMA GO2/8

²⁹⁵ The year which Mr Mills refers, to is during the Napoleonic wars and it is likely that the Island would have been fortified

²⁹⁶ MMA, AP42 (a) (second)

²⁹⁷ LS Minutes Vol 2, page 265

The next time the matter of a foreigner is discussed by the Committee is in April 1920 when W.J.R. Crowder an English barrister living on the Island applies to the Governor for a licence which he refers to the Committee. Their reply to the Governor is that "...they consider that a member of the English Bar should, before being admitted to practice in the Isle of Man, complete at least two years in the offices of a practising member of the Manx Bar. The committee are unanimously of the opinion that even the above period of two years is barely sufficient to enable such an applicant to attain the necessary qualifications to practice in the Isle of Man and it is their view that the period should be the same as that provided by section 13 of the Attorney's Act 1874 i.e. 3 years." The Committee after reviewing two testimonials recommended that he is suitable to take articles. However, whilst there is no explanation, Mr Crowden does not become articulated.²⁹⁸

In November 1930 the Committee consider an application which had been received by the Governor from a Manx resident for an English Barrister to be licenced to represent her in a case in the Manx court. The Governor is of the view that so long as he pays the £50 admission fee, he should receive a licence. As this is a one off the Committee merely decide to write a letter to thank His Excellency for acquainting the Society of his decision in this matter. This is probably the first time an English Barrister may have been given a temporary licence.²⁹⁹

In February 1932 the Committee discussed a letter from an English Barrister enquiring how English Barristers could be admitted to the Manx Bar. The Committee decide to send him the Government Circular on the matter, but I could not find the Circular. I suspect that it was not a special circular but one detailing the relevant statutory provisions.

The issue of temporary licences was raised again in June 1934 in relation to an infamous case which involved a film being made on the Island starring a famous entertainer, George Formby.³⁰⁰ The defendant who had been charged with manslaughter wanted to be represented by an English Barrister. There was no objection to the application probably because of the circumstances surrounding the case. However, at the trial he was represented by a Manx Advocate E. C. Kneen.

²⁹⁸ LS Minutes Vol 5, page 160

²⁹⁹ The criteria for temporary licensing were put on a statutory footing by the Advocates Act 1995

³⁰⁰ 'No Limit' a film about a Chimney Sweep winning at the Manx TT.

In the early part of the 20th century a number of Manxmen who had taken their law degrees in England also took the English barristers exams before returning to the Island and become students-at-law, Roy Kinley Eason being the first.³⁰¹

This chapter is the core of my work as it chronicles the path which the lawyers in the Isle of Man took to reach the status of an organised profession. The legal profession could easily have been influenced by the English Profession after Revestment when the United Kingdom took control from the Duke of Athol. The fact that the Attorney Generals were English Barristers could have had detrimental effect on the burgeoning profession by influence from the English professions. However, Manx lawyers, whilst being appointed by the State, defied incursions by the English profession and were gradually given more control over entry into the profession. This can clearly be seen when Governor Loch requested the Law Society in 1875 to vet Memorials of applicants who wished to become articled clerks.

What is also significant from my examining of the Minutes of both the Library Society and the Society of Advocates is that only a small number of Advocates were involved as members of the Committees. They tended to be re-elected and in fact when the Advocates Society was formed the majority of the committee members were the same people as the Library committee. One Advocate J.C. Bluett, took a very active part in calling meetings of the Law Library Society whenever it appeared to be moribund. This was done even though he was not a member of the Committee. The involvement of the Judiciary was also important and except for the 'difficulty' in 1847 when Deemsters Christian and Heywood resigned from the Law Library over fees, the Judiciary played an important part in the development of the profession.

By forming the Society of Advocate and the later Law Society the Manx Bar was very successful in ensuring that positions to the Judiciary and the Vicar General and the Attorney General were held by Manx Advocates. However, from the late 1970's English lawyers are being appointed to the lower judicial positions without protest from the Bar. The fact that the Manx Bar is no longer unduly concerned when English lawyers are appointed to judicial posts is in striking contrast to the view of the Bar in the 19th century when the issue was of such controversy that the Bar felt it was necessary to petition members of the British Parliament and Secretaries of State. This is probably because

³⁰¹ See page 83

Advocates incomes are now high, and the prestige of judicial appointment does not appear to carry the same esteem as in the past.

A number of other reasons are: the Manx Bar is well established; its members are well trained and have little to fear to from foreign lawyers; foreign lawyers must take the Manx Bar exams to qualify if they wish to practice. The growth in the Manx finance sector has also meant that there is a need for English lawyers with their specialised skills and knowledge in trusts and banking. Whilst foreign lawyers can be and are employed in Manx advocates firms they cannot be involved in their ownership unless they are also qualified as advocate. There is little doubt that the Manx Bar by grouping together were successful in their aims.

This chapter also indicates how difficult it was for the Societies to get their grievances listened to by the Governor. Some of the difficulty may have been because Governors changed, though many were in post for a considerable number of years. The records I examined indicated that the Governors were often in England, sometimes for many months. This lack of communication resulted in a lot of the issues simply not being proceeded with.

Chapter 4

Manx Legal Education

This chapter will review how Manx legal apprentices/students at Law were trained, assessed, and examined to prove their skill and competence and to ensure that they had sufficient knowledge to practise as Manx Advocates. It is an important feature in the development in the path to professionalism of the Manx Bar. It can be seen from my description above on the literature on professions that training is an important part of a profession.³⁰²

³⁰² Abbott, Andrew. *The System of Professions, an essay on the division of expert labour .'* University of Chicago Press 1988, page 24

In the late 18th century, the Governors of the Isle of Man devised statutory methods to control lawyers. This is clearly seen by the statutes enacted to influence those appearing in the Manx Courts on behalf of litigants. Control was their initial aim, but they also became concerned with the training of Manx Lawyers. It will be seen that whilst initially it was the Governors who were keen to improve training the practitioners were also aware of the importance of training and how the acquisition of legal knowledge would enhance their standing. This is evidenced by the formation of the Law Library Society in 1825.

Early history of apprenticeships

Apprenticeships have a long tradition in the British Isles, dating back to around the 12th century and were flourishing by the 14th century. The first statute regulating apprenticeships in England was the Statute of Artificers of 1563. The statute was passed because it was felt that the proper training of craftsmen was extremely important for public protection and for the economic good of the country.³⁰³ The view was that those calling themselves craftsmen should only obtain their training from persons who had the knowledge themselves. There were national regulations which stated that "...apprentices had to serve seven year apprenticeships"³⁰⁴ and their 'Master had to provide board and lodging and linen and were rarely paid wages.'³⁰⁵

There are several Manx statutes passed in the 16th, 17th and 18th centuries which contain regulations concerning apprentices. The first statute in the Isle of Man which mentions apprentices is a statute which appears to have been passed in 1577. This statute deals with a variety of matters including the rights of the spiritual authorities and in particular the tithes due to the church. Clause 40 states that "All Apprentices, during the Time of

³⁰³ Woodward, Donald, 'The Background to the Statute of Artificers: The Genesis of Labour Policy'. The Economic History Review. 1982. OnlineLibrary.wiley.com

³⁰⁴ Vanes, Jean, 'Education and Apprentices in Sixteenth Century England', Bristol University Historical Association. 1982. Bristolha.wordpress.com

³⁰⁵ Wallis, Patrick, 'Apprenticeship and Training in Premodern England'. Working papers on the Nature of Evidence No. 22/07. Eprints.lse.ac.uk

their Apprenticeship pay nothing".³⁰⁶ This exemption may have been because, if the practice followed England, the Master provided board and lodging, and the apprentice would probably not have been paid. In a lot of trades, the apprentice also had to pay the master for their training and therefore would not have been able to pay a monetary tithe. There is evidence that it was the practice for students of law in the Isle of Man to pay a fee to their Masters.³⁰⁷

The rules regulating Manx apprentices may have been made earlier, as the heading to the 1577 statute states - 'A Book of the Spiritual Lawes and Customes, belonging to the Isle of Mann, copyed out of the original'.³⁰⁸ The strong implication is that the law was made earlier than 1577. This view is reinforced by the Memorandum to the 'Book of Customary Statutes of the Isle of Man' which were proclaimed in July 1577; where it is stated below the title - "Certain old Customes given for Law which have never been put into writing, but used and allowed of long Time heretofore"³⁰⁹

My findings support the view of J. R. Dickenson, who when discussing regulations on the Island in relation to apprentice's states - "If such rules were made before the records of the Stanley administration became relatively plentiful, from about 1580 onwards it may well be that they have long since perished."³¹⁰

It was almost a hundred years later before a further statute was passed affecting apprentices. In 1665 the 'Ordinances and Statute Law' were proclaimed at Tynwald. These laws, just as the previous statutes I refer to above, dealt with several issues including 'Men and Women Servants' and their conditions of employment. This Act contained general conditions concerning servants and workers of all types. Clause 7 of the Act is quite lengthy and contains a number of detailed rules in relation to apprentices. It included regulations that apprentices had to enter into a bond of at least £10, a large sum at that time, which was paid to the Master, and they had to serve a term of apprenticeship of five years. If the Island had been following the English practice of seven

³⁰⁶ A Book of the Spiritual Lawes and Customes. The Statutes of the Isle of Man Vol.1 page 45

³⁰⁷ Ramsey Bignall Moore paid his Master 100 guineas in 1897. Unpublished autobiography. MMA MD 1154 (MS 08829) page 20

³⁰⁸ A Book of the Spiritual Lawes and Customes. The Statutes of the Isle of Man Vol.1 page 40

³⁰⁹ Ibid page 47

³¹⁰ Dickenson, J.R. 'The Lordship of Man under the Stanleys', Manchester 1996 page 146

years, this would have been a reduction of two years in the period of articles. Most striking was the regulation that if the apprentice wished to get married during the first year of their apprenticeship, they were required to obtain a special spiritual licence from a Minister of the Parish and references from two neighbours on 'his condition, honesty and ability'.³¹¹ The statute also barred the new tradesman from taking an apprentice himself until they had practised for a year.³¹²

Sugarman, when detailing the development of the English professions, says that during the sixteenth and seventeenth centuries "No formal teaching was specifically provided for attorneys and solicitors: they were usually trained 'mechanically' as apprentices."³¹³ If any training was being given in the Isle of Man in the same centuries it probably followed the same process as that in England. It appears that what little education was given by the Inns of Court in England had apparently broken down during the eighteenth and nineteenth centuries and barristers in particular "...took to learning their law and practice as the 'de facto' apprentices of "eminent attorneys".³¹⁴ The profession of lawyer in England began to follow the practice of other trades and professions by taking apprentices.

All the apprenticeships, whether they were craft or law, had a common principle in that the apprentices would serve a number of years tied to his master and it was usual for craft apprentices to produce a piece of work at the end of the term to prove their skill.

Manx Students at Law

The first Manx Act which regulated lawyers on the Island was the Champerty Act 1747. This Act made regulations in relation to Advocates personally financing the litigation of their clients. It did not affect any other duty or how lawyers were authorised or licensed to practise neither did it try to control who could represent litigants in court.

³¹¹ A Book of the Spiritual Lawes and Customes. The Statutes of the Isle of Man Vol.1 1417-1824 page 129

³¹² Advocates on the Isle of Man are not allowed to take trainees until qualified for three years.

³¹³ Sugarman, D. 'Bourgeois collectivism, professional power and the boundaries of the State', International Journal of the Legal Profession, Vol .3, NOS. 1/2, 1996 page 85

³¹⁴ Ibid page 86

The first attempt to control who could represent litigants in courts was contained in an Act passed in 1763.³¹⁵ This Act dealt with several disparate matters. It was not unusual for an Act to deal with a variety of unconnected issues as Tynwald met on an infrequent basis. The reason for the enactment dealing with lawyers is clearly explained in Section 11 of the Act which stated –

"Whereas much Litigiousness and Contentions are fomented and carried on by several ignorant and evil-minded Persons who provoked Law Suits and pretend to practice as Attorneys therein, though altogether unqualified, to the great Trouble and Perplexity of the several Courts...and also to the Inconvenience and Detriment of the Public in general...no Person after... the Publication of this Act, plead in any Suit or cause whatsoever or act in the Character of an Attorney, (except in his own cause) until he first duly be approved of and admitted by the Governor, Officers, Deemsters and Keys, or a committee of them and afterwards sworn in the Court of Chancery..."

There was no indication in the Act as to how the Tynwald Committee were to satisfy themselves that the applicant was capable of being a lawyer. This Act was followed by an Act passed in 1777, Section 1 of which states -

"That hereafter no Person shall Plead in any Court (except in his cause) or sue out in any process or act in the Character of Attorney or Advocate before any Court, Judge or Magistrate until he be first approved of and commissioned to act by the Governor or Lieutenant Governor of this isle under his Hand and Seal, and until he shall have publicly taken Government Oaths as also the following one: "I, A. B. do swear that I will truly and honestly demean myself in the Practice and Knowledge of an Attorney to the best of my Ability."³¹⁶

This Act abolished the Committee and gave the power solely to the Governor to approve who could practise law on the Island. Again, there was no provision in this Act as to how the Governor should examine or satisfy himself as to the applicant's knowledge of law.

³¹⁵ An Act for the Draining of Loughs and Stagnation of Water etc., 1763 Vol 1

³¹⁶ An Act for the Appointment of Attorneys and for the fixing of their fees. 1777 Vol 1

The first Act to regulate legal apprentices was the Attorneys Act 1826, Section 1 stated that a person could not act as an attorney, solicitor or advocate unless they had "*...been bound by contract in writing... to serve as a clerk...*" The training could only be given in the Rolls Office, or by an attorney, solicitor or advocate who had to have been legally sworn to act as an Advocate. This is the first indication of the requirement for proper supervised vocational training.

The Act went on to say that the contract could only be ended by mutual agreement, death of the master or retiring from business. In such cases, the unexpired term should be served with another advocate.³¹⁷

Section 2 of the Act required the Governor "...to examine and enquire, by such means as he may think proper, touching his fitness to act as an attorney, solicitor or advocate..." There is no provision in the Act as to how the examination or enquiry as to their suitability for appointment as an Advocate was to be conducted. The training which these students and John Parr³¹⁸ received is likely to have been in the form as described by Sugarman³¹⁹.

It is highly probable that the Clerk of the Rolls would have had a number of clerks as the volume of written records would have been extensive. It is also possible that some of these clerks would have gone into private practice, and these may have been the persons who were accepted as being lawyers prior to the controls being enacted. It is also very likely that practitioners would have employed clerks to assist them as all documents had to be written and often in duplicate. There will therefore have been a pool of persons who had been trained, however imperfectly, and could show that they had legal knowledge.

It was the practice in the Island even up to the 1940s for students to leave their principal's office as soon as they qualified to set up their own practice.³²⁰

Examinations

³¹⁷ Attorneys Act 1826, Clause 5. Vol 2

³¹⁸ See Chapter 2

³¹⁹ Ibid

³²⁰ Today, most students stay with the firms they trained with for at least three to five years and many stay for their whole career.

The first Act which indicates that some form of examination is required is the Attorney Act 1826. The Act makes it necessary that before the applicant can be admitted as an advocate – “That the Governor or Lieutenant Governor is “... required...to examine and inquire, by such ways and means as he may think proper, touching his fitness and capacity to act as an attorney, solicitor or advocate”.³²¹

Following the passing of the 1826 Act, the examination appeared to follow the English tradition. The UK Parliament had passed in 1729 an ‘Act for the better Regulation of Attornies and Solicitors’ which laid down that “...all would-be-attorneys were to be examined by a judge.”³²² , though there is evidence that Deemsters were examining applicants earlier than 1826. The Attorney General at this time was James Clarke, he had been appointed in 1816 and also held the position of Recorder of Liverpool. He would have been involved in the drafting of the Act, and have been aware of how English lawyers were examined.

There is no further reference to examination in the statutes or the Minutes of the Law Society until the 18 May 1872 when at a meeting of the Law Society Committee the Secretary presented a Memorial “...from certain Students-at-Law with reference to the representations made by his Excellency the Lieutenant Governor for the examinations of candidates for admission to the Bar.”³²³

The Committee decided to hold a Special General Meeting of the Society. At the meeting held five days later on the 23rd of May, at which nine members were present, a Resolution was passed –

“That insomuch as the rules published by Lieutenant Governor in respect of the examination of students will tend to the improvement of the Bar, it is not advisable that the Society should take the course suggested by the memorial.”³²⁴

³²¹ An Act for the Appointment of Attorneys, and for the fixing of their fees, 1826, section 2

³²² Corfield, Penelope J. ‘Powers and Professions in Britain 1700-1850, Routledge,1995, page 76

³²³ LS Minutes Volume 1, page 249/250

³²⁴ Ibid page 252

The motion was carried unanimously.

There is no detail of the Memorial in the minutes of the Committee, but the minutes of the Special Meeting indicate that the complaint which Students may have had was in relation to a change in the examination and I suspect that the Governor may have been attempting to place some responsibility on the Society for the examinations as it will be seen below that the Governor was in dispute with Deemster Drinkwater over the conduct of the exams

The names of the eight students who signed the memorial are listed in the minutes, one of whom, George Alfred Ring, became Attorney General 26 years later. He was the second Manx Advocate to be appointed Attorney General following Revestment in 1765.³²⁵ Of the remaining Memorialists, five of them were admitted as Advocates, one apparently did not make application and the eighth student, John Berrill, applied to be admitted in January 1876 but had his application refused because of his bad character, one of the allegations being that he had embezzled £25 from his Master and was immoral and consorted with prostitutes.³²⁶

The subject of examinations as will be seen below, was an issue for the Society during this period. Rather intriguingly, glued into the minute book is a letter dated May 29, 1872, sent to the Society from an Attorney in the United States of America, William Marshall, Attorney and Counsellor at Law, who was practising in the County of Monmouth, though it does not identify the State.³²⁷ The letter indicates that the Society's Secretary had written to him enquiring how attorneys were admitted to practice in the courts of the County of Monmouth.³²⁸

The letter is interesting in that Mr. Marshall replies that "... there is no uniform rule prevailing in the different states. In this state the applicant for admission is required to appear before our Supreme Court at one of its regular terms in one of the grand divisions

³²⁵ Up to this point only two Manxman had been appointed Attorney General out of the preceding seven persons who had held the appointment since 1765.

³²⁶ LS Minutes Volume 1, Pages 397/399

³²⁷ There is a County of Monmouth in New Jersey which was established in 1683.

³²⁸ LS Minutes Volume 1, pages 254/255

and there and then in open court be examined by the court to his qualifications as an attorney and counsellor at law." This method of examination appears to mirror the early practice of the English profession, which as I detail was also followed in the Isle of Man. The letter then then goes on to say that "There is no prescribed course of study", but the applicant should have spent two years in the offices of a lawyer in general practice, but that any time spent in a Law School would be deducted from the period.

Why the Secretary should be writing to a lawyer in a small county in the United States is not explained as there is nothing written in the minutes in relation to this letter. But it seems that the Society is trying gather information as to how Lawyers in other jurisdictions are being examined.

The reason for the Memorial from the students may have arisen from a controversy between Deemster Drinkwater and the Governor, Lord Henry Brougham Loch, (1863-1882) in relation to a change in the method of examining applicants to the Bar. Deemster Drinkwater became First Deemster in 1855, having been appointed Second Deemster in 1847. An earlier Chapter details how his appointment as Second Deemster caused much controversy and resulted in the formation of the Society of Advocates.³²⁹

The reason for the controversy is detailed in correspondence in between the Governor and the Secretary of State for the Home Office. It starts on or about of 1872 and extends into 1873. Some of the handwriting is difficult to decipher but it indicates that there is an argument between the Governor and First Deemster Drinkwater. The argument is in relation to who should conduct the examination of articulated students. According to the first letter in the correspondence dated 6 January the Governor informs the Home Office that since 1817 "...it had been the practice for application for examinations to be made to the deemsters and other legal members of the Council".³³⁰ It can be deduced from the correspondence that the other legal member is the Clerk of the Rolls.

Prior to writing to the Home Office, the Governor had written on the 19 December 1872 to Advocate Frederick L. Gelling asking him about the examination of students. Mr Gelling

³²⁹ See Chapter 2

³³⁰ MMA GO 13/51

replies "...that previous to 1826 I am not aware that the Governor ordered any examinations of law students previously to admission to the Bar. I do not know that any regular examiners were appointed by the Governor to examine Law Students."³³¹

The letter from the Governor to the Home Office indicates that Deemster Drinkwater is now refusing to examine the students. As I mentioned earlier the conduct of the Manx examination at that time does seem to have followed the early English practice. According to Corfield, she reinforces Sugarman's view that "After 1 December 1730 all would-be-attorneys were to be examined by a judge."³³²

Sugarman, when considering the same period as Corfield, writes - "It seems that the examination of would-be entrants to the profession was usually fleeting and half-hearted, perhaps because judges received no fee for interviewing candidates. William Hickey's Memoirs describe his admission as an attorney, conducted by a judge "...at the judge's own house, over the judge's breakfast of French rolls and muffins."³³³

Evidence that the original examination was viva voce is confirmed by a Memorandum³³⁴ submitted by the Manx Law Society to the Governor on the 4 December 1929. It detailed the history of the Manx Bar from the Act of 1763 and amongst other points it stated that from 1826 to 1874 "...the only law test which a student had to pass was a viva voce examination by a deemster, which usually did not last for more than half an hour"

This is astonishingly honest, and it echoes the quote above in which David Sugarman quotes from William Hickey's memoirs, where he describes his admission as an attorney, conducted by a judge in England.³³⁵

A similar instance to that of William Hickey is recalled by High Bailiff Laughton, who writes about a fellow student at law, Samuel Rogers, taking his examination in 1847 with

³³¹ MMA GO21/58

³³² Corfield, Penelope J. 'Powers and Professions in Britain 1700-1850, Routledge,1995, page 76

³³³ Sugarman, D. 'Bourgeois collectivism, professional power and the boundaries of the State', International Journal of the Legal Profession, Vol .3, Nos. 1/2, 1996 page 86

³³⁴ LS Minutes Volume 4, page 330

³³⁵ Sugarman, D. 'Bourgeois collectivism, professional power and the boundaries of the State', International Journal of the Legal Profession, Vol .3, Nos. 1/2, 1996 page 29

Deemster Heywood, who was at that time First Deemster. Laughton recounts that he was told by Rogers "The Deemster, received me with great courtesy, and after some general remarks, from which I gathered that the interview would be short and pleasant he asked me a few questions."³³⁶ Rogers received a letter within two hours of leaving the Deemster telling him that he had failed and that the Deemster had recommended to the Governor not to admit him to the Bar, and that he should take a further six months study.³³⁷ Mr Rogers, must have studied hard as he was successful later in the year and was admitted to the Bar.

The correspondence from the Governor to the Home Office indicates that the duties of the office of Deemster included examining students at Law applying to be admitted and continues "...whether they be customary or not Deemster Drinkwater apparently finds the duties distasteful".³³⁸

In the letter the Governor refers to a Governor Brady, who was Deputy to Governor Colonel Lord Ready (1832-1845). Brady apparently issued an order on the 2 March 1843 in which he said there should be a strict examination and enquiry "as to the fitness and capacity of the candidate".³³⁹ The letter goes on to say that that these memorials (i.e. the applications) have since 1843 been referred by the Governor to the Deemsters and legal members of Council. The Governor wasn't satisfied that Governor Brady's orders were being carried out and the examination was not as strict as envisaged and he required the examination "...to include an inquiry as to the student's general attainment as well as their legal proficiency". He writes that he had asked the Attorney General to comment on the Governor's power for such an exam as he now required the examination to be in writing and not viva voce. It is this request that Deemster Drinkwater had declined to comply with, though the Clerk of the Rolls had raised no objections.

The reply from the Home Office, which is signed by Liddell, the secretary to the Secretary of State says that the Secretary of State "...concurs in the general view expressed by you that an officer by accepting all of the position becomes responsible for all duties". He

³³⁶ Laughton. A.N., 'High Bailiff Laughton's Reminiscences', S.K. Broadbent & Company Ltd, Douglas Isle of Man

³³⁷ Ibid

³³⁸ MMA 13/51

³³⁹ Ibid

appears to be agreeing with the Governor; however, it goes on to say that "...Secretary Bruce has suggested that the exams may be more satisfactory if conducted by paid and competent examiners",³⁴⁰ though as the letter continues saying that it is for the Governor to make the decision it gives the strong impression that Secretary of State Bruce does not really wish the Governor to insist upon Drinkwater being forced to carry out the duties and wants external examiners to set the examinations.³⁴¹

There is also correspondence on the same issue between the Governor and the Clerk of the Rolls and in a letter dated 13 November 1872 the Clerk of the Rolls writes -

'In reply to Your Excellency's letter of the 9th inst. I beg to state that when memorials of students of law have been referred to me and others to report on the application, I always considered that the examination was intended to embrace an enquiry into the applicant's knowledge of law and ability to practice as an advocate in addition to his age in compliance with requirements of the statute.

The reason for such enquiries has generally been made to the Clerk of the Rolls and Deemsters, in some cases the Governor has referred the matter to others for reports. I think in all cases that have been received since I was appointed Clerk of the Rolls, they have been referred to the Clerk of the Rolls and Deemsters and I have never declined to comply with Governor's request to examine. The practice for referring the application for report was only introduced about the year 1844 previous to which time young men were admitted to the Bar on the certificate of the gentleman with whom they had served their apprenticeships."³⁴²

It seems that as well as being examined the Governor also wants a report on the character of the applicant. Prior to this it was the student's Master who would present a certificate confirming that the student had complied with the regulations.

³⁴⁰ Ibid

³⁴¹ Ibid

³⁴² MMA GO 69/43

Thus, the argument with the First Deemster arose because the Governor now wants applicants to take written examinations and whilst Deemster Drinkwater is content to undertake viva voce examinations he is not willing to conduct written examinations.

The Governor partly succeeded in the argument and written examinations did become the method of examination. It was decided that the examination would be in two parts, an intermediate and a final examination and candidates would be allowed three attempts to pass both examinations. However, the Deemsters would not be setting the examinations. There is a letter dated 10th October 1873 from the Governor to the Home Office discussing the fee for intermediate and final examination and the Governor proposes that students should pay £2 per exam.³⁴³

There is a reply to that letter from the Home Office to the Governor dated the 15 October 1873 and a further letter dated the 20 November 1873.³⁴⁴ The correspondence relates to the fee for the examiners and states that students will only pay the fee once they have been admitted to the Bar as the fee for the examinations is incorporated in the £50 which they have to pay on being enrolled as advocates. The Governor wants permission to pay the examiners before the students have paid their admission fees which is why he wishes to pay it out of insular revenue. There is also the possibility that the students may not pass the examination.

The UK Treasury must have been involved in this request as a letter was received by the Governor from the Treasury dated 19th November 1873 in relation to the payment of a fee to the examiners and the letter states - "...note the Treasury will not object under the circumstances to payment of insular revenue of £2 for each law student on admission to the Principal Master of King William's College and £4 to the Attorney General."

There are no details of what the examinations will contain but this letter identifies that it is the Principal of King William's College³⁴⁵ and the Attorney General who will be the examiners. Whilst it may seem strange that one of the examiners should be the Principal of King William's College setting the intermediate examination. This is because it is a

³⁴³ MMA GO 21/58

³⁴⁴ MMA GO 13/89

³⁴⁵ Kings William's College is a Public School established on the Island by Bishop Wilson in 1688

general education examination and the Attorney General will set the final examination, which is an examination in law.

Enquiries into the character of students at law

The issue of examinations disappears from the minutes of the Law Society until September 1875. At a meeting of the Society's Committee held on the 29 September 1875 a letter received from Governor Loch is discussed.³⁴⁶ In the letter dated 20th September the Governor refers to the fact that "I have for some years past made arrangements for a more effective examination of law students in general and legal knowledge than had been previously adopted. There are however matters relating to the mode in which the service of the clerkship of the student has been conducted, or as to his character which ought to be investigated and as to which I cannot obtain information by mere examination."³⁴⁷

He goes on to say that he intends to refer all applications for admission as an Advocate to the Society for them to investigate their character and how their clerkship has been conducted as it is "... necessary for the right administration of justice that the profession should be exercised by persons capable of performing the duties thereof with honour and integrity".

He says that he would wish the Law Society Committee to send a Report to him to consider before agreeing to admit the applicant to the Bar. The Committee "Resolved to accept with pleasure the duty referred to ...and they feel bound to investigate each case referred to them...".³⁴⁸ The Governor is informed of this decision and on the 21st October 1875 the Governor issues an Order to that effect.³⁴⁹

This Order is placed before the Committee meeting on the 10th December 1875 and at the Meeting the Order is discussed and it appears that some of the Committee members have had second thoughts and the meeting passes a Resolution "That the duties lately

³⁴⁶ LS Minutes Volume 1 page 351

³⁴⁷ MMA GO Letter Book, 9845/1/27-28, page 407

³⁴⁸ Ibid 38

³⁴⁹ A full copy of the Order is contained in LS Minutes Volume 1, on pages 365-366

proposed to be undertaken by the Committee of the Law Society with reference to enquiry and report to the Governor as to the fitness of applicants for admission to the Bar are not such as come within the ordinary scope of the jurisdiction of the Committee."³⁵⁰ The Committee decide that the Governor be informed that a "...difference of opinion exists amongst the member of the Committee..."³⁵¹ . It is also decided to call a Special General Meeting of the Society to obtain the opinion of members on the matter.

There were four members of the Committee present at the meeting on the 29 September when it was agreed to accede to the Governor's request. At the next meeting there are six members present, the further two members being Advocate A. W. Adams and Deemster Stephen. There is a difference of opinion, and a letter is sent to the Governor informing him of the Committee's decision to hold a Special General Meeting to discuss the issue. The explanation given to the Governor is that the reason for the Special General meeting is that the first meeting of the Committee was inquorate as it required five members to be present at a meeting. This seems to be a weak excuse as there were six members present at the second meeting and the error could have been rectified. The Governor's secretary replied to the Society in a letter dated the 14 December in which the tone of the letter shows that the Governor is dissatisfied with this retraction as "[the]...Lieut. Governor has been allowed to suppose the decision of the Law Society as conveyed to his Excellency was perfectly valid." (The Governor's letter is contained in the minutes)³⁵². The letter also states, rather tersely, that the Order has been suspended.

The Minutes do not state who dissented from the original resolution, but it is likely to have been Advocate Adams because at the Special General Meeting held on the 23 December 1875, the minutes of the meeting record that there were eleven members present, only one member dissented and that was Advocate Adams who had not been present at the Committee meeting on the 29 September but was present at the next meeting when the decision was reversed.³⁵³

³⁵⁰ LS Minutes Volume 1, pages 367-369

³⁵¹ Ibid

³⁵² Ibid, pages 373-374

³⁵³ LS Minutes Volume 1, page 377

The Special General Meeting resolved – “that in the opinion of the Society it is advisable that the Committee undertake the duties set forth in the order of his Excellency the Lieutenant Governor of the 21 October 1875.

At the conclusion of the Special General Meeting the Committee met and it agreed to send a copy of the Resolution to the Governor to which Adams again dissents. The Governor is informed of the Resolution, and he issues the Order as a Rule of Court.

The next meeting of the Committee, which was a Special Committee Meeting, is held on the 27 January 1876 and at that meeting it is decided that as well as enquiring into the general character of the applicant the Advocate who has acted as his Master and the applicant will be given in writing specific questions to answer before the application will be considered. The Master was expected to answer seven questions to confirm proper training had been given and the Applicant will also expected to answer three specific questions as to his attendance at the office of his Master. The decision is also made that both the applicant and the Master will be informed that the Committee has the power to call them personally to attend an enquiry.³⁵⁴

It is significant that a booklet issued by the English Law Society entitled ‘General Rules and Regulations Supreme Court of Judicature, 1875’ is glued into a page of the Minutes. The booklet contains details as to –

‘The Preliminary, Intermediate and Final Examination and admission of persons intending to become solicitors of the Supreme Court; the taking out and renewal of their Certificates; and as to the re-admission of solicitors and custody of documents.’³⁵⁵

It is evident that the contents of the Booklet have been considered by the Committee because at the same meeting it is resolved “That in all cases as to the admission of students at law referred to the Committee by the Lieutenant Governor the Regulations now in force in England under the Third Schedule of the General Rules and Regulations

³⁵⁴ Ibid, pages 380-384

³⁵⁵ Ibid page 385

under the Supreme Court of Judicature Act 1875 ... is adopted with modifications as the Committee may deem necessary."³⁵⁶ In particular the questions asked of the applicant and his Master have been influenced by the questions which are contained in the booklet to be asked of the English articled clerk and the Solicitor to whom he was articled.³⁵⁷ Perhaps this is an indication the Society appreciate that the English Law Law Society were more advanced in their examination procedures.

Following the meeting in January, three subsequent meetings of the committee are organised, but they are all adjourned, and the next ordinary meeting does not take place until the 3 of February 1876. There appears to be discord between the committee members which is perhaps why the previous meetings have not taken place for at that meeting Advocate A. W. Adams resigns from the committee by letter. The meeting is adjourned to the following day and at that meeting the President of the Society Richard Sherwood also resigns. The Attorney General, James Gell, is elected President and Richard Sherwood takes Adams' position as Vice President. Whether these resignations were as a result of the decision made by the Special General Meeting is conjecture, but Adams had been a member of the committee since 1869, six years in total.

This meeting also decides to send a Notice to all Members informing them of all applications for admission to the Bar. The Notice sets out details of the applicant and requests Members - "...to furnish to the Secretary personally or in writing, for the information of the Committee, any communication they may be desirous of making with reference to the application."³⁵⁸

Exemptions for graduates and changes to the examinations

The next reference to examinations is not until Special Meeting of the Committee held on 5th March 1884, when considering the application for articles of Arthur Adamson, it was – "Resolved that the committee recommend to His Excellency the Lieutenant Governor

³⁵⁶ Ibid pages 381-382

³⁵⁷ General Rules and Regulations, under the Court of Judicature 1875, Incorporated Law Society, London 1875

³⁵⁸ This practice has continued to the present, but members now receive the Notice by email.

that the preliminary examination be dispensed with in the case of students who have taken degrees not being honorary at any of the universities of the United Kingdom".³⁵⁹

The English Regulations contained a provision to exempt graduates from the English Solicitors preliminary examination and in view of the earlier resolution in 1876 perhaps the Committee were taking cognizance of this exemption.

At the next meeting held on 12th November 1884 it is decided to send a small deputation to the Governor to confer generally on the subject of the admission of articled clerks.³⁶⁰

There are no details of any response from the Governor to the request, but the minutes appear to indicate that he was in favour. It appears that the Committee do not want to exempt barristers as the minutes record that at a meeting held on the 19 November 1888 when an English Barrister is applying for a reduction in the term of his articles, the Governor is reminded Barristers must still take the Preliminary Examination.³⁶¹

Whilst there are no details of any discussion at a meeting held on the 8th July 1891 the Secretary is instructed to "...obtain copies of the Rules relating to student examinations in England."³⁶² Whether copies were obtained is not mentioned but at a meeting of the committee 8 months later in March 1892 a sub-committee of three is formed, including the Attorney General, "...to confer with the Lieutenant Governor as to the desirability of making any alterations in the existing arrangements as to Law Students examinations."³⁶³

There are no reports from the sub-committee of any meetings with the Governor. However, the Governor at the time, Spencer Walpole (1882-1893), resigned his post in November 1893 and as official matters on the Island moved slowly it is likely that no meeting had been held. In any event any agreement which may have been made would have to be discussed with the new Governor who was Joseph West Ridgeway (1893-1896).

³⁵⁹ LS Minutes Volume 2, page 51

³⁶⁰ Ibid page 57

³⁶¹ Ibid, page 85

³⁶² Ibid page 102

³⁶³ Ibid page 106

Three years passed before the subject of examinations was raised again and this was at the Annual General Meeting of the Society held on 18th November 1896 when the Committee was asked by the meeting to consider several matters including:

“Whether arrangements can be made for law students to get the benefit of the examination papers issued by the English law educational authorities and the question of whether the methods of conducting the examinations of students of law in the island cannot be improved”.³⁶⁴

The following month the Committee resolves – “That the committee being of opinion that in relation to the examinations of Students books and subjects should be set beforehand for examinations as nearly as possible as is done in England, the Attorney General and Messrs. Ring and Kneen to be a subcommittee to confer with the Lieutenant Governor on the whole subject.”³⁶⁵

However, there is no further mention of examinations until nearly two years later is at the meeting in June 1898 when it is suggested that “... alterations should be made to the conduct of students examinations...”³⁶⁶ A member of the Committee was asked to make enquiries as to the method of conducting law students examinations in England. His Report was discussed at the meeting on 26 October 1898, and it was it was decided – that because there was no possibility of lectures special books should be prescribed for both the intermediate and final examinations.³⁶⁷ It is of significance is that the the committee also wish to be involved with the Governor in the examinations and the Attorney General was requested to discuss the matters with the Governor.³⁶⁸

1.

The Attorney General wrote to the Governor on 31st October giving him details of the resolutions of the Society. The Governors’ Secretary replies on the 2 November stating – “His Excellency would be glad to have placed before him the scheme referred to therein

³⁶⁴ Ibid page 132

³⁶⁵ Ibid page 133

³⁶⁶ LS Minutes Vol 3, page 8

³⁶⁷ Students were not given any extensive notes and advice on what to study until June 2023.

³⁶⁸ LS Minutes Vol 3 pages 17-18

by which it is proposed to associate the Lieutenant Governor with the Isle of Man Law Society in the matter of the examinations for admission to the insular bar.”

A scheme is drawn up and sent to the Governor in March 1899. The scheme appears to propose that the Society should be involved in the content of the examinations. Nothing is heard from the Governor and a reminder is sent in June 1900.

There is a reference to the examinations by Advocate Ramsey Bignall Moore in his unpublished auto biography. ³⁶⁹ He took his exam in 1902 and wrote that the exam was a farce, and he was of the view that the exams were a copy of English Solicitors Exams.³⁷⁰

There is no further reference in the minutes on the subject until a meeting held on the 21 January 1903 when one of the Committee members produces a copy of the 1872 Regulations which were drawn up by Governor Lough and he offers to make typed copies for the Committee.³⁷¹

I cannot find any further discussion on examinations until a meeting of the Committee on 31st March 1909 when it is minuted that the subject of the examinations is adjourned. At the next meeting in May a sub-committee is formed “...to consider whether any changes are desirable in the conduct of examinations in the Manx Bar...”³⁷² There is no mention of the previous Scheme.

In 1910 at the April meeting the Scheme proposed by the sub-committee is discussed and sent to the Governor for his approval. At the meeting in January 1911, it was decided to send a further letter to the Governor Lord Raglan (1902-1919) and his reply dated 31 January was discussed at the February meeting.³⁷³ The proposals of the Society must have been similar to the proposals submitted in 1899 allowing the Society some influence over the examinations. But the Governor does not agree with it. He states that he notes

³⁶⁹ He held the post of Attorney General from 1921 to 1945.

³⁷⁰ Moore R.B. Unpublished autobiography. Page 26. MMA MD 1154 (MS 08829)

³⁷¹ The minutes were not put into typed form until the 10950's

³⁷²LS Minutes Vol 3, page 350

³⁷³ MMA LG Letter Book 1306/11

the Society's proposals, but he intends "to appoint the judges the authority for examining Law students for admission to the Bar."³⁷⁴ However, he is willing to meet the Society and consider any further propositions. The meeting again forms a sub-committee to consider examinations.³⁷⁵

The subject of the Scheme of examinations is on the agenda for the following two meetings but in each case, it is adjourned. There is no further discussion of examinations in the minutes until a letter is received from the Governor, dated 25 March 1914 -

"Sir, I am directed by His Excellency the Lieutenant Governor to state that he has lately had under consideration the existing practice for examining students for the Manx Bar, and he is of opinion that the judges should not now continue to examine students presenting themselves for the intermediate or final examinations.

- I am to enquire, therefore, whether the law society would be willing to undertake the duty of conducting these examinations in the future in accordance with the conditions laid down in government circular number 63, a copy of which is enclosed.
- His Excellency suggests that the fees paid by students should be transmitted by the Treasurer of the island to the Law Society to cover the cost of such examinations".³⁷⁶

The Governor must have reconsidered his view. The letter was discussed, and most surprisingly when the proposals are considered, it was moved by the chairman that a letter be sent to the Governor informing him "That it was inadvisable for the law society to undertake the duty of conducting the examinations of law students and that a letter be sent requesting the governor to make a further effort to get the judges to conduct examinations."³⁷⁷

³⁷⁴ LS Minutes Volume 4, page 2

³⁷⁵ Whilst the Statutes laid the responsibility for examinations on the Governor it was the Deemsters who examined the candidates since the early 19th century.

³⁷⁶ LS Minutes Volume 4, page 76

³⁷⁷ Ibid

There is no detail of the discussion relating to the Governor's request, but it is a very surprising decision to take. The Society had in previous years lobbied for influence over the exams and now rejected the opportunity to control the examinations. The Society has in recent times been attempting to take control of the examinations and has been moderately successful in that it has rewritten the syllabus.³⁷⁸

Notwithstanding his communications with the Society the Governor had in fact issued an Order on 14th March 1914 titled 'Examination for Admission to the Manx Bar'.³⁷⁹ It required students at law to pass three examinations for admission to the Manx Bar: The First or Preliminary Examination within the first year, and the Second or Intermediate Examination within the first three years of being articled. The final examination is at the termination of the five years for which students are articled clerks. It also states that students have three attempts at each examination and following that they are excluded from admission to the Manx Bar.

The preliminary examination embraces the following subjects: -

1. English composition;
2. English history;
3. Geography;
4. Arithmetic;
5. Elementary knowledge of Latin and French or other modern language.

The intermediate examination embraces simple questions on law and bookkeeping.

The final examination included questions on:--

Common and statute law and practice of the courts

Conveyancing

Equity and practice of the courts

³⁷⁸ This is as result of changes made to the English Law Society examinations.

³⁷⁹ Government Circular No.63 March 1914

Bankruptcy and practice of the courts

Criminal law and proceedings before magistrates.

The order contains strict rules as to how the examinations are to be conducted. These are that: –

“The questions are given to each student in writing. He is examined in a room by himself, after first pledging His Honour that he has no books of reference with him. The time allowed for examination is from 11am to 2pm, during which time the student is not allowed to leave the room or to communicate with anyone except with the consent of the Examiners or of the person authorized by the Governor to take charge of the examination papers”.

It quite interesting that the student has to ‘pledge that he has no books of reference with him’.

The examiners are to submit the results to the Government Office which will inform the student of the result. The fee for the preliminary examination is set at £1 and the fee for the intermediate and final examinations are both set at £2 10s.

At a meeting of the Committee held on 15th February 1922 it was decided that the Governor Major-General William Fry Campanion (1919-1926), should be asked to change the regulations so that future applicants for articles should have passed the Preliminary examination before being articulated. The Governor agrees to this request, and he amends the Order in July 1922 to that effect.³⁸⁰

Three years later Governor Fry issues an Order dated 2nd of February 1925.³⁸¹ This Order confirms that applicants to take Articles must have passed the Preliminary examinations or be exempted before submitting their Memoria of Articles to the Governor. The Order makes further amendment to the preliminary examination. There is no reference in the minutes to any consultation with the Law Society about this change.

³⁸⁰ Government Circular G.O Reference 10021/15 27/7/22

³⁸¹ Government Circular 1085 G.O. Reference 10021/19

The Order states that the preliminary examination will now consist of:

1. Writing from dictation
2. Writing a short English composition
3. (a) Arithmetic; (b) Algebra up to and inclusive of simple equations and elementary geometry the subject matter of Euclid books 1-4, any proof of a proposition which appear not to violate a logical sequence will be accepted and simple riders will be set in both arithmetic and algebra, geographical methods of solution will be accepted.
4. Geography of Europe and history of England
5. Latin
6. Any two languages to be selected by the candidate out of the following six namely: Latin translation; Greek; French; German; Spanish; Italian. And it states further, "No books will be previously specified for the language examinations, but passages will be given for translation at sight, without the assistance of a dictionary."

The examination now quite clearly requires a classical education and not only a knowledge of Latin but also of two foreign languages. I think a lot of today's students would find the translation of two languages rather difficult and very few will have studied Latin. Several years ago, I was chastened by the Deemster for my use of Latin in court, and he commented that the opposing advocate who was some thirty years younger than I, would not understand what I was saying.

It is also interesting that the examination required 'Writing from dictation'. I can only guess that this is to ensure that statements in court being made by witnesses can be taken down by the advocate.

The Society is apparently not happy with fact that they have not been consulted as the examinations are discussed at a meeting of the Committee held four months after the issue of the new Order. At that Committee meeting held on 12th June 1925 a sub-committee of three is appointed to consider the new Rules.³⁸² The sub-committee are

³⁸² LS Minutes Volume 4, page 280

quite speedy and submit a Report to the Annual General Meeting held on 1st July 1925 "The report suggested that the Governor should be requested to cancel the new examination rules and pass similar to those of the bar council".³⁸³ This is to some extent quite revolutionary as there had not been any previously recorded objection to rules made by the Governor. The meeting instructed the sub-committee to meet the Governor to discuss the new Rules. Previous committees had considered the English Law Society Examination and regulations, this committee is now suggesting that those of the English Bar should be followed.

However, the matter could not have progressed for at the next Annual General Meeting held on 14th August 1926 the issue of the new rules is raised by one of the members of the sub-committee G. S. Johnson and again it is decided that the sub-committee meet the Governor to discuss the Rules.³⁸⁴

The Committee met 45 minutes after the General Meeting to discuss several innocuous issues but there are apparently no further meetings of the Committee for eight months as the next recorded meeting is on 2 March 1927. The President reported the result of the meeting with the Governor which had taken place in January 1927 on the matters raised at the General Meeting, including the matter of the examinations but there is no detail in the minutes of his Report except that there was "...considerable discussion between them."³⁸⁵

Discussions continued on the preliminary examinations into August 1927, but the fact that Governor Fry retired in 1926 and a new Governor, Sir Clarence H. K Hill, (1926-1933) was appointed probably hindered discussion. At the meeting of the Committee held on the 3 August G. S. Johnson gave details of the correspondence which had passed between him and the Government Secretary but there appeared to be no conclusion. However, the fact that there had been no satisfactory conclusion with the Society would not affect the examination as the Order had been made and the Society did not have any input into the examinations.

³⁸³ Ibid page 284

³⁸⁴ Ibid page 298

³⁸⁵ Ibid page 300

At a meeting of the Committee held on 5th October 1929 a letter and the Memorial received by the Governor from Roy Kinley Eason for admission to the Bar was discussed.³⁸⁶ This is a momentous application as Mr Eason possessed an LL. B degree from London University and had been called to the English Bar in June 1929. Mr Eason had asked the Governor to admit him on the same basis as an English Barrister.³⁸⁷ At this stage the Governor could admit an English Barrister by him merely paying the fee. I could not find in the minutes any trace of Mr Eason's application to be articulated but he was articulated with Advocate W.P. Cowley.³⁸⁸

It was decided to send the usual Notice of Applications to members and the Secretary was requested to obtain details as to the admission of members of the English Bar wishing to be Solicitors in England and to prepare a Memorandum to the Governor.

Exemptions for Barristers

At the meeting held a month later on the 5th November 1929 the Secretary presented to the Committee the Memorandum in relation to the admission of English Barristers to the Manx Bar. The Memorandum was extensive and chronicled the legislative history of the Bar and the power of the Governor to admit English Barristers to the Manx Bar by merely paying the fee, however the custom had been that a person who had passed the English Bar Final examination need only serve one year's articles and was not required to pass any examination. This statement was not correct as barristers had been required to take examinations. The Memorandum also made suggestions for a change in the regulations for admitting foreign lawyers and graduates.³⁸⁹

The committee decided to call a Special General Meeting of the Society to discuss the Memorandum and Mr Eason's Memorial. The meeting took place on 4th December, but the

³⁸⁶ Ibid page 327

³⁸⁷ It is interesting to note that it was quite common for men from the Empire intending to be lawyers in their own country would attend the English Inns of Court and in particular Middle Temple. 'London's Middle Temple and Law students from the New World'. in Griffiths, Cerian and Korporowicz, Lukasz J. 'English Law, The Legal Profession, and Colonialism'. Routledge 2024 pages 40 -60

³⁸⁸ Ibid page 343

³⁸⁹ It will be seen in Chapter 3 that the admission of foreign lawyers was a contentious issue.

matter was considered to be controversial, and several meetings to discuss the issue were held and adjourned. Eventually at a meeting held on 30th December 1929 a number of resolutions were proposed and after several amendments a resolution was passed: "That Barristers of at least 5 years standing serve articles for one year and those of less than 5 years standing serve articles of three years. In both cases they should take the Final Examination and the Bookkeeping Examination."³⁹⁰

This is the first mention of the bookkeeping examination. The subject had not appeared in any previous minutes, Circulars, or correspondence. The bookkeeping examination is still compulsory for applicants who have not taken the solicitors examinations before taking the Manx examinations.

It is of note that one of the amendments put to the General Meeting was that applications from barristers born on the Isle of Man or of Manx parentage or had resided on the Island for five years should have a further reduction in their term of articles. This was rejected. It is interesting to note that Mr Eason had been born on the Island and had also attended local schools before going to university.

Following the meeting the Memorandum was sent to the Governor in January 1930. A further letter was received from the Governor with regard to Mr Eason's application which was discussed at the committee meeting held on the 21st of June 1930 and the committee decided that the "... Governor be respectfully informed that, having regard to all the facts in the Eason case, in the opinion of the Committee it is desirable that the conditions with respect to the admission of English Barristers to the Manx Bar, contained in the Society's letter of the 30 January last, should apply to Mr Eason." The committee were referring to the Resolution and the fact that as Mr Eason had only just qualified as a Barrister and therefore, he should serve three years articles.

The controversy of Mr Eason's period of articles was again discussed at a meeting of the Committee on 1st August 1930. The Deemsters must have been consulted about the issue and it appears that Deemster F. M La Mothe agreed with the Law Society, and he was of the view that Mr Eason should serve three years' articles. He must have informed

³⁹⁰ LS Minutes Volume 4, page 331/332

the Governor of his opinion as the minutes record that Deemster La Mothe, had been overruled by the Governor who had decided that Mr Eason should only serve one year's articles. The meeting minuted its regret at the decision of the Governor.³⁹¹

Mr Eason sent his Memorial for admission to the Governor, who forwarded it to the committee who considered it at a meeting of the Committee held on 27th September 1930. Whilst he had apparently only served eleven months articles, however he had taken all the examinations within that period. The committee considered the application and decided that his Excellency be informed "That in the opinion of the Committee the position and character of the Memorialist is such as to justify a reasonable expectation that he will conduct himself as Member of the Profession of the Law with honour and integrity and respectability."³⁹²

It may have seemed that the Law Society had capitulated but what is of significance is that on 1st August 1930 the Governor had issued a Circular stating that "...in the case of future applications made to him by members of the English Bar for admission to the Manx Bar, the applicants will have to serve articles of two years with a practising member of the Manx Bar, and to pass the Final Law examinations and the Book-keeping Examination. His Excellency reserving to himself the right to depart from this general principle in special cases."³⁹³

This was a significant and important compromise as this is one of the few occasions in which the Law Society had overtly influenced the examinations and entry to the Bar. This must have been a newsworthy item as it was reported in a local newspaper that "...Mr Eason... was called to the Manx Bar by Deemster La Mothe. Mr Eason is the last advocate to be admitted to the Bar under the old rule, which prescribed that a member of the English Bar could only be called ...having studied with a Manx advocate for one year. This period has now been extended to two years, and it is necessary to pass certain definite examinations."³⁹⁴

³⁹¹ Ibid page 338

³⁹² Advocate Eason was appointed High Bailiff in 1962 and Second Deemster in 1969 and First Deemster in 1974. He is one of the very few advocates to have held all three judicial positions.

³⁹³ Government Circular No. 1299. G.O. Ref. No.15006/7

³⁹⁴ Mona's Herald, Wednesday, October 08,1930, page 2

It is also significant that the Governor retained the power "... to depart from this general principle in special cases. "This is a power which had been held by the Governor since 1826.³⁹⁵

The matter of the examinations was not raised formally again until 1937 when Advocate T. W. Cain³⁹⁶ raised the question of the content of the preliminary examinations at a meeting of the committee the on 3rd November. The meeting resolved - "That a letter be written to the government secretary stating that the committee has considered the question of the regulations for the exemption of candidates from the preliminary examination for admission to the Manx Bar we are of the opinion that the present regulation did not go far enough and further we are of the opinion that each candidate should give satisfactory proof of an elementary knowledge of Latin."³⁹⁷

When the Society discussed examinations in 1876, they decided that "... the Regulations now in force in England under the Third Schedule of the General Rules and Regulations under the Supreme Court of Judicature Act 1875 ... is adopted with modifications as the Committee may deem necessary."³⁹⁸

It seems that they are now considering the English Bar examinations. The English Regulations passed in 1875 did allow for exemption from the Preliminary Examination for the holders of certain degrees but when it was last discussed by the Law Society in the 1890's the exemption was rejected. I can only surmise that at some point this exemption had been given on the Island and perhaps some advocates may have shown that their knowledge of Latin was inadequate or perhaps the knowledge of Latin was lacking generally amongst Advocates. The use of Latin in the courts in the British Isles and elsewhere was very common and it is only in recent times that Latin ceased to be used in the courts.³⁹⁹ Until about 50 years ago many universities had a rule that applicants could not take a law degree without having a minimum qualification of an 'O' level in Latin.⁴⁰⁰

³⁹⁵ An Act for the Appointment of Attorneys, and for the fixing of their fees, 1826, section 7, Vol 11

³⁹⁶ He was the uncle of Thomas William Cain (1935-2021) who held the positions of Attorney General and Second and First Deemster.

³⁹⁷ LS Minutes Volume 5, page 21/22

³⁹⁸ Ibid page 49

³⁹⁹ See the Woolf Reforms in England 1999 which made significant changes in procedure.

⁴⁰⁰ The 'O' Level was the equivalent to GCSE.

The letter was sent to the Government Secretary and a reply was received in January 1938 saying that the regulations for admission as a law student corresponded to the regulations applicable in England. The secretary was instructed to reply that the committee had in mind the rules for admission to the English Bar and not the rules for the admission of solicitors in England.⁴⁰¹

However, the issue is not raised in the minutes for nearly five years. The reason for the lack of progress may have been two-fold; the then Governor, Sir Montague Shears Dawes Butler (1933-1937) had retired to be replaced by Vice-Admiral William Spencer Lewson Gower (1937-1946). A further reason was that the Second World War had been declared on the 1st of September 1939 and the Governor and the Law Society were highly likely to have been more concerned with more pressing matters. Nevertheless, it appears that the Governor did turn his mind to Law Society matters for at a committee meeting early in December 1943, the Committee considered draft regulations for admission to the Bar which had been received from the Government Secretary.

The draft regulations were discussed again at the end of December 1943 and at further meetings held in January and February 1944. However, there is no detail in the minutes of what was decided and Advocate B. W. McPherson,⁴⁰² a member of the Committee, was requested to finalise the Law Society's comments and send them to the Government Secretary. In previous years the committee would have called a special general meeting to discuss such an important issue. The reason for not calling a general meeting may have been because a substantial number of Advocates were serving with the armed forces. However, the draft was circulated to Members requesting comments and the 'circulated' draft was further considered at the meeting held on the 20 March 1944 and the Secretary was instructed to send the comments which had been received to the Government Secretary.⁴⁰³

I could not find any record of the correspondence and the minutes did not detail the regulations, however on 22nd May 1944 the Governor, who since being appointed had

⁴⁰¹ LS Minutes Volume 5, page 21

⁴⁰² He was appointed Second Deemster in 1958

⁴⁰³ LS Minutes Volume 5, page 79

inherited the Title of Fourth Earl of Granville, and using that title 'The Earl of Granville', he issued an Order on 22nd May 1944 which made changes to the examinations.⁴⁰⁴ The Order revoked the Regulations for the examinations made in 1925. The major changes were that the number of universities whose graduates could obtain exemptions from the preliminary examination was extended and Company Law and Practice were added as an examination subject to the final examination. This addition indicates the importance that the use of limited companies as a method of conducting business was gaining on the Island.⁴⁰⁵ The Preliminary examination did not change.

An Advocates Act was passed in 1956, it only had one significant clause, Clause 2, which extended the number of universities whose degrees would be accepted as qualifying degrees and reaffirmed that graduates need only serve three years articles rather than five.

The Bar had moved quite substantially since the late 1800's when the responsibility for ensuring competence was on the Governor. However, it can be seen that the original method of examination followed that of England in that it consisted of an oral examination. It then progressed from oral examination by the deemsters to a written examination which as well as having the expected legal content also required a knowledge of languages and a classical education. Whilst it appears that the Law Society did undertake some research into how lawyers were examined in other jurisdictions as can be seen from its correspondence with the American lawyer I it is evidently clear that the Manx Bar examinations in the late 19th century and early 20th century were heavily influenced by the exams and regulations of the English legal professions. It was interesting to note the comment made by Advocate Ramsey Bignall Moore when he took the examination in 1902 that the examination was a copy of the English Solicitors examination.⁴⁰⁶

⁴⁰⁴ Government Circular No.3614. G.O. Reference No. 25003/2

⁴⁰⁵ A major Companies Act had been passed in 1931.

⁴⁰⁶ See footnote 391

CONCLUSION

In this chapter I will set out my conclusions and hypothesis as to how and why the Manx profession developed from its roots in the early 18th century.

It is my contention that the Manx Bar emerged in the late 18th century when individuals took a prominent role in the Manx courts by assisting 'foreigners', those who had disputes but were not Manx and therefore not familiar with the court system.

A striking feature as to why they would require assistance from local people would have been the fact that at that time the language of the court was Manx, a language that 'foreigners' were very unlikely to speak.

I have indicated how the State, through the Governor, very quickly took control of this nascent group by imposing controls not only over who could practice in the court but also the fees they charged. This move to control practitioners may have been accelerated by the fact that the Governor presided in the superior courts, those which dealt with serious civil and criminal matters: he would have been directly affected by the activities of these burgeoning lawyers who according to the preambles to the early statutes were considered to have increased the workload on the courts.

I have shown that the Manx profession unlike the legal professions in Britain and other common law jurisdictions remained under the direct control of a State and followed the continental pattern in that the examinations are set, and entry is controlled by the State.

Whilst the education of Lawyers in the Island initially followed that of the jurisdictions in the British Isles the lawyers' organisations in those neighbouring jurisdictions gained influence and control over entry and examinations to the profession whereas Manx Advocates had little influence. It can also be seen that because the Governor controlled the profession, whenever the Society did try to advance their opinions, it took an inordinate amount of time to make any progress, and it was not unusual for issues between the Law Society and the Governor not to be concluded. There are a number of reasons for this; the change in a Governor could have a dramatic effect as each Governor had their own views on matters and most of the Governors were ex-senior military men who were not used to having their decisions questioned. However, by the latter end of the 19th century it can be seen that the Law Society did have some input into the content of the examination

I have also shown that in a small country with a much larger neighbour with a developed legal profession, that neighbour, had little or no effect on the growth of the Manx profession. I would suggest that there are a number of reasons for this. It is likely that that most lawyers on the adjacent isles would probably not have even been aware of the

island. The Manx legal system was, in any event, primitive and therefore offered little scope for business, but the major obstacle to deter offshore lawyers would have been the Manx language as a knowledge of the language was required to practice and Attorney General Busk made that very clear in 1791 when he wrote to the Law Commission. This fact I would submit that is the overriding reason for the development of the autochthonous legal system.

My research has indicated that the Manx language was still predominant in the middle of the 19th century. In a letter from the Reverend J.T Clark, written in February 1872 and read at a Gailckagh Yn Lhaigh⁴⁰⁷, he said "...and at the time of Deemster Lacey and Deemster Crellin [1816] no Advocate dare come before them unless he could plead in Manx." ⁴⁰⁸

A press report in 1850 of a case in the Bastardy Court at Castletown recorded that the Defendant, John Cowin, requested bail on the basis that he was a native of the island and therefore would not leave the island. "The question now before the court is one of sufficiency of evidence, Cowin, being enquired of in the Manx language, answers in the affirmative in the same language". ⁴⁰⁹ I would suggest this particular case only got into the newspapers because he had to prove he wasn't a foreigner to obtain bail and not because he spoke Manx.

An earlier illustration is a case in 1821. *A. Mills v W. Green* in the Common Law Court, "When advocate J.C. Gelling Esq. the Defendant's counsel had commenced to state his client's defence in the Manks language... the learned Attorney General interrupted him, saying he expected more courtesy from his learned friend, the father of the Bar, as to address the jury in a language not understood by either himself or his client." As if to show his displeasure for the Attorney General, the Honourable Deemster Gawne having very properly called to order Mr Gelling... addressed the jury at considerable length with

⁴⁰⁷ This was a public reading of Manx tales and stories even sermons written in Manx. They were reintroduced in 1872.

⁴⁰⁸ At the first reading in January 1872 over 1000 people attended. *Rising Sun*, January 1872

⁴⁰⁹ *Manx Sun*, November 9th. 1850

great fluency in the Manx language".⁴¹⁰ It will be recalled the Attorney General at the time was Charles Richard Ogden, an English Barrister.

As well as the above points, I also raised in my introduction several issues which affected and shaped the Manx Bar; "How does a small profession develop key characteristics of the profession such as control of entry into the profession, control over the education of future members of the profession and – more nebulous – social status?" The Manx Bar largely has achieved these objects and whilst the final decision with regard to admission to the Bar is not made by the Law Society, it does make the recommendation as to whether a person should be allowed to be articulated and admitted.

With regard to education, whilst the final decision as to the content of the examination is not the Society's, its input into the examinable subjects had by 1947 been recognised. As regards social status, the importance and influence of advocates was great, and they were viewed as being *primus inter pares* of the professions in the Isle of Man.

The final point I raised was "...that of identity. How does a small profession develop a distinct identity when faced with a larger, potentially hegemonic profession only a few miles offshore?" I have shown that the Manx Bar does have a distinct identity and unlike other British jurisdictions, is a fused profession and during the period which I have researched, the Manx Bar ensured that only Manx advocates were elevated to the Bench when a vacancy arose and by the latter half of the 19th century Manx Advocates were and continued to be appointed to the office of Attorney General.

I would also contend that the fact that the State very quickly took statutory control over those who practised law was a great advantage to the profession. There was, unlike in adjacent British Isle, no rivalry between various groups and the State ensured that there was no competition for legal services.

Whilst Professor Edge in his celebrated work on the Manx criminal law did show that English criminal law had and has continued to influence Manx law, I would argue that

⁴¹⁰ Rising Sun, October 20th, 1821

neither English barrister or Solicitors made any discernible impact on the profession and those who did become Manx advocates were admitted to the Bar, with few exceptions, only after having been articled to Manx Advocates. Finally I will deal with the question – why, in the latter part of the 18th century, did several people, men, start to appear in the courts on behalf of others? As the history indicates that the indigenous population originally represented themselves in court. .

My research supports my contention that the Manx Bar came about because of the need to cater for foreigners. For the reasons detailed above and illustrated by Bishop Wilson foreigners would have required someone to speak on their behalf, but what had led to the fact that 'foreigners' were appearing in the Manx courts?

For many centuries, especially at the period when the 'lawyers' appeared, the major industries in the Isle of Man were fishing (mainly herring) and agriculture, and the population in 1765 only numbered approximately 20,000.⁴¹¹ Why were foreigners on the island? What had attracted them?

There are a number of reasons: one being because the island's merchants were involved in the 'Guinea goods trade', the Atlantic Slave Trade. Foreigners appeared on the Island because ships, particularly those sailing to and from Liverpool, would stop at the island to purchase various provisions, mainly cloth and beads, which would be exchanged for slaves in Africa. In England these goods were supplied by The English East India Company but were high-priced. The Manx imported less expensive goods from the Dutch East India Company into the island from Holland which were sold to the English slave traders.⁴¹² Between 1718 and 1764 there were twenty local merchants heavily involved in this trade.⁴¹³

Another important source of income for many residents which ran at a parallel time was smuggling. It had started in the 17th century and continued well into the 18th century. The English "...navigation and trade Acts resulted in an unforeseen repercussion which gave indirect encouragement to smuggling from the Isle of Man with its less restrictive customs

⁴¹¹ Moore, A.W. 'A History of the Isle of Man', Manx National Trust. 1992 Page 646

⁴¹² Wilkins, Frances. 'Manx Slave Traders' Wyre Forest Press, 1992, page 3 & 7

⁴¹³ Ibid page 9

laws".⁴¹⁴ As well as the Netherlands, brandy and wine, tobacco, silks, and coarse teas, china and other East India goods were smuggled from France and from Denmark, Norway, and Sweden.

These foreign traders would have had disputes, probably both civil and criminal, which required the assistance of locals conversant with the English language and the Manx court system which led to the appearance of the 'lawyers'.

A further 'source' of foreigners was the half pay officers. In the first quarter of the 19th century the defining feature of British armed services, particularly in the Royal Navy was cyclical employment. Men would be released between the wars and commissioned officers would receive half pay. This process reached its apogee after the Napoleonic Wars. Many of these officers located to the Isle of Man to take advantage of the lower cost of living and these would also have required legal assistance and advice.⁴¹⁵

These two factors accelerated the need for lawyers on the island. However, a time would have come eventually for professional lawyers, and that time did come when the tourist trade began to develop in the middle of the 19th century. The growth in the Isle of Man Steam Packet Company's fleet in the middle of the century made it easier for both goods and people to be transported to and from the island. By the latter half of the 19th century visitors to the island numbered over 50,000 a year.⁴¹⁶ These visitors resulted in a boom in building hotels and boarding houses and tourist attractions. This would have required professional lawyers to deal with the resultant commercial needs of the businesspeople. However, by that juncture the Manx Bar had asserted itself and taken its own unique path. Had its growth been delayed, and if there not been a need for lawyers in the 18th century and had the growth taken place in the late 19th century instead it is highly likely that the Manx Bar would not have its unique nature.

The fact that the English language was becoming more predominant in the late 19th century both in the Island population and in the courts coupled with the fact that English

⁴¹⁴ Gawne, C.W. 'The Isle of Man and the British Controversy 1651-1895', Manx National Heritage. 2009, page 18

⁴¹⁵ Moore, A.W. 'A History of the Isle of Man', Manx National Trust. 1992 Page 575

⁴¹⁶ Cooper, C.P, & Jackson, S. 'Tourism in the Isle of Man Historical and Contemporary Problems', page 2 Academic Paper MMA MS 08414, MD 958

lawyers would have been more aware of the island and the good economic circumstances would have encouraged them to locate to the island. It was fortuitous that lawyers were required in the late 18th century and the fact that the Law Library was instituted brought together those practising law and enabled a body of men to provide for the legal needs of the island.

i The incident which had a most important effect, and which led to Manx lawyers combining to protect their interests was the appointment of Deemster Drinkwater in 1840 this eventually led to the formation of the Isle of Man Law Society which protected the interests and uniqueness of the Manx Bar and has continued to do so.

There is more which can be written about the Manx Bar and the contribution its members made to enhance the social and economic life of the Island. Following the passing of the Acts to widen the popular franchise many Advocates were elected to the House of Keys with a significant number of them being very progressive.⁴¹⁷ In 1885 the Law Society introduced a half day holiday on Thursday afternoons for their staff which was followed by Banks and other trades in Douglas.⁴¹⁸ It also introduced in other towns on the Island.⁴¹⁹ In the final days of writing this thesis it was drawn to my attention that papers had recently been donated to the Manx Museum which related to the practices of Advocates Samuel Harris and Arthur Bluett who both practised in the latter half of the 19th Century. These papers had been found in the cellar of a firm of Advocates which was closing. A very cursory perusal of one box produced both letters written by clients and copies of letters written to clients as well copies of various Deeds including a copy of the Memorial/Petition of Arthur Bluett to the Governor to be admitted as an Advocate. These documents will allow further research into the activities of Advocates and shed light on their daily business.

I hope my research will contribute to the legal and social history of the Isle of Man and encourage others, and in particular those in small common law jurisdictions, to undertake research into their local Law Societies.

⁴¹⁷ Fyson, Robert 'The Struggle for Manx Democracy', Culture Vannin, 2016

⁴¹⁸ Most people at that time worked six days a week, Monday to Friday.

⁴¹⁹ LS Minutes Vol 2, page 73

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Glossary of Terms

This short glossary, arranged in alphabetical order is intended to provide a brief explanation of some of the terms I use.

Act of Tynwald – Legislative instrument passed by Tynwald. It is closely analogous to an Act of Parliament

Advocate – member of the Manx Bar.

Attorney General - Is appointed by the Sovereign and acts as legal adviser to the Lieutenant Governor, the Council of Ministers and Departments of Government. The Attorney General is an ex-officio non-voting member of the Legislative Council. However, during the period of my study the Attorney General had a vote in Tynwald

Baron– The Manx Barons were ecclesiastical corporation soles. The only surviving Barony is that held by the Bishop of Sodor and Man

Bishop of Sodar & Man - This is the ecclesiastical corporation sole for the See of Sodar of Man and is entitled to a seat in Tynwald was a member of the Lords Council.

Branches of Tynwald – The two in Tynwald are the House of Keys and Legislative Council. During the period of my study the Lord of Mann or the Governor and after Revestment presided over the Legislative Council and Tynwald Court. It is analogous to the House of Commons and House of Lords

Breast Law – The unwritten by Manx Customary Law which was kept in the “breasts of the Deemsters” and was passed orally to their successors.

Castle Rushen – It is thought to have been a fortification since the 10th Century. It was the residence of the Lords of Man and the Governors and the Lieutenant Governors. It was the main administrative centre for the Island until Tynwald moved to Douglas in 1874 It also served as a prison until 1891 and a court house until the late 1990’s

Clerk of the Rolls – As the title suggests the original role of this person was to keep the Court records and other Government documents. Also had a judicial role but it was later merged with that of the first Deemster.

Comptroller – A member of the Council who supervised the Lord’s revenues.

Committee - Unless clear from the circumstances it refers to the Committee of the Law Library Society and the Law Society

Coroner – They appointed by the Lieutenant Governor and are appointed annually. They have a similar role to a court bailiff in England but have far wider powers

Council – The body appointed by the Lord of Mann/Governor as Advisers and also sat in Tynwald. They were appointed the Lord of Mann/Governor.

Deemster – Manx Judicial Officer and holds the same position as a Judge.

First Deemster – The leading Judge.

Governor – originally the person who represented the Lord of Man and possessed very wide powers, judicial and legislative and after Revestment is appointed by the United Kingdom Government. Presides over the Annual Tynwald Ceremony I use the term Governor and Lieutenant Governor interchangeably in this study. Now has few powers.

High Bailiff – This is the chief judicial officer of the lower courts and is analogous to a Stipendiary Magistrate. The position holder also acts as the Coroner for Inquests.

House of Keys – body of 24 members. Was originally a self-perpetuating body of the leading families and the Isle of Man. It had legislative powers but also fulfilled judicial functions. During the latter part of my study, it became popularly elected. It is now analogous to the to the House of Common

Island – This term is used to refer to the Isle of Man and used in this paper for many references

Lieutenant Governor – see Governor

Lord of Man – sovereign of the Isle of Man, was originally titled King of Man. The title is now held by the Sovereign since Revestment.

Member of the House of Keys – this is a person who has been elected to the House of Keys known as an MHK.

Parliament – The Parliament of the United Kingdom

Promulgation - Annual reading of enacted statutes during the preceding year from Tynwald Hill on Tynwald Day. All statutes enacted the previous year must be read on that day otherwise they fall.

Revestment – the process by which the rights held by the Lord of Man were returned to the English Sovereign who had originally granted them to the vassal Lord. Used to refer to the **Revestment** of 1765.

Tynwald - This the title given when the House of Keys and Members of Council sit together as a single body.

Second Deemster – Had the same powers as the First Deemster and normally replaced the First Deemster on retirement or death.

Student at Law – This was the title of articled clerks until 1995 when the term student replaced it. The title recognised the fact that Manx advocates were also barristers and not merely solicitors.

Tynwald Court – Legislature of the Isle of Man originally two branches consisting of the Governor and his and his Council as one house and the House of Keys as the second House. The term is used when both houses sit as one. The Governor presided over Tynwald until 1990 when he was removed.

Vicar General – Appointed by the Bishop and presided over the Ecclesiastical Court.

Whitehall – I use this term to refer to various UK government departments.

Abbreviations

AP – Atholl Papers these are various documents including correspondence to and from the Duke of Atholl and his family relating to matters concerning the Island.

GO - this refers to various government papers contained at the Manx Museum of which the majority are letters written by and to the Governor between him and Manx Government Officials, Deemsters, individuals and Whitehall.

LS Minutes – this refers to the Minutes of the Law Society which consists of five volumes:

Volume - 1 April 1825 to 9 March 1879

Volume - 19 March 1879 to 16 October 1897

Volume - 19th January 1898 to 18th January 1911

Volume – 1 February 1911 to 9 January 1936

Volume - 15 February 1936 to 3 December 1958

MHK - Member of the House of Keys

MMA – Manx Museum Archives

Whitehall – this refers to various UK Government Departments which liaise with the Islands Governor.

SCHEDULE

Petition for Incorporation

The Petition read: -

“To The Honourable the Keys of the Isle of Man in Tynwald aforesaid.

The humble petition of John Courtney Bluett, Lawrence Craigie and James Gell Esquires, Committee of the Members of the Isle of Man Law Library.

Sheweth

That on the 7th of April 1845 ⁴²⁰ several of the Individual Officers of this Island and of the Members of the Bar formed themselves into a Society for the purpose of establishing a library for the use of the Members of the Bar which Library was named the "Isle of Man Law Library" and the same was to be supported by the private Subscriptions of the members of such Society.

That the Affairs of the said Society have been conducted by a committee consisting of the President, Treasurer, Secretary and two assistant members chosen Annually at the Meeting of the Subscribers.

That by an Act of Tynwald promulgated on the 21 December 1826 regulating the appointment of Attorneys it is provided that of the Duty of £50 payable in any licence or commission being granted to any person to authorise him to practice as an Attorney, Solicitor and Advocate, £25 thereof shall be by the Clerk of the Rolls applied and expended in the purchase of Books and Publications suitable for a Law Library for the use of the Students and Practitioners of the Law under such - directions and regulations as the Governor or Lieutenant Governor may from time to time appoint – That the said sum of £25 has from time to time by the direction of the Lieutenant Governor being paid to the Treasurer of the said Isle of Man Law Library for the purposes thereof and the said Library has consequently increased to a great extent.

That the said Library has now become of considerable value and from the occasional payment of the said sum of £25 and the private subscriptions of the members thereof it must be continually increasing –

That several of the former Subscribers to the said Library have departed this life and new Subscribers have become members thereof.

That hitherto the Affairs of the said Library have been conducted by such Rules and Regulations as the Subscribers agreed upon but it has become experienced from the Changes in the Proprietary as aforesaid that the said Society should be converted into a corporate body with a Common Seal and such Officers as may be necessary to represent the said Property in perpetuity.

That a General Meeting of the said Society held on the 5th August 1847 it was resolved that application be made to Tynwald for an Act for the purpose of

⁴²⁰ This was a glaring error because inauguration date was 7th April 1825

incorporating the members and that your Petitioners be a committee for the purpose of carrying the Resolution into effect.

Wherefore your Petitioners humbly pray that leave may be given for the Introduction of a Bill into your Honourable House for the purpose of incorporating the Members of the said Society and vesting the property thereof in such Corporation Also to provide for the Government thereof and to give the said Corporation such Powers as may be necessary for the efficiency thereof and that your Petitioners may if necessary be heard by Counsel at the Bar of your Honourable House in support of this Petition and they with pray etc.”

The date given for when the Society was formed is incorrect. The year it was formed was 1825 not 1845. It is surprising that this error was made.

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