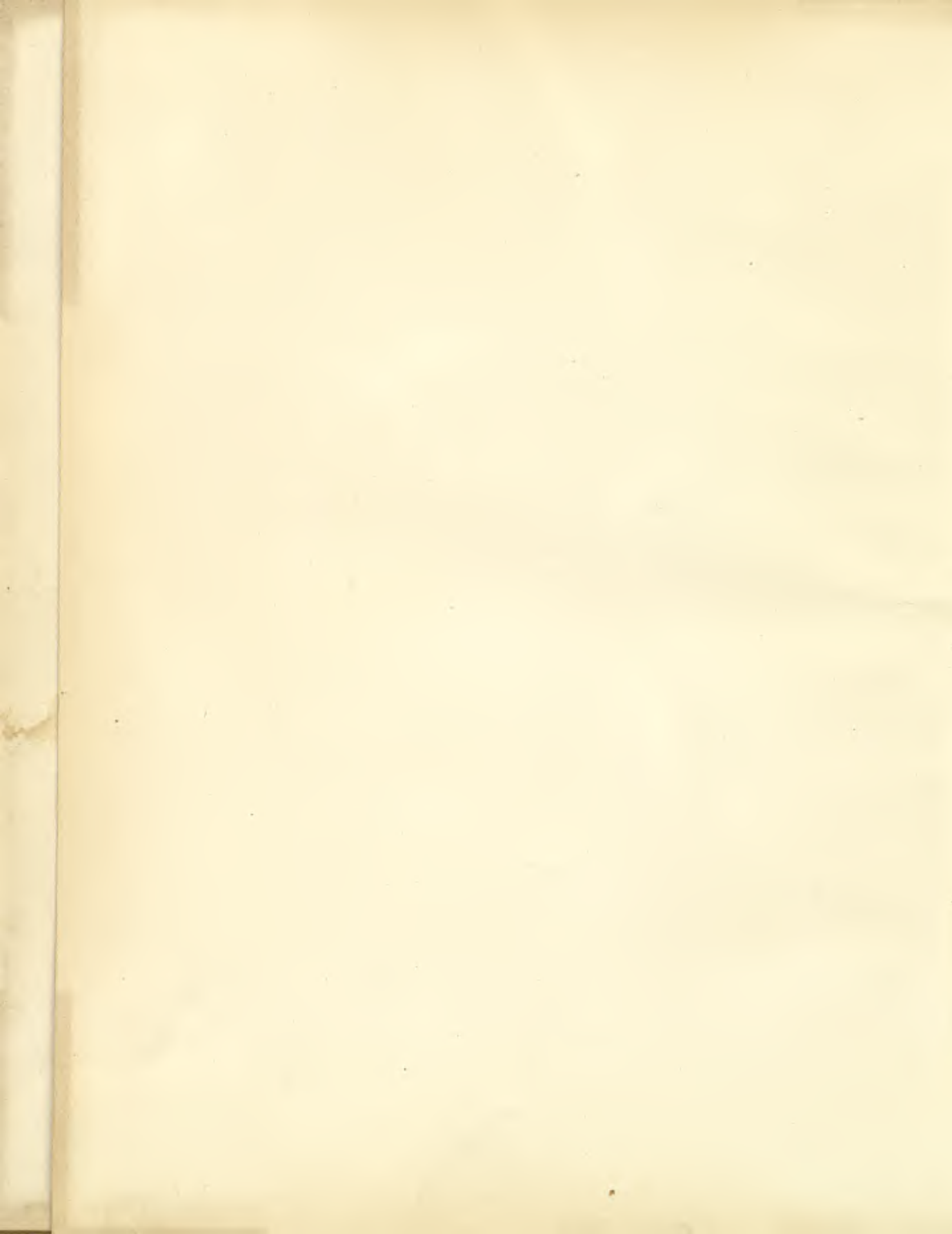


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# THE GAZETTE

OF THE

*Incorporated Law Society of Ireland,*

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2607 (2 lines).

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# THE GAZETTE

OF THE

Incorporated Law Society of Ireland.

Vol. II, No. 1.]

May, 1908.

[ FOR CIRCULATION  
AMONGST MEMBERS.

## Meetings of the Council.

THE Council met upon Wednesday, the 15th April, the President (Mr. Lyster) in the Chair, and twenty-four other members being present.

### Secretary's Assistants.

The Council received with deep regret the announcement of the death of Henry A. Sadleir, who for twenty-five years had been an assistant in the office of the Secretary. The Council directed an expression of their sympathy to be conveyed to the widow and family of the deceased. The Council promoted W. F. Aylward to the senior clerkship in the Secretary's office, and appointed T. B. Cooley to the junior clerkship.

### Society's Gazette.

A letter was read from Mr. E. Ponsonby, giving particulars of the expenditure in connexion with the publication of the Society's GAZETTE for one year. The Council decided to continue the publication of the GAZETTE, and it was referred to the Gazette Committee to make the necessary arrangements.

### Workmen's Compensation Act.

Replies were submitted from Clerks of the Peace as to the procedure under the Workmen's Compensation Act where an employer admits his liability and desires to lodge money in Court, no proceedings having been taken against him. The replies were referred to the County Courts Committee for consideration.

### Lectures.

An application by an apprentice who had attended Michaelmas and Hilary Junior Lectures of the Session 1906-07, but owing to illness had not then completed his year's lectures, and now sought leave to attend Easter and Trinity, 1908, Lectures, was considered, and the application was granted.

### Land Act Committee.

A Report from the Land Act Committee recommending the Council to request the Registrar of Titles to receive a deputation from the Council to discuss the working of the Registration of Titles Office, was adopted.

### Apprentices' Debating Society.

It was resolved that the subject for the Society's Gold Medal for Composition to be competed for by members of the Apprentices' Debating Society for the current year should be "The Position of Women, Social and Political."

### Coffee-Room Passage.

It was resolved that the Court and Offices Committee should consider and report if any means can be devised to improve the lighting of the passage to the coffee-room.

The Council adjourned.

The Council met upon Wednesday, the 20th April; the President (Mr. Lyster) in the Chair, and twenty-six other members were present.

### Finance.

Cheques for £250 2s. half-yearly accounts, recommended for payment by the Finance Committee, were ordered to be drawn and paid.

### Labourers (Ireland) Act.

The President informed the Council that he had received a communication from the Vice-President of the Local Government Board, requesting him to confer with the Vice-President in reference to the subject of taxation of costs of owners for proving title to lands acquired under the Act, and that he had accordingly had an interview with the Vice-President, and had pointed out to him the objections to the

present procedure upon the taxation of such costs; and the President read to the Council a letter from the Vice-President since received by him upon the subject. The opinion of senior counsel upon the procedure was also submitted, and the further consideration of this matter was referred to a special committee to deal with.

#### Irish Universities Bill.

The following resolution was adopted, and a copy was directed to be sent to the Chief Secretary for Ireland, with a letter giving details of the educational functions discharged by the Society:—

“RESOLVED—The Council of the Incorporated Law Society of Ireland respectfully urge upon the Right Hon. the Chief Secretary for Ireland the desirability of representation of the Society upon the Senates of the proposed new Universities to be established in Dublin and Belfast.

“The Council observe that in the list of members of the Senate of the proposed new University in Dublin, as published, there does not appear any representative of the solicitors’ profession, while in the list of Belfast University Senate, there appears the name of only one solicitor, who is named, not as a solicitor, but in his ex-officio capacity of President of the Chamber of Commerce.

“The Council would respectfully point out that the conduct of all examinations of those intending to enter the solicitors’ profession in Ireland is entrusted to the Incorporated Law Society of Ireland by virtue of the Solicitors (Ireland) Act, 1898, and having regard to this fact, and to the various provisions of that Act giving students of universities facilities for entering the solicitors’ profession, the Council submit that the Society is entitled to representation upon the Senates.

“The Council would desire to point out that the Law Society in England has two representatives upon the Senate of the University of London, as well as having representatives upon the governing bodies of other universities and colleges in England.”

#### Land Purchase Acts.

A letter was read from a member, asking the Council to support an appeal against the assessment by the Commissioners of Inland Revenue in the case of the sale of a holding which was subject to an outstanding purchase annuity under the Land Purchase Acts, and in which the Commissioners had assessed the duty on

the redemption value of the outstanding purchase annuity, in addition to assessment of duty upon the consideration expressed in the deed of sale, on the grounds that the redemption value represents a mortgage on the holding. The Council directed a reply to be sent, stating that in their opinion the assessment of the Commissioners as stated is legally correct, but that the Council would be glad to see legislation passed relieving the purchasers of such holdings from payment of the duty upon the redemption value of outstanding purchase annuities.

#### Certificate Renewals.

Two applications by solicitors for renewal of their annual certificates were considered, and were granted.

#### Court of Examiners.

A Report from the Court of Examiners upon the application of a law clerk, seeking leave to be bound under section 16 of the Solicitors (Ireland) Act, 1898, was considered, and the evidence in support of the application not being deemed satisfactory, the application was refused.

#### Workmen’s Compensation Act.

A Report was submitted from the County Courts Committee, stating that inquiries had been made from the Clerks of the Peace throughout Ireland in reference to the practice where an employer who does not dispute his liability in the case of the death of a workman desires to lodge compensation money in Court before proceedings have been instituted against him, and the general practice appeared to be that the Clerk of the Peace would require proceedings to be instituted by the dependants against the employer before he would issue an authority to the employer enabling him to lodge money in Court. The Committee expressed the opinion that this procedure is correct under the rules, and expressed approval of its being uniformly adopted in all County Courts in Ireland. The Report of the Committee was adopted.

The Council adjourned.

#### Council Meetings.

MEETINGS of the Council will be held upon the following dates:—

May 13th.

June 3rd and 17th.

**Committee Meetings.**

THE following Committee Meetings were held during April:—

- Gazette, 6th.
- Land Act, 10th.
- County Courts, 24th.
- Library and Finance, 27th.
- Court of Examiners, 27th.
- Costs, 29th.

**Commissioners for Oaths.**

THE Lord Chancellor has appointed the following additional commissioners to administer oaths:—

- Robert T. F. Greene, Solicitor, Dublin.
- James L. Burke, Solicitor, Dublin.
- Christopher Moran, Solicitor, Dublin.
- James W. Davis, Solicitor, Dublin.
- William H. Spence, Solicitor, Dublin.

**Annual Subscriptions.**

MEMBERS are reminded that the annual subscription to the Society (£1 town members and such country members as vote at election of ordinary members of Council, and 10s. other country members) became due upon the 1st day of May, as well as annual press-rents (5s.).

**New Solicitors.**

ADMISSIONS DURING APRIL, 1908:

Name.	Served apprenticeship to
Alistair, Edmund,	William I. Mahaffy, Belfast.
Lendrum, Charles Henry,	W. Guest Lane, Cork.
MacGrath, Patrick,	Roger Greene, Dublin.

**Obituary.**

MR. WILLIAM F. MACKITTRICK, Solicitor, died on the 24th April, 1908, at his residence, 25 Laurence Street, Drogheda. Mr. MacKittrick, who served his apprenticeship with Mr. John H. McCann, Solicitor, Drogheda, was admitted in Hilary Sittings, 1907, and practised in Drogheda.

Mr. Rody X. M. Gleeson, Solicitor, died on 29th April, 1908, at his residence, Nenagh. Mr. Gleeson, who served his apprenticeship with the late Mr. John Cavanagh, Solicitor, 52 Dame Street, Dublin, was admitted in Trinity Sittings, 1887, and practised in Nenagh. He held the position of Coroner for the past six years.

**Reported Cases on Costs.**

THIS book, published by the Society some years ago, contains a collection of *verbatim* reprints of the Reports of cases relating to costs decided in Ireland from 1867 to 1891; and also of such of the English cases on the Solicitors' Remuneration Act up to 1891 as are applicable to the law in Ireland. It consists of 735 pages. The remaining copies will be sold at the reduced price of 5s., postage 6d. extra, and can be obtained from the Secretary of the Society, Four Courts.

**Recent Decisions affecting Solicitors.**

(Notes of decisions, whether in reported or unreported cases, of interest to Solicitors, are invited from Members.)

**COURT OF APPEAL.**

(Before FitzGibbon and Holmes, L.JJ.)

*In the Matter of an Arbitration between William Small and The Scottish Live Stock Insurance Co.*

April 22, 1908.—*Practice—Costs—Arbitration—Costs of second counsel—Taxing Master's discretion.*

*Appeal from order of King's Bench Division (see GAZETTE of previous month) reversing decision of Taxing Master.*

IN an arbitration (arising out of an insurance policy) which was held during the Belfast Assizes after the ordinary court work was over, and which occupied about three and a half hours, seven witnesses being examined, the insured was awarded a sum of £93 6s. 8d. with costs. On taxation the Taxing Master disallowed fee of a second counsel who appeared for the insured at the arbitration, on the ground that the case was a small one, and one counsel was enough:

The King's Bench (Boyd, Kenny, and Wright, JJ.) held, that the Taxing Master had failed to appreciate the importance of the case, and that the matter should be remitted back to

him with a direction to him to allow the costs of the second counsel:

*Held*, confirming the Taxing Master's ruling, that one counsel was sufficient for the case.

**Labourers (Ireland) Act, 1906.**

RULES dated the 26th March, 1908, have been made by the Rule-making authority under the County Courts (Ireland) Act, 1877, and the Labourers (Ireland) Act, 1906, with the consent of the Lords Commissioners of His Majesty's Treasury, fixing the following scale of fee funds to be payable in proceedings in the County Court under the Labourers (Ireland) Act, 1906:—

On every Petition to the County Court under section 6 (2),	s. d. 1 0
On the Order of the Court confirming, amending, or disallowing same,	1 0
On filing an Affidavit under Rule 5 or 12,	1 0
On every Civil Bill Process under Rules 10 and 11 the same fees as in an ordinary action,	1 0

**Town Tenants (Ireland) Act, 1906.**

RULES dated the 26th March, 1908, have been made by the Rule-making authority under the County Courts (Ireland) Act, 1877, and the Town Tenants (Ireland) Act, 1906, with the consent of the Lords Commissioners of His Majesty's Treasury, fixing the following scale of fee funds to be payable in proceedings in the County Court under the Town Tenants (Ireland) Act, 1906:—

On every originating notice of claim for compensation:	s. d.
When the amount shall not exceed £50,	1 0
When the amount shall exceed £50, but shall not exceed £100,	1 6
When the amount shall exceed £100, but shall not exceed £200,	2 0
When the amount shall exceed £200, but shall not exceed £300,	3 0
When the amount shall exceed £300, but shall not exceed £500,	5 0
When the amount shall exceed £500; but shall not exceed £1000,	7 6
When the amount shall exceed £1000,	10 0
But the amount to be allowed on taxation between party and party shall be calculated upon the amount of the decree only.	

On every copy for service,	s. d. 0 6
On every notice by tenant of proposed improvement,	1 0
On every copy for service,	0 6
On every decree by County Court Judge:	
When the amount shall not exceed £50,	1 0
When the amount allowed shall exceed £50, but shall not exceed £100,	1 6
And 6d. upon every additional sum of £100 up to £1000,	
When the amount allowed shall exceed £1000,	10 0
On every dismiss of claim by County Court Judge,	1 0
On every application for a charging order in respect of compensation agreed on and paid by a limited owner,	1 0
On every charging order in respect of compensation agreed on and paid by a limited owner,	1 0
On every notice of intention to register improvements,	1 0
On every copy for service,	0 6
On every order of the Court not hereinbefore provided for,	1 0
On every affidavit filed with the Clerk of the Peace,	1 0

**The Land Commission.**

THE following Sittings of the Court of the Land Commission for hearing Appeals have been provisionally arranged:—

- Kilkenny, June 2nd; County Kilkenny.
- Dublin, June 11th; Leinster (part of).
- Armagh, June 19th; County Armagh.
- Dublin, June 25th; Leinster (part of).
- Killarney, June 30th; County Kerry and County Cork (part of).
- Dublin, July 9th; Leinster (part of).
- Dublin, July 16th; Leinster (part of).

**Solicitors' Benevolent Association.**

Meetings of the Directors will be held upon the following dates:—

- June 3rd.
- July 1st.

**Solicitors' Apprentices' Debating Society.**

SESSION 1907-1908.

PROGRAMME FOR TRINITY SITTINGS, 1908.

*Meetings held at 8 p.m. in Antient Concert Rooms,  
Great Brunswick Street, Dublin.*

June 1.—Debate—“That the supremacy of Japan in Asia is in the best interests of Great Britain.”

June 8.—Debate—“That the same Fiscal System is not applicable to Great Britain and Ireland.”

June 15.—Legal Debate—“That further facilities for Legal Education should be afforded Solicitors' Apprentices in Ireland.”

(Candidates for Offices for Session 1908-1909 to be nominated.)

June 22.—Legal Debate—“That the case of *Williams v. North's Navigation Collieries* (1889), *Ltd.* [1906], A.C. 136, was rightly decided.”

June 29.—Essay Night.—(Result of Election of Officers for Session 1908-1909.)

**Dates of Examinations.**

THE Intermediate Examination will be held upon Friday, 3rd July (Notice to be lodged before 13th June).

**Trinity Sittings Lectures.**

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing on the following dates in Trinity Sittings, 1908:—

June 2nd, 5th, 9th, 12th, 16th, 19th, 23rd, 26th, 30th.

July 3rd, 7th.

Professor Boyd will deliver lectures to the Junior Class upon Common Law on the following dates in Trinity Sittings, 1908:—

June 1st, 4th, 11th, 15th, 18th, 22nd, 24th, 25th, 29th.

July 2nd.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 18 Nassau Street, Dublin.



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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. II, No. 2.] June, 1908.

FOR CIRCULATION  
AMONGST MEMBERS.

### Half-Yearly General Meeting.

THE Half-yearly General Meeting of the Society was held upon Friday, the 15th inst., in the Hall of the Solicitors' Buildings, Four Courts. The President (Mr. G. H. Lyster) occupied the Chair, and the following members were present:—

George Collins, J. A. Denning, W. S. Hayes, Sir G. Roche, William Fry, F. C. Earle Bland, Gerald Byrne, R. S. Reeves, R. A. Macnamara, C. St. G. Orpen, J. P. Lynch, H. J. Synnott, J. W. Richards, James Henry, A. L. Blood, W. V. Seddall, T. C. Franks, A. E. Bradley, Joseph Galloway, R. G. Warren, P. K. White, Roger Greene, Patrick J. Brady, W. D. Sainsbury, H. J. M'Cormick, G. de R. Engelbach, J. P. Tyndall, G. M. Meares, John O'Sullivan, E. S. Lowe, Joseph Gleeson, W. J. Brett, M. J. Hanmore, A. G. Joyce, Florence Greene, H. D. Draper, R. Davoren, Edwin Lloyd, W. Grove White, J. R. Stritch, E. R. Baté, P. Rooney, W. H. Fry, C. Corcoran, W. J. Ryan, V. Kilbride, J. G. Perry, H. R. Maunsell, G. A. Howe, N. L. Moran, G. A. G. Byrne, Q. Kennedy, S. Bell, J. R. O'Connell, D. S. Doyle, G. M. Collins, I. J. Rice, H. J. W. Downey, Edward Condell, R. A. O'Brien, E. W. Harris, R. Blair White, M. J. O'Farrell, T. A. Ireland, G. R. Scott, James Brady, W. H. C. Lloyd, A. D. Kennedy, V. F. Kirwan, J. M. Padden, J. W. Davis.

Mr. W. G. Wakely, Secretary, read the notice convening the meeting, also the minutes of the Half-yearly General Meeting of the 26th November, 1907, which were signed by the Chairman.

The President nominated Messrs. P. J. Brady, E. N. Edwards, W. H. Geoghegan, J. G. Perry, and P. K. White, as Scrutineers of the Ballot for election of Council to be held upon the 21st November next.

Upon the motion of Mr. Collins, Vice-President, seconded by Mr. Denning, Vice-President, Messrs. W. W. Carruthers, J. J. Cartan, and F. Gifford were appointed Auditors of the accounts of the Society for the year ending the 30th April last.

THE PRESIDENT said:—Before I go into the notice of motion standing in my name, I may mention that Mr. Davoren has stated that he wishes to propose a resolution of congratulation to Mr. Lloyd-George, and I now ask him to propose that motion with the permission of the meeting.

MR. DAVOREN: With the leave of the President and of the meeting, I propose:—

“That this general meeting of the members of the Incorporated Law Society of Ireland desires to convey to the Right Hon. David Lloyd-George its hearty congratulations on his appointment to the office of Chancellor of the Exchequer, and records its deep sense of satisfaction at this high office being conferred on a member of the solicitors' profession.”

I shall trespass in as few words as possible on your patience. It is the first time, I believe, that a member of our profession has occupied this very distinguished position, and it is almost unprecedented that any person has reached that position at such an early age as Mr. Lloyd-George. When I add that this position has been attained by him with the universal assent of the whole community—of political opponents as well as political friends—in fact, of almost every interest in the State—I think his reaching that great office at such an early age is an event of no ordinary importance (hear, hear). It is for that reason I have taken the opportunity of asking you, with the permission of the President—if you see fit—to pass this resolution. The distinction

was the natural consequence of the conspicuous ability shown by Mr. Lloyd-George in the office he has just left. You know the trying and difficult times he passed through, the dangers he averted, and the conspicuous success that crowned his efforts. It is, I hope, unnecessary for me to say that the resolution which I confidently submit for your cordial approval is neither influenced nor suggested by political considerations. It is suggested solely as marking an event which, I think, is a subject of congratulation from every member of our profession in the Three Kingdoms. I believe those congratulations would be forthcoming, although the vast majority of the members of our profession in the Three Kingdoms hold different political opinions from the Right Hon. gentleman (cries of "no, no"). Well, gentlemen are entitled to their own opinions, and I have mine. With these few words, I ask the President if he will be good enough to second the resolution, and I hope it will be passed unanimously. I need not say that everything depends in a resolution of this kind on absolute unanimity.

**THE PRESIDENT:** I call upon the senior Vice-President to second the resolution.

**MR. COLLINS, V.-P.:** I think our first duty is to thank Mr. Davoren for having brought forward this motion. I have very great pleasure in seconding it, and I am sure everybody in the room will extend any congratulations they can offer to Mr. Lloyd-George, as a professional man, on his elevation to the important office. Of course, Mr. Davoren does not expect the Society to concern itself with the political opinions of any Cabinet Minister (hear, hear). We are dealing with the question purely on professional grounds, and I am sure that alone influenced Mr. Davoren in bringing it forward. Mr. Lloyd-George's career has been a very brilliant one indeed. He is quite a young man. He was admitted a member of our profession in 1884, and very soon attained to a high position in it. He was elected to Parliament, and on his appointment as President of the Board of Trade in 1905, he became a Privy Councillor; and now we congratulate him on occupying the second highest place in the Government of the country (applause).

**THE PRESIDENT:** You have heard this resolution proposed and seconded, and I have great pleasure in putting it to the meeting, more especially as I do not belong, I may say, to the political party to which Mr. Lloyd-George belongs. On that account I feel I

have a freer hand. I have great pleasure in putting it before you, and I hope you will pass it unanimously.

The resolution was passed unanimously.

#### **Amendments to Bye-Laws.**

**THE PRESIDENT,** pursuant to notice, moved amendments to the bye-laws of which he had given notice, and in doing so, said:— I think I should explain to you shortly that the object of the motion is to amend bye-laws 4 and 30: No. 4 as to disqualification of members who have not paid their annual subscription by a certain fixed time; No. 30 as to the qualification of candidates for the Council. The motion is the result of an undertaking given by the President last November, that the Council would consider the existing bye-laws as to the qualifications of candidates for the Council. The matter has since been carefully considered by the Council, and they now submit for your consideration the amendments to the two bye-laws which are stated in the notice of motion. It appears to us, from a liberal construction of the Charter of 1852, that every member of the Society should be eligible for election to the Council. I do not think I need read that portion of the Charter which refers to that, but that provision constitutes all the members of the Society the body from which the Council is to be chosen, and makes every member eligible for election to one of the thirty-one places, as the case may be, on the Council; and there is nothing in the Charter that we can discover to modify that provision, and we therefore think that bye-law 30, which limits the body from which one or more members of the Council can be chosen, is inconsistent with the provisions of the Charter. Bye-law 30 excludes altogether from the body from which the Council is to be chosen all members of the Society who are not in actual practice, all who do not hold a certificate for the current year, and the large class of members who are not of seven years' standing at the date of the election. We propose, therefore, that the bye-law shall be amended, so that the only qualification for a candidate for election on the Council shall be that he be a member of the Society, and must be nominated by two members of the Society, who shall sign the nomination paper. As to 4:—We consider it necessary to alter bye-law 4, in order to bring it into line, if I may use the expression, with the amendments proposed in bye-law 30; and we propose that a member, in order to be entitled to vote, or be eligible as a candidate, or to propose and

second a candidate for the Council, should have paid his subscription on or before the 31st October.

The President then formally moved his motion, so as to make bye-laws 4 and 30 read as follows:—

4. The Secretary shall, on or before the 1st day of July in each year, send a notice to every member whose subscription is in arrear, informing him of the fact; and any member whose subscription shall not be paid on or before 31st October following shall thereupon cease to be a member.

30. Every candidate for election on the Council must be a member of the Society, and must be nominated by two members of the Society who shall sign their nomination paper. Such nomination paper shall contain the name of the proposed candidate and of each of his nominators, and shall be in the form in Schedule A to these Rules annexed in the case of a candidate to be elected as an ordinary member, and in the form in Schedule B in the case of a candidate to be elected a provincial delegate. Every nomination paper must reach the Secretary on or before the 6th day of November, between the hours of 11 o'clock a.m. and 4 o'clock p.m.

MR. COLLINS, V.-P.: I have very great pleasure in seconding the alteration of the bye-laws as proposed, and in doing so I think it would be hardly fair if I omitted to say that I hope Mr. Rooney will feel, at all events to some extent, compensated for the intelligent interest he took in the question of the constitution of the Council (hear, hear). It will be remembered by those who were at the meeting this time twelve months, and also at the meeting in November, that Mr. Rooney very clearly and eloquently brought the subject before those meetings; and the resolution that has been submitted to you to-day is really in redemption of a promise, or something in the nature of a promise or pledge, given by the then President, Mr. William Hayes, who stated that whilst he regretted he could not permit the adoption of Mr. Rooney's motion at those meetings, the matter would be taken in hand. It has been taken in hand by the Council, who, of course, were in no sense responsible for the existing bye-laws, which were adopted in 1852. At all events the present Council, who have only been in office a few months, have gone into the matter, with the result that candidature for the Council is now open to every member of the profession belonging to the Society, and every member of the profession can be-

come a member of the Society by contributing the small sum of £1 a year to its funds. Up to this—as you have heard—a man should be a solicitor for a period of seven years before he could properly become a candidate; but now the day after this resolution is passed any member of the profession who is a member of the Society is quite competent to be nominated for the Council. I am sure the alterations will meet with the approval of at all events the younger members of the profession; and as they have received the approval of the Council, we are anxious that they should be brought forward.

MR. ROONEY: I am afraid I had very little to do with the result achieved; but I think it will be a great benefit to the Society at large that any member of the Society is eligible for election to the Council. There is just one point—Is it the intention that a non-practising member of the profession can become a member of the Council?

THE PRESIDENT: Yes, if he is a member of the Society.

MR. ROONEY: Is it the reading of the Charter that you have no right to interfere with a man who has voluntarily retired from practice?

THE PRESIDENT: That is so.

MR. ROONEY: It seems to be an extraordinary thing that you can practically have a Council composed of non-practising members of the Society.

A VOICE: The voters have it in their own hands.

THE PRESIDENT: I don't think there is much likelihood of that, Mr. Rooney.

The motion was passed unanimously.

### The University Question.

THE PRESIDENT: I am going to ask Mr. Fry to move a resolution in reference to the position of our profession as regards the University Question.

MR. STRITCH: We have no right to discuss a motion of which no notice has been given.

MR. FRY: I am not going to discuss any motion of a controversial character.

MR. STRITCH: With all due respect, I do not think we should be rushed in this way, although I have no doubt that what Mr. Fry is going to say will be quite in accord with my own opinions. But a motion should not be sprung upon us.

MR. FRY: When I sit down, I don't think you will consider I have sprung anything on anybody.

MR. FRY: The newspapers have recently published a provisional list of the names of Dublin Senators proposed in connexion with the University intended to be established in this city; but an examination of this list shows that although it includes no less than eleven members of the medical profession, the only representatives of the legal profession are two of the Judges of the High Court, who, being also Benchers of the King's Inns, will be representative of the interests of law students seeking call to the Bar in Ireland. The list, however, does not contain the name of a single solicitor who is a member of the Incorporated Law Society. If we turn to the Belfast list of Senators, what do we find? It also contains the names of two Judges; but, with the single exception of the President of the Chamber of Commerce, in his *ex-officio* capacity, and one other, a temporary member as a benefactor, no solicitor is proposed to hold office, and it is a mere accident that a member of our profession should happen to be President of the Chamber of Commerce that we find our profession thus noticed. I need not remind you that the functions of this Incorporated Law Society are, to a large extent, educational. In it is vested by statute the entire direction of the education of those seeking to join the solicitors' profession in Ireland. It is provided by section 7 of the Solicitors (Ireland) Act, 1898, that it shall be lawful for the Society to provide classes, lectures, and other teachings to persons apprenticed to solicitors, and for this purpose to appoint professors and lecturers; and by section 8 the Society is bound to hold at least three times in every year a preliminary examination, an intermediate examination, and a final examination; and the Act provides that the Society shall have the entire management and control of all such examinations, and shall have power to make regulations with respect to several other educational matters. Further, I would remind you that sections 12 and 14 of the same Act shorten the usual term of apprenticeship in the cases of persons who take the degrees of Bachelor of Arts or Bachelor of Laws in certain named universities, including, you will remember, the Royal University of Ireland, which the Bill now before Parliament proposes to extinguish. I gather from a perusal of the Irish Universities Bill that it does not propose to extend these privileges to graduates of the new universities;

but no doubt at a later stage, when attention is directed to this matter, steps will be taken to effect this extension. By section 17 of the Solicitors (Ireland) Act, 1898, to which I have referred, exemptions from the solicitors' preliminary examination are enacted in the case of students passing certain examinations in the Universities named in that section, including the Royal University of Ireland. This section provides that the exemption may be extended by regulations made under the Solicitors Act to persons who pass the examination in any other University specified in the regulations. In the same way section 8 (F) of the same Act enables the Society to make regulations exempting students who have obtained the degree of Bachelor of Laws at any University in the United Kingdom. Doubtless at a later date application will be made to the Incorporated Law Society to extend these exemptions from the preliminary and intermediate examinations to students and graduates of the new Universities; and I think I am not putting the matter too high when I say that the Incorporated Law Society of Ireland as an educational body will be largely concerned and interested in the success of the new Universities in Dublin and Belfast; and it will undoubtedly be the duty of the Society to encourage as far as possible those seeking to join the solicitors' profession to pass through these Universities, and obtain their Arts and Legal degrees. There is no doubt that we, as a profession anxious to maintain a high standard in the members to join our ranks, are very much interested in seeing that all the students who attend our classes, and who are preparing for our profession, should be well educated. This seems to me an opportunity for asserting our claim for representation on the Senates of the Universities, which should not be overlooked, the more especially as the Faculty of Law in the new Dublin University will have to be newly created. All of you may not be aware that the Incorporated Law Society of England have two representatives of the Society on the Senate of the University of London, one representative of the Society on the Court of the University of Liverpool, two representatives of the Society upon the Court of Governors of the University College of North Wales, and two representatives on the Board of Governors of Hartley College, Southampton. I have ventured to prepare a resolution, which, with the permission of this meeting, I would propose should be passed to-day, and I trust passed unanimously. If it is, I think, we all

should use whatever influence we have with our Parliamentary representatives so that the claims of this Incorporated Law Society might be pressed home upon the Government. You are aware that the Chancellor of the Exchequer, one of the most important members of the Cabinet, is to-day a practising solicitor. There are many of our profession in Parliament, and they, like ourselves, must be anxious to maintain the high standard of our profession, and, therefore, I think that I may safely anticipate that a resolution such as the one I submit to you will not fall upon unsympathetic ears.

I beg to move accordingly that:—“This general meeting of the members of the Incorporated Law Society of Ireland respectfully urge upon the Right Hon. the Chief Secretary for Ireland the desirability of representation of the Society upon the Senate of the proposed new University to be established in Dublin. It is submitted that as the conduct of all examinations of those intending to enter the solicitors' profession in Ireland is entrusted to the Incorporated Law Society of Ireland, by virtue of the Solicitors (Ireland) Act, 1898, and as the various provisions of that Act give students of universities facilities for entering the solicitors' profession, the Society is entitled to representation upon the Senates of the new Universities proposed to be established in Ireland. The Council would desire to point out that the Law Society of England has two representatives upon the Senate of the University of London, as well as having representatives upon the governing bodies of other universities and colleges in England. That copies of this resolution be sent to the Right Hon. the Chief Secretary for Ireland, Mr. John Redmond, M.P., the members for the City and County of Dublin, and to any other Members of Parliament who may be solicitors.”

MR. R. A. MACNAMARA: I have great pleasure in seconding the resolution. I think Mr. Fry has said so much that he has left very little for me to say. But having regard to the fact that we accept—I presume we will accept—the examinations of this new University in lieu of our preliminary examinations here; that we are responsible for the education of our apprentices, and deal largely with educational work, I think we ought to be entitled to representation on the Senate of the University. I understand there will be a Commission sitting to fix the provisions to be made for the various schools,

and, of course the School of Law will be one of them, and it will be necessary that the Incorporated Law Society will be in a position to give evidence before that Commission, and see that the School of Law is looked after and adequately endowed.

MR. JAMES BRADY: I regret I was not in time to hear the full statement of my friend Mr. Fry; but I am totally opposed to the resolution, and, being totally opposed to the resolution, I am entirely against this new University scheme. I do not intend to delay this meeting for any length of time, but I wish to say that I have formed an opinion of this scheme, which does not at all agree with its promoters. Rightly or wrongly, my opinion is that the scheme is being promulgated solely in the interest of continuing the sectarian strife that has existed in this country unfortunately for some years past, and that if those who are anxious for a University have the interest of their own country at heart, they would formulate such a scheme as would endeavour to end that sectarian strife. In my opinion it does not matter two rows of pins how many Universities you may have in Belfast or Cork, or how many you may have in Dublin, or in any other of the centres in Ireland. But it does interest the country to have one great national University, to which every member of the community, no matter what section or creed he might belong, would have freedom to go as he might desire. The present scheme is unquestionably one formulated on sectarian plans.

MR. J. P. LYNCH: I don't like to interrupt my friend Mr. Brady, but I submit, on a question of order, that the question before the meeting is—If the University is formed, is it desirable we should be represented? The question is not—Is it desirable to have a new University? I think it is a pity in a meeting like this, where matters of politics and religion are entirely excluded, that questions should be introduced that perhaps may create a jar between members.

MR. JAMES BRADY: With great respect to Mr. Lynch, I don't think I have said one offensive word.

MR. STRITCH: To put the thing in order, I propose that the question be now put.

MR. E. M. LLOYD: I second that.

MR. JAMES BRADY: I desire to have a vote taken on that amendment. I was merely speaking against Mr. Fry's motion. I am only

giving my reason why I should vote against the proposition of Mr. Fry.

THE PRESIDENT put the motion: "That the question be now put," and declared it carried, and then put the resolution moved by Mr. Fry, and declared it passed unanimously.

MR. JAMES BRADY: I said "no."

THE PRESIDENT: But you are only one "no," Mr. Brady.

MR. JAMES BRADY: Therefore it is not unanimous.

THE PRESIDENT: Well, I think you ought to withdraw your opposition.

MR. JAMES BRADY: I think it is a great pity notice was not given of that intended motion. If notice had been given, there would have been a larger number of dissentients present.

Mr. Fry's resolution was declared passed, and the proceedings terminated.

### Meeting of the Council.

THE Council met on Wednesday, the 13th May, 1908. The President, Mr. Lyster, in the Chair, and twenty-four other members were present.

### Post Office Consolidation Bill.

This Bill, introduced in the House of Lords by Lord Granard upon behalf of the Government, was referred to the Parliamentary Committee for consideration, with power to take such action in reference thereto as the Committee might think fit.

### Bankruptcy Costs.

The question of allowance of costs of adjournments in Bankruptcy and Arrangement matters was referred to the Special Committee who had previously considered the matter, for further consideration.

### Mr. W. H. Dunne, Ex-President.

A letter was read from Mr. William H. Dunne, Ex-President, conveying his resignation of membership to the Council. It was unanimously resolved that Mr. Dunne be requested to reconsider his resignation.

### British Association.

A letter was read from the Local Hon. Secretaries, Reception Committee of the British Association meeting, to take place next September in Dublin, asking the Council to nominate a member as a Representative on the Committee. It was decided to send

the name of the President as Representative of the Society.

### Irish Universities Bill.

A letter was read from the Private Secretary of the Chief Secretary, acknowledging the receipt of Resolution of the Council, passed at its previous meeting, relative to representation of the profession upon the Senates of the Universities proposed to be established under the Bill.

It was resolved to submit to the General Meeting of the Society a Resolution upon this matter.

### Interest on Expenditure by Solicitors.

A letter from a member was read, drawing attention to the non-allowance in Ireland of interest on out-of-pocket expenditure made by solicitors upon behalf of clients in legal proceedings. The matter was referred to the Costs Committee for consideration.

### Certificate duties.

Two applications by solicitors for liberty to renew their annual certificates were considered, and orders were made granting the applications.

### Assignment of Indentures.

A memorial from an apprentice of a deceased solicitor, for liberty to have his indentures assigned by the representatives of his late master to another solicitor, was submitted and sanctioned.

### Costs Committee Report.

A report from the Costs Committee upon query submitted for decision was considered, and the report was adopted. The query and the answer submitted by the Committee are as follows:—

*Query.*—"Is a solicitor for a grantor in cases under the Renewable Leasehold Conversion Act, in ordinary cases, entitled to charge costs as against the grantee, over and above the approval fee, and fee for having grant executed (£1 1s.)?"

*Answer.*—"The Committee is of opinion that the solicitor for the grantor is not entitled to be paid by the grantee costs of notices served upon the grantee requiring him to take out grants and pay fines, nor the costs of perusing abstract of grantee's title, but that he is entitled to be paid by the grantee costs of, and incidental to, the approval of the grant, and of getting same executed by his client, drawn in detail under the old system as altered by Schedule II. of the Solicitors' Remuneration Act Order."

**Land Act Finance.**

A report from the Land Act Committee, in reference to the report of the Departmental Committee, appointed by the Treasury to inquire into Land Purchase Finance, was submitted and adopted. The report stated that the Committee did not express any opinion upon the highly technical matters of finance dealt with in the report of the Departmental Committee, and that it would be premature for the Council to take any action relative to the report, until the intentions of the Government as to how the subject is to be dealt with are known.

**Registry of Titles Office.**

A report was received from the deputation of the Council, which consisted of the President, Mr. Denning (Vice-President), Sir George Roche, and Mr. Buggy, who had interviewed the Registrar of Titles upon the 11th inst., in reference to suggestions in connection with the working of the Registration of Title office. The deputation reported that the Registrar and Assistant Registrar had fully discussed the present difficulties existing in reference to registration of title, and had informed the deputation of what steps were being taken in order to remedy such difficulties; and it was arranged that the Council should send to the Registrar a written statement of suggestions.

**Resident Magistracy.**

A report from the Court and Offices Committee upon the statement issued by the Council of the Irish Bar with respect to the qualifications and appointment of Irish Resident Magistrates was submitted, and the following resolution was adopted by the Council, and copy of same directed to be sent to the Chief Secretary and Hon. Secretary of the Bar Council.

“RESOLVED—The Council of the Incorporated Law Society of Ireland, having considered the statement of the Council of the Irish Bar with respect to the qualifications and appointment of Irish Resident Magistrates, expresses its approval of the suggestion contained in the statement, that for the future no Resident Magistrate should be appointed who has not been for five years, and is not at the date of his appointment, a working barrister or solicitor in actual practice.

“The Council would urge upon the Irish Government the desirability of giving effect to this suggestion.”

The Council adjourned.

**Council Meetings.**

MEETINGS of the Council will be held upon the following dates:—

- June 3rd and 17th.
- July 1st, 15th, and 29th.

**Committee Meetings.**

THE following Committee Meetings were held during May:—

- Gazette, 12th.
- Land Act, 6th and 11th.
- Costs, 1st and 11th.
- Court and Offices, 8th.
- Parliamentary Committee, 14th.

**New Members.**

THE following have joined the Society during May:—

- Fitzsimmons, Richard, Dublin.
- Franck, Herbert W., Dublin.
- Geoghegan, James C., Cootehill.
- Greene, Florence A., Dublin.
- Guinness, R. Noel, Dublin.
- Meredith, Richard C., Castleisland.

**Legal Appointments.**

Mr. Reginald A. W. Andrews, of 20 St. Andrew Street, Dublin, has been appointed Solicitor to the Dublin Port and Docks Board, in place of Mr. Edward FitzGerald, resigned.

Mr. James Toner, Solicitor, of Strabane, has been appointed to the united office of Clerk of the Crown and Peace for the County of Tyrone.

Mr. Ralph Nash, Solicitor, of Limerick, has been appointed to the office of Registrar to the County Court Judge of Limerick.

**Commissioners to administer Oaths.**

The following question and reply appear in the Parliamentary papers of the 28th May:—

Question, Mr. Jeremiah MacVeagh.—To ask Mr. Attorney-General for Ireland, whether he can state what qualifications are necessary for

persons seeking to be appointed commissioners for taking affidavits for use in the High Court of Justice in Ireland, whether his attention has been called to the fact that in some cases Dublin agents of country solicitors take affidavits in business connected with their agencies, that solicitors who are commissioners take affidavits in business transacted in their offices, and that law clerks who act as commissioners take affidavits in cases pending in the offices of their employers; and whether he will cause instructions to be issued on these matters.

*Answer.* Mr. Cherry.—I have referred this question to the Lord Chancellor, who informs me that no qualification is prescribed by statute for the appointment of commissioner for taking affidavits in Ireland; except in the case of the Dublin Commissioners, who must be solicitors, and who are required by the Lord Chancellor to have been in practice for a period of at least three years prior to their appointment. The rules of the Supreme Court provide that no affidavit shall be sufficient if sworn before the solicitor for the party on whose behalf the affidavit is to be used, or before the partner, agent, correspondent, or clerk of such solicitor. No case of a violation of this rule by a commissioner has come under the notice of the Lord Chancellor. It would be open to the party against whom such an affidavit might be used to object to its sufficiency, or the breach of duty by the commissioner could be brought under the notice of the Lord Chancellor.

**Legal Reports.**

**Reported Cases on Costs.**

This book, published by the Society some years ago, contains a collection of *verbatim* reprints of the Reports of cases relating to costs decided in Ireland from 1867 to 1891; and also of such of the English cases on the Solicitors' Remuneration Act up to 1891 as are applicable to the law in Ireland. It consists of 735 pages. The remaining copies will be sold at the reduced price of 5s., postage 6d. extra, and can be obtained from the Secretary of the Society, Four Courts.

**Obituary.**

Mr. Robert O. Longfield, Solicitor, died on 15th May, 1908, in Dublin. Mr. Longfield served his apprenticeship with Mr. Richard O. Armstrong, 47 Upper Sackville Street, Dublin; was admitted in Trinity Sittings, 1863, and practised at 25 Clare Street, Dublin, and

Dungannon, in partnership with Mr. Owen A. Armstrong, under the style of Longfield, Kelly, and Armstrong; to the extent of the interest of Mr. Longfield was a member of the Council of the Incorporated Law Society of Ireland from 1874 to 1889, and again from 1898 to 1900, and filled the office of Vice-President of the Society in 1899. Mr. Longfield's opinion on the subject of the Departmental Committee and that it would be a Mr. Felix J. McKeown, Solicitor, died at Toomebridge, Co. Antrim, on 20th May, 1908. Mr. McKeown served his apprenticeship with Mr. John Malone, Cookstown, was admitted in Michaelmas Sittings, 1896, and practised at Belfast.

Mr. Joseph Wright, J.P., D.L., Solicitor, died at his residence, Kilmaloy, Monaghan, on the 23rd May, 1908.

Mr. Wright served his apprenticeship with the late Mr. John Hall, Hardwicke Street, Dublin; was admitted in Trinity Sittings, 1857, and practised at Monaghan. Mr. Wright was formerly Solicitor to the Grand Jury, County Monaghan, and subsequently to the Monaghan County Council.

Mr. William R. Rogers, Solicitor, died at his residence, Francis Street, Dundalk, on the 28th May, 1908. Mr. Rogers served his apprenticeship with his father, the late Mr. William R. Rogers (senior); was admitted in Michaelmas Sittings, 1855, and practised at Dundalk.

**Solicitors seeking Call to the Bar.**

The Statutory Committee having reported upon the applications of Mr. Edmund A. Swaine, Solicitor, and Mr. William Joseph Gleeson, Solicitor, to have their names struck off the Roll in order to enter as law students of the King's Inns, with a view to seeking call to the Bar, the Lord Chancellor has made orders in compliance with the recommendations contained in the reports of the Committee, directing the names of both solicitors to be struck off the Roll at their own request.

Mr. Swaine was admitted in Michaelmas Sittings, 1902, and practised at 16 Molestown Street, Dublin.

Mr. Gleeson was admitted in Michaelmas Sittings, 1901, and practised at 68 Dame Street, Dublin.



Recent Decisions affecting Solicitors.

(Notes of decisions, whether in reported or unreported cases, of interest to Solicitors, are invited from Members.)

CHANCERY DIVISION (ENGLAND)

In re Simmons' Contract.

(December 11th, 1907.)

Solicitor—Costs—Vendor and Purchaser—Scale fee—Deducing one Title on several Contracts—Solicitors' Remuneration Act, 1881 (44 and 45 Vict. c. 44), s. 4, General Order, Sched. I. Part I., r. 8.

FIVE leases of five separate houses were granted by the same lessors on the same day to the same lessee, to whom each lease gave an option of purchasing the fee-simple, in which case he was to pay all legal and other expenses of the lessors as vendors, it being stated that the intention of the parties was that the lessors should be put to no expense in respect of the conveyance.

The lessee by one letter exercised each of the five options, received only one abstract of title, and required only one conveyance of all the five houses.

The vendors' solicitors declined to allow all the houses to be conveyed by one deed, except on the terms that they should not be deprived of any part of the costs under the leases, and claimed to charge in respect of each house the scale fee for "deducing title and perusing and completing conveyance".

Held, that the vendors' solicitors could not charge a separate scale fee for each house, but were only entitled to treat the whole property as subject to one contract, and to charge one fee in respect of the whole.

Reported 1908. r. Chancery, page 452.

The Land Commission.

The following sittings of the Court of the Land Commission for hearing Appeals have been provisionally arranged:

- Armagh, June 10th; County Armagh.
- Dublin, June 25th; Leinster (part of).
- Killarney, June 30th; County Kerry, and County Cork (part of).
- Dublin, July 9th; Leinster (part of).
- Dublin, July 16th; Leinster (part of).

Dates of Summer Assizes, 1908.

The Assizes will be opened as follows:

CONNAUGHT CIRCUIT.

- County Down.—At Tullamore, Wednesday, July 1st, at 11.30.
- Co. Leitrim.—At Carrick-on-Shannon, Friday, July 3rd, at 11.
- Co. Sligo.—At Sligo, Tuesday, July 7th, at 11.
- Co. Roscommon.—At Roscommon, Saturday, July 11th, at 11.
- Co. Mayo.—At Castlebar, Tuesday, July 14th, at 12.30.
- Co. Galway.—At Galway, Monday, July 20th, at 11.

Judges.—The Rt. Hon. Mr. Justice Johnson and the Rt. Hon. Mr. Justice Kenny.

Registrars.—Mr. Vesey C. Nash, 42 Grand Parade, Cork, and Mr. E. H. Kenny, Marlfield, Cabinteely, Co. Dublin.

MUNSTER CIRCUIT.

- Co. Clare.—At Ennis, Thursday, July 2nd, at 11.
- Co. Limerick.—At Limerick, Monday, July 6th, at 11.
- County of the City of Limerick.—At Limerick, Monday, July 6th, at 11.
- Co. Kerry.—At Tralee, Friday, July 10th, at 11.30.
- Co. Cork.—At Cork, Thursday, July 16th, at 11.
- County of the City of Cork.—At Cork, Monday, July 20th, at 11.

Judges.—The Rt. Hon. the Lord Chief Baron and the Rt. Hon. Lord Justice FitzGibbon.

Registrars.—Mr. Francis Kennedy, Lissadell, Stillorgan Park, Co. Dublin; Mr. H. Macaulay FitzGibbon, The Bungalow, Greystones, Co. Wicklow.

LEINSTER CIRCUIT.

- Co. Wicklow.—At Wicklow, Wednesday, July 1st, at 11.30.
- Co. Meath.—At Trim, Wednesday, July 1st, at 11.30.
- Co. Louth.—At Dundalk, Thursday, July 2nd, at 11.

Co. Monaghan.—At Monaghan, Saturday, July 4th, at 11.

Co. Armagh.—At Armagh, Tuesday, July 7th, at 11.

County Down.—At Downpatrick, Saturday, July 11th, at 12.

Co. Antrim.—At Belfast, Wednesday, July 15th, at 12.

County of the City of Belfast.—At Belfast, Friday, July 17th, at 10.30.

*Judges.*—The Rt. Hon. Mr. Justice Wright and the Hon. Mr. Justice Dodd.

*Registrars.*—Mr. T. W. Wright, 65, Dame Street, Dublin; Mr. Robert Hunter, 41 Lower Sackville Street, Dublin.

#### NORTH-WEST CIRCUIT.

Co. Westmeath.—At Mullingar, Thursday, July 2nd, at 11.30.

Co. Longford.—At Longford, Friday, July 3rd, at 11.

Co. Cavan.—At Cavan, Monday, July 6th, at 11.

Co. Fermanagh.—At Enniskillen, on Wednesday, July 8th, at 11.

Co. Tyrone.—At Omagh, Friday, July 10th, at 11.

Co. Donegal.—At Lifford, Thursday, July 16th, at 11.

Co. Londonderry.—At Londonderry, Monday, July 20th, at 11.

Co. of the City of Derry.—At Derry, Wednesday, July 22nd, at 10.30.

*Judges.*—The Rt. Hon. Mr. Justice Gibson and Rt. Hon. Mr. Justice Madden.

*Registrars.*—The Hon. E. Gibson, Clonlea, Sandyford, County Dublin; W. H. Atkinson, of Nutley, Booterstown, Co. Dublin.

#### LEINSTER CIRCUIT.

Co. Wicklow.—At Wicklow, Wednesday, July 1st, at 12.

Co. Wexford.—At Wexford, Friday, July 3rd, at 11.

Co. Waterford.—At Waterford, Monday, July 6th, at 11.

County of the City of Waterford.—At Waterford, Monday, July 6th, at 11.

Co. Tipperary (South Riding).—At Clonmel, Thursday, July 9th, at 12.

Co. Tipperary (North Riding).—At Nenagh, Monday, July 13th, at 11.

Queen's County.—At Maryboro', Wednesday, July 15th, at 12.

City and Co. of Kilkenny.—At Kilkenny, Friday, July 17th, at 11.

Co. Carlow.—At Carlow, Monday, July 20th, at 12.30.

Co. Kildare.—At Naas, Wednesday, July 22nd, at 11.

*Judges.*—The Rt. Hon. the Lord Chief Justice of Ireland (Lord O'Brien) and the Rt. Hon. Mr. Justice Andrews.

*Registrars.*—C. Clarke, Esq., 1 Upper Hatch Street, Dublin; James T. Andrews, Esq., 1 Waterloo Road, Dublin.

#### Solicitors' Benevolent Association.

Meetings of the Directors will be held upon the following dates:—

June 3rd.

July 1st.

#### Solicitors' Apprentices' Debating Society.

SESSION 1907-1908.

PROGRAMME FOR TRINITY SITTINGS, 1908.

Meetings held at 8 p.m. in Antient Concert Rooms, Great Brunswick Street, Dublin.

June 1.—Debate—"That the supremacy of Japan in Asia is in the best interests of Great Britain."

June 8.—Debate—"That the same Fiscal System is not applicable to Great Britain and Ireland."

June 15.—Legal Debate—"That further facilities for Legal Education should be afforded Solicitors' Apprentices in Ireland."

(Candidates for Offices for Session 1908-1909 to be nominated.)

June 22.—Legal Debate—“That the case of *Williams v. North's Navigation Collieries* (1889), *Ltd.* [1906], A.C. 136, was rightly decided.”

June 29.—Essay Night.—(Result of Election of Officers for Session 1908-1909.)

#### Dates of Examinations.

THE Intermediate Examination will be held upon Friday, 3rd July (Notice to be lodged before 13th June).

#### Trinity Sittings Lectures.

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing on the following dates in Trinity Sittings, 1908:—

June 2nd, 5th, 9th, 12th, 16th, 19th, 23rd, 26th, 30th.

July 3rd, 7th.

Professor Boyd will deliver lectures to the Junior Class upon Common Law on the following dates in Trinity Sittings, 1908:—

June 1st, 4th, 11th, 15th, 18th, 22nd, 24th, 25th, 29th.

July 2nd.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 18 Nassau Street, Dublin.

The first part of the book is devoted to a general history of the United States from its discovery to the present time.

The second part is devoted to a detailed history of the United States from the discovery of gold to the present time.

The third part is devoted to a detailed history of the United States from the discovery of oil to the present time.

The fourth part is devoted to a detailed history of the United States from the discovery of silver to the present time.

The fifth part is devoted to a detailed history of the United States from the discovery of copper to the present time.

The sixth part is devoted to a detailed history of the United States from the discovery of iron to the present time.

The seventh part is devoted to a detailed history of the United States from the discovery of coal to the present time.

The eighth part is devoted to a detailed history of the United States from the discovery of gas to the present time.

The ninth part is devoted to a detailed history of the United States from the discovery of electricity to the present time.

The tenth part is devoted to a detailed history of the United States from the discovery of the telephone to the present time.

The eleventh part is devoted to a detailed history of the United States from the discovery of the automobile to the present time.

The twelfth part is devoted to a detailed history of the United States from the discovery of the airplane to the present time.

The thirteenth part is devoted to a detailed history of the United States from the discovery of the radio to the present time.

The fourteenth part is devoted to a detailed history of the United States from the discovery of the television to the present time.

The fifteenth part is devoted to a detailed history of the United States from the discovery of the computer to the present time.

The sixteenth part is devoted to a detailed history of the United States from the discovery of the space program to the present time.

The seventeenth part is devoted to a detailed history of the United States from the discovery of the moon landing to the present time.

The eighteenth part is devoted to a detailed history of the United States from the discovery of the Vietnam War to the present time.

The nineteenth part is devoted to a detailed history of the United States from the discovery of the Watergate scandal to the present time.

The twentieth part is devoted to a detailed history of the United States from the discovery of the AIDS virus to the present time.

The twenty-first part is devoted to a detailed history of the United States from the discovery of the World Trade Center to the present time.

The twenty-second part is devoted to a detailed history of the United States from the discovery of the September 11 attacks to the present time.

The second part of the book is devoted to a general history of the United States from its discovery to the present time.

The third part is devoted to a detailed history of the United States from the discovery of gold to the present time.

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The fifteenth part is devoted to a detailed history of the United States from the discovery of the television to the present time.

The sixteenth part is devoted to a detailed history of the United States from the discovery of the computer to the present time.

The seventeenth part is devoted to a detailed history of the United States from the discovery of the space program to the present time.

The eighteenth part is devoted to a detailed history of the United States from the discovery of the moon landing to the present time.

The nineteenth part is devoted to a detailed history of the United States from the discovery of the Vietnam War to the present time.

The twentieth part is devoted to a detailed history of the United States from the discovery of the Watergate scandal to the present time.

The twenty-first part is devoted to a detailed history of the United States from the discovery of the AIDS virus to the present time.

The twenty-second part is devoted to a detailed history of the United States from the discovery of the World Trade Center to the present time.

The twenty-third part is devoted to a detailed history of the United States from the discovery of the September 11 attacks to the present time.

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2807 (2 lines).

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. II, No. 3.]

July, 1908.

[FOR CIRCULATION  
AMONGST MEMBERS.]

### Meetings of the Council.

THE Council met upon Wednesday, the 3rd June. The President (Mr. G. H. Lyster) in the Chair, and twenty-six other members were present.

### Commissioner for Oaths.

A communication was read from the President of the Southern Law Association, asking the Council to assist the Association in opposing an application by a Law clerk for appointment as Commissioner for oaths for the City of Cork. It was decided to comply with the request, provided it was found feasible to do so upon perusal of documents which were being forwarded.

### Results of Examinations.

A report from the Court of Examiners was submitted, giving results of May Preliminary and Final Examinations, and also the award of the Preliminary Examinations Prizes, 1907-8; and the Court of Examiners further reported that it would not be necessary to hold a special examination for the Findlater Scholarship this year, as the award for it can be made upon the marks obtained at the Final Examinations.

### Resignation of Mr. W. H. Dunne.

A reply was received from Mr. Dunne, thanking the Council for the resolution passed at its last meeting, and expressing regret that he was unable to withdraw his resignation, as he had not sufficient time to attend to the duties of membership of the Council. The resignation was accepted by the Council with much regret.

### Certificate Duty.

A communication was received from the Registrar of the King's Bench Division,

enclosing, by direction of the Court, an order made directing a judgment by default for the recovery of the amount due on foot of a bill of costs to be set aside, the judgment having been obtained by a firm of solicitors one of whose members did not hold a certificate for the period during which the costs for which judgment had been marked had been incurred.

The Council directed receipt of the communication to be acknowledged.

### Labourers Act.

A letter was read from a member of the profession, stating that the Local Government Board had refused to sanction remuneration to him as solicitor to a Rural District Council, at the rate of £3 10s. per plot, under the Labourers (Ireland) Act, 1906, which the District Council had agreed to pay him, and that the Board refused to sanction more than £3 per plot, and asking the Council if the Society could do anything in the matter. A reply was directed to be sent, stating that the Council have no power to compel the Local Government Board to sanction the remuneration, but that the Council are aware that the Board has sanctioned remuneration in the case of a County Dublin Rural District Council at the rate of £3 per cottage.

### Sheriffs' Fees.

A letter was read from a member of the profession, asking the Council to institute proceedings against a sub-sheriff who had charged a fee of 7s. 2d. against a plaintiff in a Civil Bill decree lodged for execution, for drawing an indemnity which the sheriff required the plaintiff to give to him prior to execution of the decree. A reply was directed to be sent, stating that the Council are desirous of asking the sheriff for an explanation of the charge before taking any further action.

**Bar Council, and Civil Bill Courts (Dublin) Bill.**

The following letter from the Hon. Secretary of the Bar Council was submitted:—

“LAW LIBRARY, FOUR COURTS,  
“18th May, 1908.

“W. G. WAKELY, ESQ.,

“Secretary, Incorporated Law Society of Ireland.

“DEAR SIR,—I beg to acknowledge receipt of your letter of 16th inst., containing a copy of the resolution of your Society, passed on 13th inst., in reference to the question of Resident Magistrates in Ireland.

“In further reply to your letter of 2nd March, 1908, re Civil Bill Courts (Dublin) Bill, the matter was discussed at the meeting of the Bar Council, held on 16th inst., and I am directed to say that the Bar Council cannot pass a resolution in favour of the Bill as it at present stands. The whole subject of the amendment of County Court procedure generally has been referred to a sub-committee to prepare a report.

“Yours faithfully,

“HENRY HANNA,

Hon. Sec., Bar Council.

**Certificates.**

Two applications by solicitors for liberty to take out their certificates were submitted; and orders were made granting the applications.

**Railway and Canal Traffic Acts.**

The following resolution was adopted, and copies were directed to be sent to the Registrar of the Railway and Canal Commission; to the Attorney-General for Ireland, to the Chamber of Commerce, and to the Secretary of the Bar Council.

“RESOLVED—The Council of the Incorporated Law Society of Ireland respectfully request the Railway and Canal Commissioners to make such alterations in the General Rules under the Railway and Canal Traffic Act, 1888, as will secure that proceedings under the Act against a Government or public Department in reference to any matter affecting purely Irish interests will be heard in Ireland.”

**Labourers Act.**

The Special Committee in charge of the matter of the taxation of costs under the Labourers Act submitted for the approval of the Council a draft letter to the Local Government Board in reply, and same was approved of. The Council adjourned.

The Council met upon Wednesday, the 17th June, the President (Mr. G. H. Lyster) in the Chair, and twenty-two other members were present.

**Commissioner for Oaths.**

The Secretary reported that counsel upon behalf of the Society had opposed the application of a law clerk to be appointed a

Commissioner for oaths at Cork, in accordance with the request made by the Southern Law Association to the Council, and that the Lord Chancellor had refused to make the appointment.

**Town Tenants Act.**

A letter was read from the Northern Law Society drawing attention to the fees payable to solicitors under the Town Tenants Act Rules, and asking the Council to take steps to have them altered, as the Northern Law Society do not consider them adequate. A reply was directed to be sent, stating that the Council do not see their way to comply with the request, having regard to the fact that suggestions submitted to the Rule-making authority by the President of this Society last year in reference to these Rules were accepted by the Lord Chancellor in making the Rules; and the attention of the Northern Law Society was directed to be drawn to the general power given to the Judge by the rules to increase the fees in any individual case.

**Sheriffs' Fees.**

A letter in reply was read from a Sub-sheriff stating that he was under the impression that he was entitled to charge the fee of six shillings and eightpence for preparation of an indemnity bond given to him by a plaintiff in a Civil Bill decree lodged with him for execution. A reply was directed to be sent stating that the charge was illegal, having regard to the fact that the sub-sheriff was not a solicitor; and the sub-sheriff was requested to give an undertaking that he would not make such a charge in future.

**Railway and Canal Commission.**

A letter in reply from the Registrar of the Railway and Canal Commission was read acknowledging the resolution of the Council, and stating that the matter referred to in the resolution was under the consideration of the Commissioners.

**Counterpart Die.**

A letter was read from a member of the profession drawing attention to the refusal of the Inland Revenue authorities to affix a counterpart stamp duty die to the counterpart of a lease, owing to the fact that the lease had not been executed by the lessee, and asking the Council to take steps to prevent such a refusal occurring in the future. A reply was directed to be sent, stating that the Council approved of the action of the Inland Revenue in refusing to affix a counter-



part die where the lease was not executed by both parties, and where accordingly at a future date the counterpart might not be an exact copy of the original lease.

**Lectures.**

The application of an apprentice for credit for five lectures missed through illness, of which a medical certificate was sent, was granted.

**Costs Committee.**

A report from the Costs Committee was submitted and adopted. The report recommended that a reply should be sent to a member of the profession who had drawn attention to the non-allowance of interest to solicitors on out-of-pocket expenses, referring him to section 18 of the Solicitors Act, 1870, which is as follows:—

“Subject to any general rules or orders hereafter to be made upon every taxation of costs, fees, charges, or disbursements, the Taxing Officer may allow interest at such rate and from such time as he thinks just on moneys disbursed by the solicitor for his client, and on moneys of the client in the hands of the solicitor and improperly retained by him.”

**Parliamentary Committee.**

A report from the Parliamentary Committee was submitted and adopted; and it was resolved to request Mr. Lardner, M.P., to move an amendment to the Coroners (Ireland) Bill.

**Land Act Finance.**

The subject of Land Act finance was again considered, and it was referred to the Land Act Committee to consider what suggestions (if any) should be submitted by the Council to the Government in reference to the question.

The Council adjourned.

**New Member of Council.**

MR. JOHN G. FOTTRILL being first upon the supplemental list, has succeeded to the vacancy on the Council caused by the resignation of Mr. W. H. Dunne.

**Council Meetings.**

MEETINGS of the Council will be held upon the following dates:—

July 1st, 15th, and 29th.

October 7th and 21st.

**Committee Meetings.**

THE following Committee Meetings were held during June:—

Court of Examiners, 1st and 24th.

Gazette, 9th.

Costs, 15th.

Land Act, 25th.

Library, 29th.

**Chancellor of the Exchequer.**

THE following letter has been received, acknowledging the resolution passed at the half-yearly general meeting of the Society:—

“TREASURY CHAMBERS, WHITEHALL, S.W.

“16th May, 1908.

“DEAR SIR,—I am desired by the Chancellor of the Exchequer to acknowledge the receipt of your letter of the 15th instant, containing a resolution passed at a half-yearly general meeting of members of the Incorporated Law Society of Ireland, and to ask you to convey to the Society his hearty thanks for its kind congratulations.

“Yours faithfully,

“JOHN ROWLAND.

“WILLIAM GEORGE WAKELY, ESQ.,

“Solicitors' Buildings,

“Four Courts, Dublin.”

**Commissioners to administer Oaths.**

THE Lord Chancellor has appointed the following additional Commissioners to administer oaths:—

Maurice Molony, Solicitor, Dundalk.

Charles Forges, Clerk of Petty Sessions, Bushmills.

Peter Lynch, Clerk of Petty Sessions, Arva.

**Notary Public.**

THE Lord Chancellor has made the following appointment as Notary Public:—

George Allen, Solicitor, Belfast.

### New Solicitors.

#### ADMISSIONS DURING JUNE, 1908.

Name.	Served apprenticeship to
Dickie, John Frederick,	Robert H. Carson, Omagh.
O'Grady, William Michael,	Bernard O'Grady, Dublin.
Simpson, David Barbour,	Samuel F. McConnell, Lisburn.

### Obituary.

MR. MICHAEL J. HANMORE, Solicitor, died on the 11th June, 1908, at his residence, 3 Prince of Wales Terrace, Bray. Mr. Hanmore, who served his apprenticeship with Mr. Gerald Byrne, Solicitor, of 29 Lower Ormond Quay, Dublin, was admitted in Hilary Sittings, 1889, and practised formerly at 32 Upper Ormond Quay, and latterly at 2 Inns' Quay, Dublin, and Bray, under the style of M. J. Hanmore and Co.

### Results of Society's Examinations.

#### PRELIMINARY EXAMINATION.

AT the Preliminary Examination, held upon 11th and 12th May, the following passed the examination, and their names are arranged in order of merit:—

1. Maurice Skehan, Clonmel, Co. Tipperary.
2. William A. Empey, Stradbally, Queen's County.
3. Robert E. H. Stack, Listowel, Co. Kerry.
4. Albert E. Prentice, Blackrock, Co. Dublin.
5. Hugh Gallagher, Castlefin, Co. Donegal.

James M. Pollin, Belfast, and Martin Tierney, Cavan, passed the modified Preliminary Examination for which they had liberty to present themselves.

Eleven candidates attended; seven passed, four were postponed.

#### Preliminary Examinations Prizes, 1907-08.

THE Court of Examiners have awarded Silver Medals to William O. Armstrong, Richard F. T. Greer, and Maurice Skehan, and a Special Certificate to William A. Empey.

### Final Examination.

AT the Final Examination, held upon 18th and 19th May, the following passed the examination, and their names are arranged in order of merit:—

1. Samuel C. Webb, B.A., T.C.D.
2. Robert M. Kieran.
3. Samuel J. Millar, B.A., R.U.I.
4. Patrick Campbell.
5. William M. O'Grady.
6. David B. Simpson.
7. Victor M. Blackburne.
8. Enda B. Healy.
9. Herbert Davis, B.A., T.C.D.
10. Bernard Campbell.
11. John F. Dickie, B.A., T.C.D.

The Court of Examiners awarded Silver Medals to Samuel C. Webb and Robert M. Kieran, and Special Certificates to Samuel J. Millar and Patrick Campbell.

Twenty-three candidates attended; eleven passed, twelve were postponed.

### Solicitors' Benevolent Association.

A MEETING of the Directors was held upon 3rd June, at the Four Courts, Dublin, Mr. William Fry, J.P., in the Chair. The Secretary reported having received since last meeting the sum of £11 11s., making the total annual subscriptions received since the 1st January last, £434 14s. The Secretary reported having received a donation of £2 2s. from Mr. Norman C. Caruth, Ballymena, also subscriptions from nine new members from Belfast, per Mr. J. Dunville Coates. The Directors then proceeded to consider the various cases for relief, and made grants to twenty applicants, amounting in all to £189 10s., bringing the amount afforded in relief since the 1st of January up to £396 10s. There were four applicants for election to an annuity of £15, and their names were directed to be placed on the voting paper, and, after transacting some further routine business, the meeting adjourned.

The following solicitors joined the Association during the month of June:—

- George Allen, Belfast.  
Bigger and Strahan, Belfast.

John Bristow, Belfast.  
S. and R. Crymble, Belfast.  
Thomas J. Elliott, Belfast.  
Charles S. Harden, Belfast.  
Tyndall S. Johns, Belfast.  
Frank Kerr, Belfast.  
Albert J. Lewis, Belfast.  
Peter Macaulay, Belfast.  
R. E. M'Lean, Belfast.  
David McGonigal, Belfast.  
Daniel O'Rorke and Son, Belfast.  
George Wheeler, Belfast.  
Thomas Dunwoody, Castleblayney.  
Michael E. Knight, Clones.  
Alexander Pringle, Clones.

Meetings of the Directors will be held upon the following dates :—

July 1st.  
November 4th.  
December 2nd.  
December 9th.

#### Notice as to Gazette.

Members desirous of having the GAZETTE sent to an address other than their office should so inform the Secretary.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 18 Nassau Street, Dublin.



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ADDENDA.

Labourers (Ireland) Acts.

THE following is a copy of a letter of protest addressed by the President of the Incorporated Law Society of Ireland, to the Secretary of the Local Government Board of Ireland, in reference to the Rules and Schedule of Fees contained in the Order of the Local Government Board, dated 4th August, 1908, as appearing in the *Dublin Gazette* of 7th August, 1908:—

“34 DAWSON STREET, DUBLIN.”

“August 20th, 1908.”

“SIR,—On my return from England a few days ago, I was surprised to find that the amended rules under Section 31 of the Labourers (Ireland) Act, 1906, had been issued without notice to or consultation with me as President of the Incorporated Law Society of Ireland. The notice in the *Dublin Gazette* of the 7th August states that this had been done; but I have to point out that the ‘Rules’ were never submitted to me. I have therefore to enter my formal protest to the course which has been adopted, and I contend and submit that it makes these Rules nugatory.

“Now, as to the Schedule of Fees incorporated in the said Order, a tentative schedule expressed in the accompanying letter to be such and different in more than one respect was submitted to me on the 25th April last. The schedule differs from that sent to me; and I submit that the issue of same without notice to, or consultation with, me renders same illegal. In any event, on behalf of my profession I enter my strongest protest against the action of your Board in issuing such a schedule of fees; it is quite insufficient to meet the professional work that will have to be done to carry out the terms of the Act. I have already pointed out that the object of the Act was to simplify the procedure, and thus lessen the costs of carrying out same, but not to deprive the profession of the proper legitimate charges for any work that may be

necessary to comply with the requisitions as to title furnished by the legal adviser of the Rural District Councils. This work has to be done by us in conformity with a procedure prescribed by the rules issued by your Board.

“I am, Sir,  
“Your obedient servant,  
“GEORGE H. LYSTER,  
“President; Incorporated Law Society  
“of Ireland.”

“The Secretary, Local Government Board,

“Custom House, Dublin.”

THE LOCAL GOVERNMENT BOARD FOR

IRELAND.

THE LABOURERS (IRELAND) ORDER, 1908.

In pursuance of the powers vested in Us by the Labourers (Ireland) Acts, 1883, to 1906, and of all other powers enabling Us in this behalf, We, the Local Government Board for Ireland, after consultation with or a notice of consultation sent to the President of the Incorporated Law Society of Ireland, do order, and it is hereby ordered, that the following shall be rules and regulations under the said Acts, and shall, from and after the date hereof, have effect and be observed in regard to the several matters to which they relate—

This Order may be cited as “The Labourers (Ireland) Order, 1908,” and shall be construed as one with the Labourers (Ireland) Order, 1906.

2. The Rules in the Labourers (Ireland) Order, 1906, numbered 55 and 63 are hereby revoked, and the following Rules numbered 55 and 63 shall be respectively in lieu of and in substitution for the said Rules hereby revoked, and the said Order shall be read and construed as if they were therein respectively substituted for the said Rules hereby revoked:—

RULE 55 (1). Where costs are payable by a Council to an owner or lessee of land in respect

of the giving proof of title to any plot by such owner or lessee, the bill of costs shall, unless the amount claimed does not exceed £2 2s., and the parties have agreed as to the sum to be paid, be submitted to the Board, who shall refer such costs for taxation to a person appointed by them to act as taxing officer, and the sum certified under the hand of such taxing officer shall be the sum payable in respect of such costs.

(2) For the purpose of such taxation the procedure to be observed, the taxation fees to be paid, and the costs which may be allowed to owners or lessees, shall be as follows:—

(a) The bill of costs shall be forwarded to the Clerk of the Council, who shall transmit the same to the Board or their taxing officer after stating by endorsement on the bill the title of the Order authorizing the acquisition of the plot of land affected, as well as the name of the townland and reference number of the plot, the amount of purchase money or compensation paid in respect of the plot, and whether the land has been taken "compulsorily" or "by agreement." The short abstract or declaration of title as furnished to the Council's solicitor shall also be forwarded. The bill when taxed and certified shall be returned to the Clerk, and the amount certified shall be paid by the Council as soon as practicable to the owner or lessee by whom such costs were incurred: Provided that the taxing officer may, before issuing his certificate, in any case where, in his opinion, exceptional circumstances exist, serve notice on the solicitors for the parties to appear before him on a date to be specified in such notice.

(b) The taxing officer shall, before proceeding with any taxation, be paid by the Council a fee of 5s. in respect of any bill of costs not containing more than 50 separate items; of 7s. 6d. where the number of items exceeds 50, but does not exceed 100; and 10s. where the number of

items exceeds 100. The receipt of the taxation fee shall be noted in the bill by the taxing officer.

(c) The under-mentioned costs may be allowed to owners or lessees in respect of the employment of solicitors:—

	<i>s. d.</i>
Attendance taking instructions, ..	3 4
Perusal of wills, deeds, leases, or other necessary documents for the purpose of preparing short abstract of title for the period required by the Acts,—	1 0
Per skin (not exceeding five for any one document or twenty in the aggregate), ..	1 0
Short abstract of title—	
Per sheet of eight folios, ..	3 4
Copy same, ..	1 0 8
Preparing statutory declaration, ..	3 4
Attendance having declaration sworn, ..	3 4
Necessary correspondence, per letter—	3 4
Postage, &c., as incurred, ..	3 4

(3) Where, on the application of a Council or their solicitor, a short abstract of title is furnished on behalf of the occupier (other than the owner or lessee) of land authorized to be acquired, the Council may pay to such occupier a sum not exceeding 10s. 6d. in respect of the employment of a solicitor by him for the purpose of making out and furnishing such abstract.

RULE 63. Where an arbitrator acting in pursuance of Article 29 of the Second Schedule of the Housing of the Working Classes Act, 1890, gives a certificate in respect of the costs of a claimant for compensation for lands taken compulsorily, the Arbitrator shall forward a copy of such certificate to the Board.

Given under our Seal of Office this Fourth day of August, in the year of our Lord one Thousand Nine Hundred and Eight.

(Signed), H. A. ROBINSON,



# THE GAZETTE

## Incorporated Law Society of Ireland.

Vol. II, No. 4.] August, 1908.

FOR CIRCULATION AMONGST MEMBERS.

### Meetings of the Council

THE Council met upon Wednesday, the 1st July, the President (Mr. G. H. Lyster) in the Chair, and twenty other members present.

### Labourers (Ireland) Act.

The opinion of Senior Counsel upon the question of the legality of the procedure adopted by the Local Government Board upon the taxation of the costs of owners' solicitors for proving title to lands taken under the Act was submitted, and was referred to the Committee of the Council in charge of the matter to consider what further steps should be taken.

### Special Examiners.

Mr. C. H. Denroche B.A., LL.B., R.U.I., Solicitor, was appointed Special Examiner for the Final Examinations, 1909, and Mr. Frank V. Gordon, B.A., Ex-Scholar, T.C.D., Solicitor, was appointed Special Examiner for the preliminary Examinations, 1909.

### Sheriffs' Fees.

A letter in reply was read from a Sub-Sheriff who, though not a solicitor, had charged a plaintiff a fee for drawing an indemnity bond which he required the plaintiff to sign prior to the execution of a decree, the Sub-Sheriff not being a solicitor, in which letter the Sub-Sheriff, as required by the Council, gave an undertaking that for the future indemnity bonds required by him would be drawn by his Returning Officer, who is a solicitor.

### Certificates as Conveyancers.

A letter was read from the Under Treasurer, King's Inns, enclosing a copy of the rules defining the qualifications required for the Order of the Benchers of King's Inns enabling persons to take out certificates as conveyancers

An application by a solicitor for liberty to take out his annual certificate, he having been an assistant for some years, and now having an assistant, was considered.

### Coroners (Ireland) Bill.

A resolution upon the Bill was adopted by the Benchers upon the 12th June, 1908.

A letter in reply from Mr. Lardner, M.P., was read suggesting a modification to the amendment which the Council of this Society requested him to move in Committee upon the Coroners (Ireland) Bill. The Council decided to assent to the suggestion of Mr. Lardner.

### Universities (Ireland) Bill.

An amendment to the Solicitors Act of which the Chief Secretary for Ireland had given notice that he would move in Committee upon the Universities Bill, was considered. The effect of the amendment was to extend to students and graduates of the proposed new Colleges and Universities the same facilities for entering the solicitor's profession as the Solicitors Acts already give to students and graduates of other universities mentioned in the Solicitors Acts. Certain modifications to the amendment of the Chief Secretary were made by the Council, and these were directed to be conveyed to the Chief Secretary, with a request that he would alter his amendment in accordance with such modifications.

### Court of Examiners.

A report from the Court of Examiners upon three applications by law clerks for liberty to be bound under section 16 of the Solicitors (Ireland) Act, 1898, was considered, and it was resolved that two of these applications should be granted, and that the third should be refused.

### Land Act Finance.

A report from the Land Act Committee was considered, and it was resolved that a letter be addressed to the Financial Secretary of the

Treasury upon the subject of further funds being supplied by the Government for the purposes of the Irish Land Acts.

**Certificates.**

An application by a solicitor for liberty to take out his annual certificate, he having been an assistant for some years, and never having practised on his own account, was submitted; and an order was made granting the application.

The Council adjourned.

The Council met upon Wednesday, the 15th June, the President (Mr. G. H. Lyster) in the Chair, and twenty-two other members present.

**The Late Mr. Edward D'Alton.**

A resolution expressing the regret of the Council upon the death of Mr. Edward D'Alton, and conveying to his relatives the sympathy of the Council, was passed.

**Irish Universities Bill.**

A letter was read in reply from the Chief Secretary, stating that he had adopted in the Irish Universities Bill the suggestions of the Council relative to the clause in the Bill which amends the Solicitors Acts.

**Attendance at Lectures.**

Applications from two apprentices who had not attended the requisite number of senior lectures during Easter and Trinity Sittings owing to pressure of business in the offices of their respective masters, and who asked for credit for the lectures not attended, were ruled upon. In both cases the apprentices were required to attend Michaelmas Sittings, 1908, senior lectures, before they could obtain the certificate of the Professor for attendance at the year's senior lectures for 1907-08.

**Court of Examiners.**

The report of the Court of Examiners upon the July Intermediate Examination was submitted and adopted. A further report from the Court of Examiners upon the application of a law clerk for leave to be bound under sect. 16 of the Solicitors (Ireland) Act, 1898, which report recommended that the application be granted, was adopted, and the application granted.

**Labourers (Ireland) Act.**

A letter was read from the Local Government Board to the President in reply, stating that the Board would not adopt certain suggestions

made by the President at the instance of the Council in reference to the furnishing of title of owners to plots acquired under the Act; and the terms in which it was thought desirable that the President should reply to this letter were agreed upon.

The Council then adjourned.

The Council met upon Wednesday, the 29th July, the President (Mr. G. H. Lyster) in the Chair, and seventeen other members present.

**The Late Mr. D'Alton.**

A letter was read from Miss D'Alton, expressing upon behalf of the relatives of the late Mr. Edward D'Alton their thanks for the resolution of sympathy passed by the Council.

**Irish University Bill.**

A resolution was passed conveying to Sir George Roche the gratification of the Council upon his appointment as a member of the senate of the new University to be established in Dublin; and Sir George Roche, expressed his thanks to the Council for the terms of the resolution.

**Trusts Bill, 1908.**

A special Committee of the Council was appointed to consider this Bill, which purports to be a codification of the law relating to private trusts and trustees.

**Certificates.**

An application by a solicitor who was admitted in 1904 for liberty to take out his first certificate, having been since his admission a non-practising assistant, was granted.

**Preliminary Examination.**

Memorials of two law clerks to the Lord Chancellor and Judges named in section 18 of the Solicitors (Ireland) Act, 1898, for modified preliminary examinations were considered, and it was decided to report in favour of both applications being granted.

**Society's Premises.**

An estimate for repainting the lecture theatre of the Society was accepted. The Council adjourned until the 7th October.

**Council Meetings.**

Meetings of the Council will be held upon the following dates:—

- October 7th and 21st.
- November 4th and 18th.

**Results of Society's Examinations.**

At the Intermediate Examination for Apprentices to Solicitors, held upon the 3rd day of July, the following passed the examination:—

- Boxwell, William S. S.
- Boyle, Charles B. W.
- Buggy, John W.
- Campbell, Andrew.
- Clarke, David L.
- Collins, Francis S.
- Cromie, William A.
- Davis, Albert E.
- Doyle, John T.
- Dundon, John J.
- Fahy, John V.
- Furlong, Peter C.
- Hastings, John L. R.
- Hayes, Thomas H.
- Hudson, Richard H.
- Hunter, Robert.
- Kennedy, George C. L.
- Lardner, Matthew G. R.
- Meagher, William (jun.).
- Molloy, John.
- Monks, Thomas F. (jun.).
- Murray, Peter.
- McCarthy, Thomas P.
- McGrath, Daniel J.
- McGuckin, Vincent.
- Neilan, Patrick J.
- O'Connell, Jeremiah J.
- O'Hanlon, Henry A. B.
- Proctor, Edwin V.
- Ross, Sharman C.
- Simms, Alfred G. F.
- Skeffington, John.
- Sweeney, Daniel.
- Twomey, David A.
- Wallace, John E.

Forty-four candidates attended the examination; thirty-five passed; nine were postponed.

**Commissioners to administer Oaths.**

The Lord Chancellor has appointed the following additional Commissioners to administer oaths:—

- John F. Culhane, Solicitor, Dublin.
- William Dillon, Solicitor, Dublin.
- Edwin Lloyd, Solicitor, Dublin.
- Patrick J. O'Brien, Solicitor, Galway.
- Charles W. Russell, Solicitor, Dublin.

**Notary Public.**

The Lord Chancellor has made the following appointment as Notary Public:—

Patrick J. O'Brien, Solicitor, Galway.

**New Solicitors.**

ADMISSIONS DURING JULY, 1908.

Name.	Served apprenticeship to
Blackburne, Victor M.	Henry Blackburne, Belfast.
Campbell, Patrick,	T. J. S. Harbison, Cookstown.
Davis, Herbert,	George J. Hoey, Tullamore.
Healy, Enda Byrne,	Thos. G. Quirke, Dublin.
Webb, Samuel Cecil,	Henry MacDermot and Dermot MacDermot, (Boyle).

**Obituary.**

Mr. Edward D'Alton, Solicitor, died on the 6th July, 1908, at his residence, 11, Brighton Terrace, Monkstown, Co. Dublin. Mr. D'Alton, who served his apprenticeship with the late Mr. John Ferguson, of 6, Lt. Gloucester Street, Dublin, and Rathkeale, Co. Limerick, was admitted in Hilary Term, 1852, and practised, formerly in partnership with the late Mr. Wm. D'Alton, at 11, Stephen's Green, Dublin, under the style of D'Alton and D'Alton; and latterly at the same address in partnership with Mr. Edward Condell, under the style of D'Alton and Co. Mr. D'Alton was a member of the Council of the Incorporated Law Society of Ireland from 1886 to 1893, and filled the office of Vice-President of the Society in 1891-2.

Mr. Robert B. McNinch, Solicitor, died on the 9th July, 1908, at his residence, Dunluce Street, Larne. Mr. McNinch, who served his apprenticeship with his uncle, Mr. J. W. McNinch, of Larne, was admitted in Michaelmas Sittings, 1893, and practised in Larne.

**Labourers (Ireland) Act, 1906.**

In the King's Bench Division, upon the 30th July, before Mr. Justice Boyd, an application was made in the matter of *The King (Lady Mowbray and Stourton, and Others) v. The Local Government Board*.

Mr. Matheson, K.C., with whom was Mr. Roche (instructed by Messrs. Roche and Sons),

applied for a writ of *certiorari* to quash a certificate purporting to be given by the Local Government Board under the provisions of the Labourers (Ireland) Order, 1906, in respect of the costs of an owner of making title to lands taken for sites under the Labourers Act.

Having referred to the Lands Clauses Act dealing with costs to be allowed to an owner making title to land taken as sites, Counsel mentioned that power was given to the Local Government Board by section 31 of the Labourers (Ireland) Act, 1906, after consultation with, or notice of consultation sent to, the President of the Incorporated Law Society, to make rules which may fix the amount of any fees, and may provide for the taxation of any costs in respect of the carrying out of schemes. The Local Government Board, however, had taken up the position that, in the matter of costs payable by District Councils to the solicitor of an owner whose lands are acquired for the purposes of the Act, the Board have a right to certify for any sum they choose. The Board send the costs to their solicitor, Mr. Mccredy, for taxation; and the solicitor whose costs are taxed is not allowed to be present at the taxation, nor is he given information as to what items Mr. Mccredy reduces or disallows, nor how the amount certified by the Local Government Board to be payable in respect of the costs is arrived at. Counsel asked for a conditional order for a writ of *certiorari* directed to the Local Government Board, on the grounds that the procedure is illegal, and that Rule 55 of the Labourers (Ireland) Act Order, 1906, is *ultra vires*. A conditional order was granted.

### Rules of the Supreme Court of Judicature, Ireland.

JUNE, 1908.

These Rules may be cited as Rules of the Supreme Court (Ireland), June, 1908; or each Rule may be cited by the heading thereof with reference to the Rules of the Supreme Court (Ireland), 1905.

#### ORDER LXIX.

### APPEALS UNDER THE TOWN TENANTS ACT, 1906.

Appeals from the County Court to a Judge of Assize or a Judge of the High Court.

8. (94.) The practice and procedure upon appeals in the case of ordinary Civil Bills shall

apply to appeals taken under this Act, to a Judge of Assize, or, in the case of the County of Dublin and the County of the City of Dublin, to a Judge of the High Court.

9. (95.) The Clerk of the Peace, or the Clerk of the Crown and Peace where the offices are united, shall enter in the Town Tenants' Minute Book the order of the Judge made on such appeal, and any directions given by him thereon.

#### Appeals to the Court of Appeal.

10. (96.) An appeal to the Court of Appeal from the decision of a County Court Judge or Recorder, or from the determination of a Judge of Assize, or a Judge of the High Court, shall be by notice of motion.

11. (97.) The notice of motion shall be served upon the Solicitors of the parties who appeared in the Court below, or upon the parties, if not represented by Solicitors, and a copy shall be lodged with the Registrar of the Court of Appeal.

12. (98.) An appeal to the Court of Appeal from a decision of a County Court Judge or Recorder, shall be brought within the same time as an appeal to a Judge of Assize, or in Dublin to a Judge of the High Court.

13. (99.) An appeal from the determination of a Judge of Assize or a Judge of the High Court shall be taken within twenty-one days from the pronouncing of the determination.

14. (100.) In the event of an appeal being taken both to the Judge of Assize, or to a Judge of the High Court, and the Court of Appeal, and a further appeal being taken from the Judge to the Court of Appeal, the Judge shall, upon the requisition of the Registrar of the Court of Appeal, furnish a copy of his notes to the Registrar.

15. (101.) Copies of the notes of the County Court Judge, or Recorder, or Judge of Assize, or the Judge of the High Court, as the case may be, shall be supplied to the parties upon payment of the usual Court fees.

16. (102.) Appeals to the Court of Appeal shall be subject to the provisions of the Rules of the Supreme Court (Ireland) Order, LVIII., so far as the same are applicable.

#### ORDER LXVII.

17. (36a.) Where funds lodged in Court to the account of the Accountant-General, whether under an order of the Court or a Judge, or otherwise, are subject to or liable to be affected by any trust for any charitable purpose, whether immediately or after the determination of or subject to any prior life or other

limited interest, or interests; notice in writing setting forth the particulars of the funds so lodged, with a short statement of the nature and character of any such trust, shall be transmitted to the Commissioners of Charitable Donations and Bequests for Ireland through the Notice Office of the Office of Judgments, Records, and Writs by the person or persons making such lodgment, or his or their Solicitors, within fourteen days from the date of any such lodgment as aforesaid.

ORDER LXV.

XIA. COSTS OF APPEALS UNDER THE TOWN TENANTS (IRELAND) ACT.

18. (88a.) The costs and fees payable to Solicitors and Counsel under the Town Tenants (Ireland) Act, 1906, shall be as follows:—

(1) In appeals to a Judge of Assize or a Judge of the High Court the same fees as in the County Court or Recorder's Court.

(2) In appeals to the Court of Appeal where there is no appeal to the Judge of Assize or a Judge of the High Court, the same fees as in the County Court or Recorder's Court.

(3) In appeals to the Court of Appeal, where there has been an appeal to the Judge of Assize or Judge of the High Court, the same fees as in the County Court or Recorder's Court.

If the Judge of Assize, the Judge of the High Court or the Court of Appeal, be of opinion that the employment of a second counsel is reasonable, or if the hearing of the appeal shall be continued after the first day, or if, having regard to the value of the property, and the difficulty and importance of the questions involved, it shall seem just so to do, such Judge or Court may order such further sum as may seem right.

County Officers and Courts (Ireland) Act, 1877.

STATUTORY RULES.

July 3, 1908.

Made to regulate the mode of service of Civil Bill Processes in Ejectment; and for recovery of rent, in pursuance of the County Officers and Courts (Ireland) Act, 1877, and of the Land Law (Ireland) Act, 1881.

RULES.

1. Rules 1 and 2 of Order VI. of the County Courts (Ireland) Orders, 1890, are hereby annulled, and in lieu thereof the following rules

shall apply in all processes in ejectment for the recovery of any holding within the provisions of the Land Law (Ireland) Acts, or any of them, and in all processes for the recovery of rent out of any such holding.

2. When any defendant in any such Civil Bill process in ejectment or for recovery of rent keeps his house, residence, or place of business closed, or temporarily abandons the same, so as to prevent the ordinary service of such process, it shall be sufficient service to post a copy of such process on the door or other conspicuous portion of such house, residence, or place of business not less than fifteen clear days before the first day of the Sessions at which the defendant shall be required to appear.

3. In the case of any such process as aforesaid where any process-server, or in the case of an ejectment any person duly appointed or employed by the plaintiff to serve the Civil Bill process, shall be prevented by forcible resistance, or by reasonable apprehension of personal injury, from effecting ordinary service of the process on any defendant, it shall be sufficient service of such process upon such defendant to post a copy of the process on the Petty Sessions, or other Courthouse, nearest to the residence of such defendant, and on the usual place for posting notices in the market town nearest to the residence of such defendant, provided that such postings shall be effected at least fifteen clear days before the first day of the Sessions at which the defendant shall be required to appear.

Additions to the Library.

THE following books have been added to the Library from March to July, 1908:—

- Bartley (D. C.): Adulteration of Food. 8vo. London, 1907.
- Battersby (T. S. F.): The Pocket Reader. 12mo. Dublin, 1907.
- Dod's Parliamentary Companion, for 1908: 16mo. London, 1908.
- Encyclopædia of the Laws of England: 2nd ed. Vols. IX-XI. London, 1908.
- Folkard (H. C.): Law of Slander and Libel. 7th ed. 8vo. London, 1908.
- Gale (C. J.): Law of Easements. 8th ed. 8vo. London, 1908.
- Garratt (E. W. and H. G.): Law of Nuisances, 3rd ed. 8vo. London, 1908.

Gordon (J. W.): Law relating to Patents of Invention. 8vo. London, 1908.

Halsbury (Rt. Hon. the Earl of): The Laws of England. Vol. II. 8vo. London, 1908.

Harris (G. L. B.): Law of Tender. 8vo. London, 1908.

Harris (S. F.): Principles of the Criminal Law. 11th ed. 8vo. London, 1908.

Harrison (E. R.): Income Tax Cases. 8vo. London, 1907.

Heywood and Massey: Lunacy Practice. 3rd ed. 8vo. London, 1907.

Kennedy (W. R.): Law of Civil Salvage. 8vo. London, 1907.

King's Regulations and Orders for the Army. 8vo. London, 1908.

Lawyers' List, The: 8vo. New York, 1908.

Lyons (F. O.): Valuation and Exemption Cases, 1827-1907. 12mo. Dublin, 1908.

Pratt and Mackenzie: Law of Highways. 15th ed. 8vo. London, 1905.

Revised Reports, The: Vol. xcvi., xcvi., xcvi. (1852-1854). 8vo. London, 1908.

Robertson (G. S.): Civil Proceedings by and against the Crown. 8vo. London, 1908.

Roscoe (H.): Law of Evidence, and the Practice in Criminal Cases. 13th ed. 8vo. London, 1908.

Royal University of Ireland: Examination Papers, 1907. 8vo. Dublin, 1908.

Ruling Cases: With American Notes. Vol. xxvii. 8vo. London, 1908.

Senhouse (R. M. Minton): Workmen's Compensation Cases. Vol. ix. 8vo. London, 1908.

Shaw's Manual of the Vaccination Law. 8th ed. 12mo. London, 1908.

Shirley (W. S.): Leading Cases in the Common Law. 8th ed. 8vo. London, 1908.

Snell (E. H. T.): Principles of Equity. 15th ed. 8vo. London, 1908.

Stephens (J. E. R.): Law relating to Bills of Lading. 8vo. London, 1908.

— Law relating to Demurrage. 8vo. London, 1907.

— Law relating to Freight. 8vo. London, 1907.

Webster (W. F.): Conditions of Sale on a Sale of Land. 3rd ed. 8vo. London, 1907.

Williams (S. E.): Legal Representatives. 2nd ed. 8vo. London, 1908.

### Solicitors' Benevolent Association.

A MEETING of the Directors was held upon 1st July at the Four Courts, Mr. Fry in the chair.

The Secretary reported having received since last meeting the sum of £33 12s., making the total annual subscriptions received since 1st January last £468 6s.

The Scrutineers' report as to the voting for the election of a candidate to a life annuity of £15 was submitted, and No. 1 on the list having received the highest number of votes was declared elected.

The Directors then proceeded to consider the various cases for relief, and made grants to nine applicants, amounting in all to £97, bringing the amount afforded in relief since the 1st of January up to £484.

Meetings of the Association will be held upon the following dates:—

November 4th.

December 2nd.

December 9th.

### Solicitors' Apprentices' Debating Society.

OFFICERS FOR THE SESSION 1908-1909.

*President*—The President of the Incorporated Law Society of Ireland.

*Vice-Presidents*—Sir George Roche, George Collins, Esq.; Wm. Fry, Esq., J.P.; Gerald Byrne, Esq.; W. J. Grove White, Esq.; Joseph J. Dudley, Esq.; Thos. G. Quirke, Esq., LL.D.

*Auditor*—Edward J. Kelly, M.A.

*Hon. Secretary*—Charles B. W. Boyle, 29 Lower Gardiner Street, Dublin.

*Hon. Treasurer*—John J. Molloy.

*Hon. Registrar*—Philip J. McDonnell.

*Hon. Librarian*—Samuel W. Evans, Esq., B.L.

*Committee*—Chas. J. Reddy; J. M. Cullinane; J. H. King; Louis Barron; H. S. Robinson; J. L. R. Hastings.

### Dates of Examinations.

THE following are the dates of the October Examinations:—

October 8th and 9th.—Preliminary (notice to be lodged before 8th September).

October 12th.—Intermediate Examinations (notice to be lodged before 26th September).

October 13th, and 14th.—Final (notice to be lodged before 14th September).

**Michaelmas Sittings Lectures.**

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing on the following dates in Michaelmas Sittings, 1908 :—

- October 27th and 30th.
- November 3rd, 6th, 10th, 13th, 17th, 20th, 24th, and 27th.
- December 1st and 4th.

Professor Boyd will deliver lectures to the Junior Class upon Common Law on the following dates in Michaelmas Sittings, 1908 :—

- October 26th and 29th.
- November 2nd, 5th, 9th, 12th, 16th, 19th, 23rd, 26th, and 30th.
- December 3rd.

The lectures to both classes will be delivered at 4 p.m. in the Lecture Theatre of the Society at the Four Courts.

Apprentices desirous of attending either lecture class should give notice to the Secretary before the 14th October.

THERE will not be any issue of THE GAZETTE for either of the months of September or October; the next issue of THE GAZETTE will be for the month of November.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society Solicitors' Buildings, Four Courts, Dublin.

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 18 Nassau Street, Dublin.





# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2607 (2 lines).

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# THE GAZETTE

OF THE

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SOLICITORS' GUILDING, FOUR COURTS, DUBLIN.

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. II; No. 5.] November, 1908.

FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

THE Council met upon Wednesday, the 7th October. The President (Mr. G. H. Lyster) in the Chair, and twenty other members being present.

### Companies Act.

Correspondence was submitted which had taken place during the vacation between the President and Institute of Chartered Accountants, arising out of the President having pointed out to the Institute the illegality of accountants preparing articles, &c., for reconstruction of companies under the Companies Act, 1907, as a result of which correspondence the Secretary of the Institute sent a circular to the members of the Institute, drawing attention to the complaint of the President. A letter was directed to be written to the Institute of Chartered Accountants thanking them for their action in the matter.

### Labourers Act.

Three letters from members of the profession in reference to recovery of costs of owners for making title under the Labourers Act were read.

The order of the Local Government Board made under the Act and dated the 4th August, 1908, was also submitted, and the further consideration of these matters was referred to a special committee.

### Certificates.

Four applications by Solicitors for certificates were considered, and orders were made granting same.

### Court of Examiners.

A report from the Court of Examiners, recommending that three applications by law

clerks seeking to be bound under section 16 of the Solicitors (Ireland) Act, 1898, should be granted, was considered and adopted.

### Trusts Bill, 1908.

A letter was read from the Attorney-General enclosing a copy of the Trusts Bill, and of the Special Report of a Select Committee of the House of Commons thereon, and stating that he would be glad to lay before the Select Committee any observations which the Council desire to make upon the Bill.

The Secretary reported that the Special Committee appointed last July by the Council to deal with this matter were preparing a report upon the subject.

### Annual Report.

A committee was appointed to prepare the annual report to be submitted to the general meeting of members upon the 26th November.

### Petty Sessions Proceedings.

A recent occurrence at Dundalk Petty Sessions Court of an altercation in Court between two Solicitors, was referred for consideration to a special committee of the Council.

The Council then adjourned.

The Council met upon Wednesday, 21st October. The President (Mr. G. H. Lyster) in the Chair, and twenty-one other members being present.

### Canvassing for Business.

Communications upon the subject of alleged canvassing for business by a member of the profession were referred to the Parliamentary Committee.

**Court of Examiners.**

The report of the Court of Examiners, giving the result of the October Intermediate Examination, was adopted.

**Trusts Bill, 1908.**

The report of the Council upon this Bill having been forwarded to the Attorney-General for Ireland, a letter was read from him expressing his thanks to the Council for the report.

**Certificate.**

An application by a solicitor for renewal of his annual certificate was granted.

**Reports from Committees.**

The consideration of reports from Labourers (Ireland) Act Committee, and from the Costs Committee was adjourned to next meeting. The Council then adjourned.

**Council Meetings.**

MEETINGS of the Council will be held upon the following dates:—

November 4th, 18th, and 27th.

December 2nd and 9th.

**Committee Meetings.**

THE following Committee Meetings were held during October:—

Court of Examiners, 1st.

Trusts Bill, 2nd.

Costs, 5th.

Trusts Bill, 9th.

Trusts Bill, 12th.

Labourers (Ireland) Act, 15th.

Trusts Bill, 16th.

Report, 23rd.

Parliamentary, 28th.

Costs, 29th.

Library and Finance, 30th.

**Ballot for Election of Council.**

THE ballot for the election of the Council for the year ending the 26th day of November, 1908, will take place in the Secretary's office,

between the hours of 11 o'clock a.m. and 1 o'clock p.m. on Saturday, the 21st day of November, 1908. Ballot-papers sent by post should be posted so as to reach the Secretary not later than 1 o'clock p.m. on Saturday, the 21st day of November, 1908.

**General Meeting of the Society.**

THE Half-yearly General Meeting of the members of the Society will be held in the Hall of the Society, in the Solicitors' Buildings, Four Courts, on Thursday, the 26th day of November, 1908, at the hour of 2 o'clock p.m. The Report of the Outgoing Council will be submitted for adoption.

**New Members.**

THE following have joined the Society since July, 1908:—

Bridge, William P., Dublin.

Kiefan, Robert M., Dublin.

Shannon, Henry, Nenagh.

Wylie, Thomas C., Londonderry.

**Results of Society's Examination.**

At the Intermediate Examination, held upon the 12th October, the following passed the examination:—

Campbell, John P. V.

Collins, John H.

Coulter, William J. M.

Dwyer, Michael J.

Galt, William H. C.

Heaton, William F.

Holland, Norman L.

Lynam, Richard V.

Morphy, George N.

Russell, Marcus R.

Ryan, William G.

Steen, Ambrose.

Fourteen candidates attended. Twelve passed. Two were postponed.

**Legal Appointments.**

THE Lords Justices, upon the 1st day of August, 1908, appointed Mr. James B. K. Hill to be a resident Magistrate, to be stationed at Mullingar.

Mr. Hill was admitted a Solicitor in Trinity Sittings, 1903, and practised in Belfast.

The Lord Lieutenant has appointed Mr. A. Nicholas Sheridan to be Clerk of the Crown and Peace for the County of Louth and Drogheda, in room of Mr. Stephen O'Shaughnessy, resigned.

Mr. Sheridan was admitted a Solicitor in Michaelmas Sittings, 1891, and practised in Dundalk.

Mr. Justice Andrews has appointed Mr. Vesey C. Nash to be District Probate Registrar at Waterford, in room of the late Mr. Richard Wright, Barrister-at-Law. Mr. Nash was admitted a Solicitor in Trinity Sittings, 1889, and practised in Cork.

Mr. John R. Stritch, Solicitor, has been appointed a Commissioner for Oaths in Ireland, for the Province of Manitoba, Canada.

**Obituary.**

Mr. John A. Hanrahan, Solicitor, died on the 14th August, 1908, in Dublin. Mr. Hanrahan, who served his apprenticeship with the late Mr. John G. MacCarthy, of 70 South Mall, Cork, was admitted in Hilary Term, 1865, and practised at 70 South Mall, Cork, in partnership with Mr. F. F. McCarthy and with his son, Mr. Francis X. Hanrahan, under the style of Hanrahan & Co.

Mr. Francis M. Fitt, Solicitor, died on the 19th August, 1908, in London. Mr. Fitt, who served his apprenticeship with the late Mr. Michael Sellors, of 47 George Street, Limerick, was admitted in Trinity Sittings, 1887, and practised in Limerick, in partnership with Mr. Joseph Dodds, under the style of F. M. Fitt & Co.

Mr. Thomas Greer Carson, Solicitor, died on the 18th October, 1908, at his residence,

Bannfield, Coleraine. Mr. Carson, who served his apprenticeship with the late Mr. Hugh Lane, of Newtownlimavady, was admitted in Michaelmas Sittings, 1867, and practised in Coleraine until 1887, when he retired.

**Commissioners to administer Oaths.**

THE Lord Chancellor has appointed the following additional Commissioners to administer Oaths:—

- Charles J. McGahan, Solicitor, Dundalk.
- Henry J. Marshall, Solicitor, Listowel.
- Thomas Kenny, Kildysart.

**New Solicitors.**

**ADMISSIONS DURING JULY, 1908.**

Name.	Served apprenticeship to
Kieran, Robert Morris,	George P. Gussen, Dublin.
Millar, Samuel James,	John Harbison, Magherafelt.

**Irish Land Commission.**

THE following Sittings of the Court of the Land Commission for hearing Appeals have been provisionally arranged:—

- Castlebar, November 3rd; Co. Mayo.
- Dublin, November 12th; Leinster (part of).
- Galway, November 17th; Co. Galway.
- Dublin, November 26th; Leinster (part of).
- Ennis, December 3rd; Co. Clare (part of).
- Limerick, December 7th; Co. Limerick and Cos. Clare and Tipperary (parts of).

**Winter Assizes.**

THE Lord Lieutenant has made the following orders with regard to the forthcoming Winter Assizes:—

The Ulster Winter Assizes shall be held in Belfast. The County of Antrim, the County of the City of Belfast, the County of Down, the County of Armagh, the County of

Monaghan, the County of Donegal, the County of Londonderry, the County of the City of Londonderry, the County of Fermanagh, the County of Tyrone, and the County of Cavan shall be united together, and form one County under the name of the Ulster Winter Assize County.

The Munster Winter Assizes shall be held in Cork. The County of Waterford, the County of the City of Waterford, the County of Kerry, the County of Cork, the County of the City of Cork, and the County of Tipperary, North Riding and South Riding, shall be united together and form one County under the name of the Munster Winter Assize County.

The Leinster Winter Assizes shall be held at the Commission Court, at Green Street, in the County of the City of Dublin. The County of Dublin, the County of Kilkenny, Queen's County, King's County, the County of Meath, the County of Westmeath, the County of Louth, the County of Longford, the County of Wicklow, the County of Kildare, the County of Wexford, and the County of Carlow shall be united and form one County under the name of the Leinster Winter Assize County.

The Connaught Winter Assizes shall be held in Limerick. The County of Leitrim, the County of Galway, the County of Mayo, the County of Roscommon, the County of Sligo, the County of Clare, the County of Limerick, and the County of the City of Limerick shall be united together and form one County under the name of the Connaught Winter Assize County.

#### Additions to the Library.

The following books have been added to the Library from July to October, 1908:—

Annual Practice, The: For 1909. 2 vols. 8vo. London, 1908.

Bellot (H. H. L.): Bargains with Money-lenders. 8vo. London, 1906.

Blyth (E. E.): Analysis of Snell's Principles of Equity. 9th ed. 8vo. London, 1908.

Bolton (A. D.): The Labourers (Ireland) Acts. 2nd ed. 8vo. Dublin, 1908.

Campbell (T. J.): Workmen's Compensation. 5th ed. 8vo. Dublin, 1908.

Clery (A. E.) and J. McWalter: The Public Health Acts Amendment Act, 1907. 12mo. Dublin, 1908.

Congestion in Ireland, Royal Commission on: Final Report. Fol. London, 1908.

Conner (H. D.): The Fisheries (Ireland) Acts, 1842 to 1901. Second edition by H. D. Conner and E. C. Farran. 8vo. Dublin 1908.

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Gore-Browne (F.) and W. Jordan: Handbook of Joint Stock Companies. 28th ed. 8vo. London, 1908.

Halsbury (Rt. Hon. the Earl of): The Laws of England. Vol. iii. 8vo. London, 1908.

Johnston (W. J.) and J. Muldoon: Old Age Pensions in Ireland. 12mo. Dublin, 1908.

Judicial Statistics, Ireland, 1907. 2 vols. Fol. London, 1908.

Kettle (T. M.) and R. J. Sheehy: Old Age Pensions Act, 1908. 8vo. Dublin, 1908.

Onslow (H. Hughes-): A Lawyer's Manual of Book-keeping. 8vo. London, 1906.

Public Records, Ireland: Fortieth Report of the Deputy-Keeper. 8vo. Dublin, 1908.

Revised Reports, The: Vols. xcix and c. 8vo. London, 1908.

#### Dates of Examinations.

The following are the dates of the January, 1909, Examinations:—

January 4th and 5th.—Preliminary (notice to be lodged before December 5th).

January 6th and 7th.—Final (notice to be lodged before December 7th).

#### Michaelmas Sittings Lectures.

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing on the following dates in Michaelmas Sittings, 1908:—

October 27th and 30th.

November 3rd, 6th, 10th, 13th, 17th, 20th, 24th; and 27th.

December 1st and 4th.

Professor Boyd will deliver lectures to the Junior Class upon Common Law on the following dates in Michaelmas Sittings, 1908 :—

October 26th and 29th.

November 2nd, 5th, 9th, 12th, 16th, 19th,

23rd, 26th, and 30th.

December 3rd.

The lectures to both classes will be delivered at 4 p.m. in the Lecture Theatre of the Society at the Four Courts.

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#### **Solicitors' Benevolent Association.**

THE following solicitors have become Life Members of the Association since the 1st of August, 1908 :—

Joseph E. Quirk, Carrick-on-Suir.

Vincent P. Kennedy, Cavan.

Samuel Jones, Cavan.

Francis McBreen, Cavan.

Meetings of the Directors will be held on 2nd and 9th December, 1908.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

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THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 18 Nassau Street, Dublin.

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SOLICITOR with capital, desiring to extend his practice, would purchase the business of practitioner in Dublin desiring to retire.

Address "Purchase," c/o E. PONSONBY, Grafton Street, Dublin.—ADVT.





The Incorporated Law Society of Ireland

# THE GAZETTE

COUNCIL AND OFFICERS FOR YEAR ENDING

OF THE

## Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2607 (2 lines).

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# The Incorporated Law Society of Ireland.

## COUNCIL AND OFFICERS FOR YEAR ENDING

26TH NOVEMBER, 1909.

### *President :*

WILLIAM J. SHANNON.

### *Vice-Presidents :*

CHARLES ST. G. ORPEN.

JOHN W. RICHARDS.

### *Ordinary Members :*

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GEORGE H. LYSTER.

ARTHUR E. BRADLEY.

SIR GEORGE ROCHE.

JAMES A. DENNING.

THOMAS C. FRANKS.

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JOHN P. LYNCH.

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CHARLES A. STANUELL.

CHARLES G. GAMBLE.

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FREDERICK W. MEREDITH.

R. BLAIR WHITE.

GERALD BYRNE.

### *Provincial Delegates :*

*Ulster*—THOMAS M. GREER.

*Leinster*—MICHAEL BUGGY.

*Munster*—HENRY BLACKALL.

*Connaught*—WILLIAM P. KELLY.

### *Extra-Ordinary Members :*

#### *Northern Law Society.*

GEORGE B. WILKINS.

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#### *Southern Law Association.*

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ALFRED BLAKE.

FREDERICK HALL.

ARTHUR H. JULIAN.

WALTER THORNHILL.

### *Treasurers :*

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND.

### *Secretary :*

WILLIAM GEORGE WAKELY.

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland.

Vol. II, No. 6.] December, 1908.

FOR CIRCULATION  
AMONGST MEMBERS.

## Half-Yearly General Meeting.

### REPORT OF PROCEEDINGS.

THE Half-Yearly General Meeting of the members of the Society was held on Thursday, 26th November; in the Hall of the Society, Solicitors' Buildings, Four Courts, Dublin, Mr. George H. Lyster (the President of the Society) in the chair. The following members were also present:—

Sir G. Roche, Sir A. F. Baker, Wm. Fry, F. C. E. Bland, George Collins, Gerald Byrne, R. A. Macnamara, C. St. G. Orpen, J. P. Lynch, H. J. Synnott, J. A. Denning, W. S. Hayes, C. A. Stanuall, J. Henry, A. Lloyd Blood, T. C. Franks, W. V. Seddall, A. E. Bradley, J. Galloway, M. J. O'Connor, R. G. Warren, P. K. White, J. P. Tyndall, P. Rooney, P. J. Brady, G. de R. Engelbach, Roger Greene, W. D. Sainsbury, H. J. M'Cormick, G. M. Meares, John O'Sullivan, E. S. Lowe, W. J. Brett, J. Minton, J. W. Davis, J. Bradley, E. Lloyd, G. M. Knox, G. E. G. White, W. H. Sandes, R. Stephenson, F. Gordon, H. D. Vaughan, R. Blair White, C. Friery, J. M. Judge, T. Montgomery, J. H. Montgomery, W. H. Fry, W. J. Grove White, Wm. Read, T. H. R. Craig, D. A. Quaid, T. W. Fitzgerald, W. G. Bradley, M. Jameson, R. W. Macneicé, G. H. Parkes, J. L. Scallan, E. R. Bate, M. Buggy, C. G. Gamble, A. E. Goodbody, H. R. Maunsell, F. R. M. Crozier, E. E. Merrick, R. A. Howe, J. W. Dyas, C. H. Monsarrat, A. H. Orpen, A. H. S. Orpen, J. Gore, J. R. Stritch, A. H. Burne, N. L. Moran, G. T. C. Roe, D. S. Doyle, G. M. Collins, L. F. Smith, A. D. Kennedy, C. Corcoran, F. Clinch, H. D. Draper, R. A. O'Brien, E. Condell, F. H. Croskerry, J. Hawthorne, F. E. Bermingham, C. J. M'Gahon, J. G. Lidwell, H. J. Walker,

F. S. D. Colquhoun, H. Malley, J. G. Perry, L. F. Kenny, Wm. Hunter, C. Baillie-Gage, R. T. Holmes, E. N. Edwards, G. A. Howe, O. P. Beater, J. M'Dermott, L. J. O'Reilly, D. Dunne, T. A. Ireland, A. C. Cameron, F. Greene, J. H. H. Giltrap, G. A. G. Byrne, W. J. Dunne, W. J. Ryan, E. E. Brady, R. Powell, H. C. Neilson, jun.; R. J. Dodd, jun.; P. Seales, W. H. Geoghegan, A. G. Joyce, J. Plunkett, C. M. Grimes.

The Secretary (Mr. W. G. Wakely) read the notice convening the meeting, also the minutes of the half-yearly general meeting of the 15th May last, which latter were confirmed and signed.

The President signed the audited accounts of the Society for the year ending the 30th April, 1908.

The Secretary read the report of the scrutineers of the ballot for election of Council for year ending the 26th November, 1909, which, stated that the following had been returned unopposed as Provincial Delegates:— Henry Blackall, for Munster; Thomas M. Greer, for Ulster; Michael M. Buggy, for Leinster; William P. Kelly, for Connaught; and that the following, having received the number of votes placed after their names, have been elected as the thirty-one ordinary members of the Council:—

William S. Hayes, 272; Sir George Roche, 261; George Collins, 244; Sir A. F. Baker, 244; William Fry, 233; S. J. Brown, 233; W. J. Shannon, 230; Richard S. Reeves, 227; R. A. Macnamara, 227; F. C. Earle Bland, 226; Gerald Byrne, 224; George H. Lyster, 222; J. A. Denning, 220; John P. Lynch, 215; W. V. Seddall, 202; C. St. George Orpen, 196; James Henry, 191; H. J. Synnott, 191; J. W. Richards, 191; C. A. Stanuall, 182; F. W. Meredith, 175; A. E. Bradley, 174; T. C.

Franks, 174; A. L. Blood, 170; M. J. O'Connor, 163; J. Galloway, 162; J. G. Fottrell, 155; R. G. Warren, 152; T. W. Fitzgerald, 133; C. G. Gamble, 132; R. B. White, 122. And the following to form a supplemental list to fill vacancies:—1. I. J. Rice, 122. 2. E. R. Bate, 122. 3. T. H. R. Craig, 121.

THE PRESIDENT in moving the adoption of the annual report, said:—I wish to refer with much regret to the deaths of two members of the Society which have taken place during the year now drawing to a close—Mr. Edward D'Alton, for many years a member of the Council, and Mr. Robert Longfield, also a former member of the Council, both of whom had filled the office of Vice-President of the Society. The Society this year numbers 739 members, an increase of only ten over last year's membership—a very small increase. I think it greatly to be regretted that such a large proportion of the profession should elect to remain outside the Society, cut off from the advantages which attach to membership. I cannot for one moment think that the requisite payment of the small subscription of £1 a year is responsible for this state of affairs. It must arise from carelessness or apathy, or a blind perception of their own material interests. Membership carries with it the distinction that all the members tacitly agree to be bound by the unwritten law of honour and professional etiquette, and these good influences are reflected from one member to another. How much stronger would be the position of the Society if it could speak with the voice of the whole profession, whenever the Council had to make representations on its behalf to Parliament or the Government (hear, hear). It is not right that so many members should remain outside the sphere of the Law Society and of its members, and yet be able to reap all the benefits to be derived from the labours of the Council and from the expenditure in defence of the rights of the profession without contributing to the general expenses of the upkeep of the Society. I would be in favour of two reforms:—(1) That every solicitor should, on taking out his annual certificate, pay £1 to the Society, or, in other words, that £1 should be added to the cost of his certificate (hear, hear); (2) That the public ought to have some means of knowing those solicitors who are members of the Society, and who have submitted themselves to its rules and influence; and that all country

members who have plates on their doors should put after their names—"M.L.S." I believe that many people in the country are under the erroneous impression that all solicitors are members of the Society. I would earnestly invite all non-members to join, so that the Society and profession might form one homogeneous whole (hear, hear). The outgoing Council have not been unmindful of the interests of the profession. One of their first acts was to pass a resolution expressing regret that the Land Commission, in filling up the three existing vacancies in the office of Examiner of Titles, had ignored the claims of the profession, notwithstanding the repeated promises which had been made that such claims would receive consideration. Although under the provisions of the Statute the appointment of solicitors as Examiners of Titles in the Irish Land Commission is authorised, yet during the last twenty-seven years all those appointments have been given to barristers. Let us hope that the Board of the Irish Land Commission will repair this injustice whenever a vacancy in the office may next occur (hear, hear). Resolutions were passed from time to time by the Council urging the claims of the solicitor profession to the appointment of Resident Magistrates. Two practising members of our profession have this year been appointed to the post. I feel that our thanks are due to the Government for making these appointments (hear, hear). We occasionally receive complaints from country members of conveyancing work having been done by non-professional persons. In cases in which we find penalties can be successfully sued for, we proceed for their recovery; and we invite the country members in their own interests to be watchful, and immediately to report to our secretary any such cases as may come under their notice. I wish now to refer to a matter that has been engaging the anxious consideration of the Council, I may say continuously since the month of January last. Budgets of complaints have been lodged by members of our profession against the system of taxations of costs of owners adopted by or under the direction of the Local Government Board in the case of compulsory acquisition of land by Rural District Councils for sites for labourers' cottages. The usual practice is for the District Council's solicitor to require the landlord's solicitor to furnish him with an abstract of his client's title to the plot or plots of land. The landlord's solicitor is required to satisfy the

requisitions of the District Council's solicitor. The owner's costs of making title are then furnished to the solicitor for the Rural District Council, and by him submitted to the Local Government Board, who hitherto have sent the bill of costs to their own solicitor to be taxed by him in accordance with the Board's instructions. The costs are then returned to the Local Government Board, who thereupon certify the amount payable by the District Council. No information has been offered to solicitors for owners in respect of the items in the costs disallowed or reduced, or how the amount ultimately certified is arrived at; and no opportunity has been given to them of making any explanation in reference to such items which had been so disallowed or reduced. This system of taxation appeared so manifestly unjust the Council requested the Board to receive a deputation from their body to lay their views before the Board, but the request was refused. In February a letter was written by our Secretary requesting the Local Government Board to make arrangements whereby solicitors interested in the taxation of bills of costs under the Labourers (Ireland) Act, 1906, should receive notice of the time and place of taxation, and should be afforded an opportunity of being present thereat. In reply the Board stated they did not think it necessary that the Rural District Councils and other persons interested should be put to additional expense by their requiring solicitors to attend, or otherwise take part in the proceedings on taxation, unless in very exceptional circumstances. In the month of April the Vice-President of the Local Government Board requested me to confer with him in reference to the subject of the taxation of the costs of owners of land acquired under the Act. I accordingly attended, and expressed my opinion that the method of taxation was not a taxation at all, and that the Board had been acting *ultra vires* in the matter. The Vice-President then produced a paper, stating that it was a draft of a proposed schedule of fees, and asked me to look over them, and give him my views thereon. I replied that I had been invited to attend in order to discuss the system of taxation of costs adopted by the Board, and nothing further, and that it would be unreasonable to spring on me a schedule of fees that I had never seen. The Vice-President then directed the schedule should be sent in order to give me an opportunity of submitting same for the consideration of the Council, and on the 26th April, 1908, I

received from the Local Government Board a draft of a suggested scale of charges for solicitors to owners whose lands had been acquired. I replied early in May, suggesting the making of a new rule providing for the use of a form of declaration of title by owners, and that for the preparation of and costs incident to which the solicitor should receive a fixed fee. Afterwards I submitted a draft form of such a declaration to the Board for its approval, and I received a reply suggesting alterations in the form; and stating that if the Board decided to issue the form, its action must be limited to recommending its use rather than prescribing its general use. The Board further stated that they were anxious to hear from me on the question of the scale of costs, and as to procedure on taxation. I replied agreeing to the alterations in the form, and suggesting the allowance of a fee of £3 in discharge of the costs of and incidental to such declaration, and that where District Councils required proof of title in more detail than that disclosed by a declaration, the costs of furnishing such title should be drawn under the existing scale of conveyancing costs. I also stated that the Council could not assent to the scale of costs submitted by the Board, as it was drawn on a basis quite at variance with the present scale of charges fixed by the Judges nearly thirty years ago, and invariably acted on since. To this the Local Government Board replied, refusing to prescribe the form of declaration suggested. The Board, without further consultation with me upon the subject, issued an order, dated 4th August, containing new rules as to the taxation of owners' costs, and prescribing a schedule of fees for the furnishing of titles. These new rules had not been previously submitted to me, nor was I in any way consulted thereon.

The Chief Secretary, on Monday evening last, introduced the new Land Bill; but as prints of the Bill have not yet been issued, I do not feel justified in commenting upon it, and at the present stage I think it more prudent to keep our eyes and ears open until the debate on the second reading of the Bill has taken place; but I must express my strong disapproval of the contents of the Treasury order appearing in the "Dublin Gazette" of Tuesday last, under which the bonus is reduced to three per cent. from 1st November; as in my opinion this will greatly discourage land purchase.

The Irish Universities Act, which was introduced and piloted through the House of Commons by Mr. Birrell this session, is one of the

greatest measures that have been passed in this country since the Reform Bill of 1832, and will always be regarded as a great act of statesmanship, and reflects credit upon Mr. Birrell's courage, ability, and determination. Let us hope that in time to come a healthy spirit of rivalry and emulation will spring up between the several universities and their colleges, which will prove of advantage to each. We were greatly gratified at the appointment of Sir George Roche and of Mr. Martin upon the Dublin and Belfast Senates respectively (hear, hear).

A Bill was introduced this Session, at the instance of the Recorder of Dublin, to improve the procedure and make better provision for the discharge of the business of the Civil Bill Courts of the City and County of Dublin. The draft of the Bill was submitted to the Council, who suggested some amendments, most of which were incorporated in the Bill. The Bill was introduced by Mr. John Gordon, M.P.; and supported by Mr. Nannetti, Mr. Harrington, B.L., Mr. Field, and Mr. Waldron, the four Members of Parliament for the City of Dublin. The Bill contained eleven clauses dealing with useful reforms in procedure and other matters, but unfortunately it did not reach a second reading.

A Bill also was introduced in the House of Commons in the present Session by Mr. Rendall, M.P., a member of the solicitors' profession, having for its object the codification of the law relating to private trusts, and read a second time, and committed to a Select Committee consisting of eleven members. The Bill purports to codify the existing statute law upon trusts, and also to enact and codify existing case law upon the subject. The Select Committee having considered the Bill, which consisted of 116 clauses, made a special report upon it last July, and early in August we received a letter from the Attorney-General, enclosing a copy of the Bill and a print of the special report, intimating that he would be glad to lay before the Committee in October any alterations or extensions in the Bill which the Society might suggest. The consideration of this Bill was referred to a Special Committee of the Council, who held several meetings, and a report on the Bill was sent to the Attorney-General. We have suggested to the Railway and Canal Commission that proceedings by a Government Department before the Commission in which purely Irish interests are affected, should take place in Ireland, and we have reason to hope that effect will be given to our request.

We have continued to issue our monthly Gazette to members, and we believe it is much appreciated, containing as it does particulars of the work the Council is carrying on (applause).

MR. GEORGE COLLINS, Vice-President, seconded the resolution.

MR. JAMES BRADY thought the Society should congratulate itself on the record of the year's work so ably performed by the Council. He thought the conduct of the Local Government Board in their attempt to deal with the question of solicitors' costs under the Labourers Act was deserving of the severest condemnation by the members of the solicitors' profession. It was with pleasure he read in the newspapers a few days ago a decision of the King's Bench Division upsetting the dictum laid down by the Local Government Board with reference to costs of solicitors. Regarding the practice and procedure of the Civil Bill Courts in Ireland, there was no doubt there was room for improvements, and even under existing statutes he thought many such could be achieved. The public were really more concerned with that subject than the legal profession; and so long as the public tolerate the existing unsatisfactory condition of affairs, he, personally, could not conceive why either branch of the legal profession should trouble themselves about the matter, except when questions arose relating to their fees and costs for the work performed by them in the conduct of their business in such Courts. So far as the Recorder's Court in Dublin was concerned, there was no doubt a great amount of work had to be performed by the presiding Judge, largely due to the considerable increase in its jurisdiction within recent years; no facilities appeared to be given by the Treasury to perform the work adequately, and the natural result of such a short-sighted policy was the existing congestion. He thought it would materially assist the business of the Recorder's Court if there was an extended jurisdiction, up to £5, conferred on the Court of Conscience, with its President a lawyer. He thought the action of the Council in making their annual dinner a gathering of an exclusive character was reprehensible, and that it should be open to all those who were members of the Society who desired to attend. He considered some steps should be taken by the Council to deal with the grievance under which, from time to time solicitors and their clients suffered, owing to the difficulty they experience endeavouring to get counsel to be present in Court when the

cases they are briefed in were called on. In many instances recently which had come under his notice, cases had been struck out, with costs, to be borne by the solicitor or his client in consequence of the absence of counsel.

MR. DAVID A. QUAID said they only had the good fortune to meet there twice a year; but he was quite certain the President and Council were only too pleased to hear expressions of opinion from general members of the Society. He thought it was a great disadvantage that in the zealous, earnest work of the Council in the interests of the profession, they had not the advantage of consultation from time to time with the members of the Society instead of only seeing them there twice a year, when they, so to speak, showed themselves as a mirror to the public. He thought the time had come when it would be a very desirable thing for the Society as a whole to consider whether at these two annual meetings there should not be one part of the meeting reserved for free and uninterrupted discussion with regard to the affairs of the profession altogether outside the observation of the public. It was not by how they acted there that the public would be impressed. The public would be impressed by the individual actions of the members of the profession acting professionally; and he respectfully submitted that at their half-yearly gatherings they ought at any rate to have an opportunity of speaking freely, and without having the public to concern themselves with what they said. There were at least 700 members of the solicitors' profession in Ireland who were not members of the Society. That was attributable, to his (Mr. Quaid's) mind, to the fact that the Council was not in touch with the general body of the members. There were many things which the members would not care to discuss in public; and he would suggest, for the consideration of the Council, that at least the concluding portion of their meetings should be reserved exclusively for members to discuss matters that were of great importance to them collectively and personally. If they did that, they would find there would be a free exchange of opinion, and that the Council would be convinced there was something radically wrong when 700 members remained outside. He did not suggest the Council were not doing their very utmost for them; but he submitted the Council were not close enough in touch with them, as to the wants of the general body of the profession. He regarded the intrusion of clerks of the Rural District Councils throughout the

country into their domain in the way of conveyancing as a most serious thing, and it had been connived at and encouraged by the Local Government Board and their Auditors (hear, hear). Until the Council forced their conclusions upon the Governmental bodies, they would find there would not be that concession to their legitimate claims which there should be. He observed, too, from the report, that the thanks of the members were to be given to the Executive Government for at last deferring to the absolute right of the profession to be represented amongst the resident magistrates. Practically there were only three solicitors amongst the resident magistrates, the others being ex-military officers, District Inspectors, and others of whose legal knowledge the Lord Lieutenant was satisfied! He did not think they ought to thank the Executive Government for having made the two appointments—they ought to urge upon them the absolute necessity of making further appointments (hear, hear). Then again, where proper cases of personal grievances were brought before them, the Council should energetically direct their attention to defending every individual member of the profession whose personal rights or privileges were prejudiced in any way (hear, hear). That was going on all over the country in courts of petty sessions and elsewhere.

SIR GEORGE ROCHE, in supporting the adoption of the Report, said he thought some further information should be given about the proceedings taken against the Local Government Board. He contended all through with the Rural District Council and the Local Government Board that the whole proceeding was illegal, but he could get no satisfaction. In the end, *ex gratia*, they gave him particulars of the deductions, which were measured in a way that certainly was not according to any existing scale. He accordingly obtained a conditional order for *certiorari*, and the case was very thoroughly argued, and judgment was given the other day. He did not intend to trouble them with the judgment of the different Judges. The Judges unanimously held that there was no taxation, and they quashed the certificate with costs. One of the Judges, in giving judgment, said: "I decline to put upon the section a construction which it does not necessarily bear when the result would be the abrogation of clearly defined statutory rights by legislation so obscure that the eminent counsel for the Board are unable to agree as to its meaning." The other point which was mooted, but

could not be discussed, was as to whether the Local Government Board had any authority at all to create or make a schedule of fees. The Judges more or less threw out that they did not think it fair; but as his bill was furnished before the new rule came into operation or was promulgated, they could not raise that question. As a result of the certificate of taxation being quashed in a number of other cases in which he was personally interested, he had sent on the certificate to tax in the ordinary way. He sincerely hoped that the Local Government Board would press this matter on, and that the vexed question would be settled. If he got an opportunity, he would certainly test it himself. They had the full copy of the judgment, and they were going to print it, because it was a very important document for the profession to have before them, as it would show them how matters stood. There was another matter in connexion with costs in which Rural District Councils were interested; but as it was *sub judice*, they could not deal with it. He thoroughly agreed with Mr. Brady as to the question of the measurement of costs. Under the Rules, save in exceptional cases, the Judges had no power to measure costs. He was afraid that in some cases some members of the profession agreed to the costs being measured. He thought if the profession kept together they would find that under the Rules, except in very few cases, the Judges had no power to measure costs. With reference to the private meetings to which Mr. Quaid referred, he did not see that that would be workable. If any grievances existed—and of course they did exist from time to time—if they were sent on to the Council, they would be taken up. A number of cases were not brought before them, and of course they were not to blame for that. Every solicitor who had grievances should send them on, and they would do everything they could to uphold the honour and position of the profession. (applause).

MR. T. H. R. CRAIG said he had the honour to be honorary secretary of the Association they had in connexion with the Recorder's Court, and if his recollection served him aright, the question of the extension of the jurisdiction of the Court of Conscience was before his Society, and that they unanimously agreed that the extension of the jurisdiction of the Court of Conscience was not desirable.

MR. JAMES BRADY: I was present at the meeting, and I never heard anything of that

nature brought before it, although I was treasurer.

MR. CRAIG said they came to that conclusion not for their own interest, but because it was really to the interest of the clients. People imagined that if they went into the Court of Conscience to recover small debts they were in a much better position than if they went to the Recorder's Court, but some of them got a very rude awakening. It was principally from the point of view of the plaintiffs that they were interested in the matter. In the Court of Conscience no doubt the decree must be executed by the Court bailiff; but it was done not at the risk of the sheriff, but at the risk of the plaintiff, and he was actually in the same position as if he had employed a special bailiff. In addition, the President of that Court was not a lawyer, and he had ample jurisdiction at present for dealing with cases brought before him. Mr. Brady was quite right that there was congestion in the Recorder's Court, and he was afraid the congestion would continue unless the Executive would do what they ought to have done long ago—not necessarily to amalgamate the jurisdictions of county and city, but to make an order that the Civil Bill business for Kilmainham should be heard at the same place and at the same time as the Civil Bill business for the city. He believed that would get rid of any congestion in the Court. That would enable twelve sittings to be held as at present for the county, which included the very populous districts of Rathmines, &c. There was one other matter he thought the public should understand—that was the position of the Civil Bill Courts (Dublin) Bill. That Bill was introduced or put forward in the first instance by the Recorder. It was then submitted to the Incorporated Law Society, and met with their approval. It was also considered by their Society in Green Street, and he believed they were the persons really interested in the Bill. The Bill was very carefully considered by the Association, and received unanimous approval as amended by the Council of the Incorporated Law Society. They did not know at present who blocked that Bill, or why it was blocked; but there was one sentence at the end of page 13 of the Report which was very significant: "The Bar Council informed the Council of this Society that they could not pass a resolution in favour of the Bill as it at present stands." He (Mr. Craig) did not say that the Bar Council blocked this Bill; but except for that the Bill might have been now law, and the



traders of Dublin might have had the advantage of the various items that were set forth. He thought the Incorporated Law Society ought to press that matter a little further, and ought to find out who blocked the Bill, and put the saddle on the right horse. They unanimously approved of it, but it had been blocked by some outsider, and he thought in the interests of the solicitors' profession, the Incorporated Law Society ought to find out who that outsider was, and let the clients know that they (the solicitors) had no act or part in it; and that the Bill met with their unanimous approval (hear, hear).

MR. GERALD BYRNE said he had not intended addressing the meeting that day, and would not do so were it not for the fact that the Dublin Civil Bill Court had been mentioned so frequently. As he happened to be one of the members of the Association referred to by Mr. Craig, he wished just to say a few words on the subject. There was no doubt a great congestion at present with reference to the cases to be heard—defended cases—before the Recorder. The Recorder was trying to get through these cases at present. With reference to the question of amalgamating the Civil Bill business of the city and county, he (Mr. Byrne) had always been of the opinion that it would not work well (hear, hear). Dublin County was a very wide district. Take, for instance, down beyond Balbriggan, and up near to Drogheda. That was the northern district, and he thought it would be a monstrous thing to bring these poor people—

MR. CRAIG said he never suggested that Dublin City and County should be amalgamated, nor did the Association either. What they did suggest was that Civil Bills from Kilmainham should be heard at the same time and place as the city, and that equal facilities should be given.

MR. BYRNE said that relieved him a great deal. He agreed with Mr. Craig that as far as Rathmines and Kilmainham were concerned, these cases ought to be heard in Green Street. When the boundaries were extended, taking in Clontarf and Kilmainham, he did not see why cases from Rathmines—which was almost part and parcel of the city—should not be heard in the city. With reference to the question of the Court for smaller debts than were heard in the Recorder's Court, his view was as regards the Court of Conscience that it was a very unsafe Court for plaintiffs to have anything to do with (hear, hear). It was

presided over at present by a gentleman who was not a professional man. Until the Court of Conscience provided itself with a professional man as President—one who was not appointed from year to year, but was permanently appointed by the Government at a proper salary, and until the Court was made a proper Court for the purpose of levying decrees and executing its orders, so far as he (Mr. Byrne) was concerned he would not give it countenance or support. They on the Council had discussed this matter over and over again, and sought that there should be a proper President appointed, not from year to year by the votes of anybody at all, but by the Government. The moment they did that they were faced with the Treasury, and their experience was that the Treasury would not give any money to increase salaries. But he would be against extending the jurisdiction unless a proper appointment was made. The Council had fallen in with that view, whether rightly or wrongly.

The Report was adopted.

#### The Voting Papers.

MR. ROONEY moved:—"That this meeting are of opinion that the voting papers referred to in Bye-law 33 of the Bye-laws of the Incorporated Law Society of Ireland should not contain any matter liable to prejudice any Candidate or affect any Voter; and that accordingly Bye-law 33 be amended by striking out the following words: 'with the names of the respective nominators, and giving the number of attendances during the year at Council Meetings of any Candidate who is a member of the outgoing Council'; and that the consequential alterations in the voting paper in Schedule C (therein called 'Ballot Paper') be made." He said the Bye-laws did not actually state that the Council should be chosen by ballot; nevertheless it was quite clear that the poll should be by ballot. In passing he should like to suggest that the Bye-laws in many respects were not drawn with that accuracy which one would naturally expect from the Incorporated Law Society. The Ballot Act was passed primarily with a view to Parliamentary elections only, but, according to Rogers' on Elections, many of its provisions—and particularly those relating to the poll—had been extended so as to apply to municipal elections, elections of members of local boards, members of Improvements Committees, Poor Law Guardians, and members of School Boards. The compulsory application of the Act to elections in private companies, clubs, societies,

associations, and other similar bodies was not the subject of definite legislative enactment; but the only rules regulating the ballot were those laid down in the first part of the First Schedule to the Act, and if the system of voting by ballot be adopted—as it had been in their Society—there was, he submitted, an implied intention that the procedure should be according to the only method regulated by statute. In any event, no matter what private associations of laymen might do, it certainly would be unwise for the Society of the solicitors of Ireland to allege the contrary. According to the form in the Schedule to the Act the information to be given to voters by the ballot paper was (1) the number of candidates; (2) the surname and Christian name of the candidates; (3) the private residence of the candidates; and nothing else. Let him apply the rules to the election of the Council of the Incorporated Law Society. First—Did the persons employed in taking the poll act with the utmost impartiality? and secondly, did the voting paper contain only necessary information? It would, of course, be understood that he used the word “impartial” in the broadest sense, and not in any way as impugning the good faith of those persons, of which he had not the smallest doubt. He took it that the Secretary was the Returning Officer, and was the person responsible for the persons employed in taking the poll. There could be no doubt that the Returning Officer was the proper person to provide the ballot papers. Could he be said to act impartially if he supplied the voters with more information about one candidate than another? For instance, let them take the present year’s voting paper. The voter was informed that A was nominated by the President for the year, and was seconded by an ex-President; that he had attended twenty-one times at the Council meetings, and that he was a member of the outgoing Council; but that B was only nominated by one friend and seconded by another; that he had not attended at all at the Council meetings, and was not a member of the outgoing Council. Secondly, how could a voting paper be said to contain only necessary information if it gave the voter particulars of the nomination? Nomination was merely a matter of procedure, and the only persons who required to know that a candidate had been properly proposed were the scrutineers. Did the voting paper of the Society put all the candidates on the same par, and were voters influenced by the information contained therein? Could equality of treatment be

said to have been given in a voting paper which set forth the fact that one candidate was a member of the outgoing Council, that he had attended its meetings twenty-one times, and that he was proposed and seconded by two of its most prominent members, but that another candidate was not a member of the outgoing Council, had not attended any of its meetings, and was only proposed and seconded by two of the ordinary members of the Society? Surely it would be untruthful to say that this information had no effect upon voters. He had no objection to the information being forthcoming; indeed, he thought that the attendances of the members should be posted up in the Incorporated Law Society’s Hall for at least seven days prior to the election; but he did say that in every election the law presumed that at the poll every voter should be absolutely free and unfettered, and that all influences which might—legitimately or otherwise—have been brought to bear upon him prior to the election to vote for a particular candidate should cease. He said that upon purely constitutional grounds it was essential that the voting paper of the Society should be absolutely in accordance with the Ballot Act, which was the only Act regulating such matters, and it regulated it in every detail.

MR. P. J. BRADY said that while he seconded the motion he might say it was his privilege for the last two years to be associated with eight others in scrutinising the votes, and he thought it would be found the scrutiny was conducted, as it should be, with the greatest regularity and propriety, and that it was absolutely impossible that any infringement of the rules or of the rights of the profession would be allowed. As he understood it, Mr. Rooney had no objection to the information being given, but he objected to it being given on the ballot paper. Objection had been taken to the motion on the ground that if the information were not given the members would not attend at all (hear, hear).

MR. BYRNE said it would be perfectly useless to post up the information downstairs, as the voters who had to vote by ballot were all over Ireland. He thought every elector had a right to have before him the names of the candidates and the number of times they had attended to their duties, because it would be a monstrous thing if a man could be their representative and not attend without anyone knowing it (hear, hear). There was no other way of supplying the information, save on a

separate sheet of paper, and there might be some objection to that.

MR. ROONEY: There is not.

MR. BYRNE: If you send out two papers, it is open to the same objection. He (Mr. Byrne) thought everything should be done above board. If that was done, they would put men on the Council who would attend and use their energies in fighting the cause of the general body of the profession.

MR. SEDDALL said the Ballot Act only applied to Parliamentary elections, and was extended to apply to Municipal elections. It did not apply to the election of the Council of the Society, and he failed to see how it could apply in fact. As regards Parliamentary and Municipal elections, the constituencies were flooded with literature, describing the qualification of candidates. He submitted that the present system of sending out the voting papers for the election of Council was obviously the correct one.

MR. JAMES BRADY thought there was nothing whatever in Mr. Rooney's objection to the present system. He believed if it was introduced all round they would have a better class of public representatives returned than at present (laughter and hear, hear).

MR. ROONEY, in a general reply, contended that there was no power to put any further information in the voting paper sent out than was contained in the Ballot Act. The voter should not be influenced at the poll. The motion was rejected.

By leave of the meeting, MR. STANUELL referred to the subject of better facilities being given for the transfer of Government Stocks, and in doing so said that, arising out of the Report, he wished to refer to a weak spot connected with the funds required for land purchase. He alluded to the low value of Consols and other Government securities in the money market. So long as the Government had to issue £115 of Stock to get £100 cash, land purchase must continue to be blocked. He could best deal with the subject by an illustration or comparison. The French paid interest upon their national debt at 3 per cent., and the British upon theirs practically at 2½ per cent. The difference of a half per cent. in the rate of interest was due to the better security of the British funds, owing to the fact that the French had a much larger national debt—£1,000,000,000 against our £750,000,000—so that they owed the enormous sum of

£250,000,000 more than we did; while in addition the population of France was smaller, 38,000,000 against our 42,000,000, and as to financial resources, in trades, industries, manufactures, and commerce the French were far behind. It seemed to be taken for granted that under these circumstances the British funds were higher in the market than the French, but this was not the case. The French funds stood at 96; Consols slightly below 85—11 points in the 100 in favour of France. As the security was the better, this could only be due to the unpopularity of the stock in the market, due to some defect; and he held that the undoubted unpopularity of Consols and Land Stock, particularly with humble investors, so numerous in France, was due to the bad system of dealing with them laid down by Government. It was full of difficulties, delays, and expense. The purchaser got no certificate for his investment, and every sale, purchase, or transfer required either personal appearance at the head office of the Bank of Ireland or else a power of attorney with a ten-shilling stamp, and various irritating formalities which caused expense, and none of which profited either vendor or purchaser. The great public companies had abolished the antiquated, archaic system still used by the Government. They did so because they found the old system had a bad effect upon the value of their securities. He considered it lowered the value of Government securities by about ten per cent. They should be level with the French, and, if so, land purchase could go forward merrily. The Associated Chambers of Commerce at Cardiff in September passed a resolution on the subject, and he (Mr. Stanuell) thought they should pass one in similar terms, and ask their friends and allies the Northern and Southern Law Societies to do the same, and invite the Chambers of Commerce of Belfast, Cork, and Dublin.

He moved—"That, with the object of improving the value of Consols, Land Stock, and other Government securities in the market, and thus aiding land purchase, the Government be requested to give greater facilities for their transfer by adopting the methods of transfer common to public companies generally."

MR. J. L. SCALLAN seconded, and said the motion would direct public attention to a great anomaly in the machinery which regulated the payment of dividends and the transfer of Government Stocks. It was a most remarkable fact that the premier security of the country when they came to deal with it as a

matter of transfer across the counter could be dealt with without any safeguards, except identification by a clerk at the other side of the counter. They could not deal with any other stock in the same way; and he thought there was extreme laxity in this matter, which enabled personation to be accomplished.

MR. HAYES said the motion should not be put to the meeting as a formal resolution, as notice of it had not been given to the members.

MR. FRY supported Mr. Hayes's suggestion that the motion ought not to be taken at that meeting. Speaking for himself, he would be very sorry to assent to or dissent from the proposition without consideration. Let Mr. Stanuall give notice for May, and then they would all have an opportunity of considering it.

MR. STANUELLE said he would withdraw the motion. He had only brought the question forward as a matter of duty.

MR. GEORGE COLLINS, Vice-President, having been moved to the second chair,

SIR GEORGE ROCHE proposed a cordial vote of thanks to Mr. Lyster, their President, not only for presiding over that meeting, but for the successful way in which he had acted for the entire year of his office.

MR. J. L. SCALLAN said as an outside member he wished to second the resolution, and he did it with extreme pleasure. Their President had, in every way served them well and faithfully, and had done all he could to advance the interests of the profession of which he was an honoured member (applause).

The Chairman, in putting the motion, said that no one acted with a greater desire than the President to safeguard the interests of the profession, or conducted the duties of his office during the year with greater dignity and decorum, than Mr. George Lyster (applause).

THE PRESIDENT in reply said he would be very ungrateful if he did not express from the bottom of his heart his warm thanks for the resolution. He felt that if he had been successful in the office of President it was really due to the kindness and co-operation he received from the members of the Council.

The proceedings then terminated.

## Meetings of the Council.

*November 4th.*

THE Council met upon Wednesday, the 4th November. The President (Mr. G. H. Lyster) in the Chair, and twenty-seven other members being present.

**Finance.**

Cheques for half-yearly accounts were ordered to be drawn and paid upon the recommendation of the Finance Committee.

**Examinations.**

A report from the Court of Examiners upon the October Preliminary and Final examinations and also as to award of Findlater Scholarship for 1908, was submitted and adopted.

**Apprentices.**

A letter was read upon behalf of an intending apprentice, asking the Council to permit him to be bound without passing the Preliminary Examination, from which he claimed exemption owing to his having been registered by the Royal University as a matriculated student on account of his having passed the Senior Grade of the Intermediate Education Examination. The Council declined to grant the application, the claim for exemption not coming within the terms of section 17 of the Solicitors (Ireland) Act, 1898.

Affidavits in support of an application by an apprentice to the Lord Chancellor for an order sanctioning the apprentice undertaking the duties of a Secretary to a Committee under the Old Age Pensions Act, 1908, were considered, and it was decided to oppose the application.

A memorial from an apprentice, seeking liberty to have his indentures assigned, was submitted and sanctioned.

A memorial from a law clerk and intending apprentice, praying for a modified preliminary examination under section 18 of the Solicitors (Ireland) Act, 1898, was submitted, and it was decided not to oppose the granting of the application.

**Labourers (Ireland) Acts.**

A letter was read from a member of the profession, asking the opinion of the Council upon the action of another member, who, in response to an advertisement from a District Council for tenders from solicitors for investigating the title of owners to land acquired under the Labourers Acts, had tendered to do the work at a bulk sum amounting to con-

siderably less than the fees allowed under the Labourers (Ireland) Act Order, 1906.

The member of the profession who wrote to the Council stated that, in response to the advertisement he had himself tendered, as had also another member of the profession, to do the work "for the sum of £1 1s. for each separate title read, exclusive of all outlay, such as fees on searches and Court fees properly and necessarily incurred in the reading of each title, this being the fee authorized under the Labourers (Ireland) Act Order, 1906."

The Council directed an explanation to be asked for from the solicitor who had tendered to do the work at a bulk sum considerably less than the fees allowed under the Labourers (Ireland) Act Order, 1906.

The Council adjourned.

November 5th.

The Council met upon Thursday the 5th day of November. The President (Mr. G. H. Lyster) in the Chair, and twenty-three other members being present.

#### Labourers Act Committee.

A report from the Labourers Act Committee was submitted and adopted, and it was decided to take no action in reference to the rules under the Labourers (Ireland) Act, until the result of the hearings before the King's Bench Division of certain pending applications in reference to proceedings under the Act was known.

#### Costs Committee.

A report from the Costs Committee upon two queries submitted for decision was considered and adopted; the first query asked to what costs the solicitor for the lessor is entitled for the preparation of a lease of premises for 99 years, rent £143 10s. per annum, which is a rack-rent. The answer of the Council was that the solicitor was entitled to £7 10s. scale fee, upon the first £100 rent, but to no additional charge upon the balance of £43 10s. rent. (See *M. Garel, a limatic*, 1898, 1 Ch. 400, English Court of Appeal.) The second query asked how the costs of agreement and lease should be drawn of a house previously held by a tenant at a rent of £200 per annum, the agreement providing that when the landlord had completed certain structural alterations he would grant to tenant a new lease for 31 years at £220 per annum, the answer being that the costs should be drawn under the scale applicable to leases at rack-rent.

#### Petty Sessions Proceedings.

A report from the Special Committee of the Council in reference to an altercation which took place between two solicitors at Dundalk Petty Sessions was submitted and adopted, and the Council passed the following resolution, and it was directed that copies of it should be sent to the Resident Magistrate who presided at the Petty Sessions Court, and also to the two solicitors concerned:—

"RESOLVED—The attention of the Council of the Incorporated Law Society of Ireland having been drawn to the report in the Press of the occurrence of an altercation between two members of the profession in Petty Sessions Court at Dundalk, the Council, after inquiry into the matter, express their disapproval of such conduct, as being derogatory to the dignity of the profession."

#### Annual Report.

Draft Annual Report of the Council, prepared by the Committee for the purpose, was considered; and amendments having been made therein, the Report, as amended, was adopted.

The Council adjourned.

November 18th.

The Council met upon Wednesday, 18th November. Mr. George Collins, Vice-President, in the Chair, and twenty-five other members being present.

#### Labourers (Ireland) Act, 1906.

*The King (Mowbray and Stourton) v. The Local Government Board.* The decision of the King's Bench Division in this case was reported, and it was decided to obtain an official copy of the judgments, in order that they might be published in the Gazette.

#### Labourers (Ireland) Acts.

A letter in reply was received from a country member of the profession, from whom an explanation had been requested of his action in having tendered to do work under the Acts in response to an advertisement from a District Council, at a bulk sum considerably lower than that to which he would have been entitled under the Labourers (Ireland) Order, 1906. The reply was considered unsatisfactory, and it was resolved that he be informed that the Council strongly disapprove of his action in the matter, and the Council re-affirm the following resolution passed by the Council upon this subject in the year 1899:—

“RESOLVED—The attention of the Council of the Incorporated Law Society of Ireland having been called to the fact that solicitors have been invited by advertisement to send in tenders to Boards of Guardians for transacting business in connexion with the Labourers Acts, the Council feel bound to state, for the guidance of members of the profession, that it is in their opinion unprofessional for solicitors to tender for “business in reply to such advertisements”; and it was ordered that a copy of this resolution be sent to the solicitor.

#### Court Sittings.

Upon the suggestion of a member of the profession, it was resolved to write to the Lord Chancellor, requesting that upon days upon which meetings of the Benchers are held at 11 o'clock a.m. a notice should be inserted in the Legal Diary, announcing a definite hour at which the Courts would sit for the disposal of business.

#### Certificate.

An application by a solicitor for renewal of his certificate was submitted, and granted.

#### Apprentices.

An application by an apprentice who had passed his Final Examination, for an order under section 25 of the Solicitors (Ireland) Act, 1898, sanctioning his having acted upon three occasions as deputy registrar for a Clerk of the Peace at a revision of voters, was considered; and as the Council considered it was an office of such a character as would benefit the apprentice in his education and not interfere with his service, it was resolved not to oppose the application.

A memorial from a law clerk and intending apprentice, praying for a modified Preliminary Examination under section 18 of the Solicitors (Ireland) Act, 1898, was submitted, and it was decided not to oppose the granting of the application.

The Council then adjourned.

*November 27th.*

The Council met upon Friday, the 27th November, 1908. The President (Mr. G. H. Lyster) in the chair, and twenty-five other members being present.

#### Bye-laws of the Council.

The bye-laws of the Council, and also rules relating to election of President and Vice-Presidents, were adopted.

#### Notaries' Fees.

A letter was read from a Dublin Notary, enclosing a copy of notary fees settled by Dublin Notaries, and the list was referred to the Costs Committee for consideration.

#### Court of Examiners.

A report from the Court of Examiners upon two applications by law clerks seeking to be bound under section 16 of the Solicitors (Ireland) Act, 1898, was submitted. It was resolved that one application should be granted, and that the other should be refused.

The Council adjourned until the 2nd of December.

#### Council Meetings.

MEETINGS of the Council will be held upon the following dates:—

January 13th and 27th.

#### Committee Meetings.

THE following Committee Meetings were held during November:—

Court of Examiners, 2nd.

Gazette, 9th.

Costs, 22nd.

Court of Examiners, 24th.

Parliamentary, 25th.

#### New Members.

THE following have joined the Society during November, 1908:—

Collins, John P., Dublin.

Goold, Graham A., Cork.

Hanrahan, Francis X., Cork.

Lemass, Henry, Dublin.

MacCarthy, Florence F., Cork.

Noonan, Thomas, Navan.

O'Hare, Patrick J., Newry.

Reddy, Charles J., Dublin.

#### Results of Society's Examinations.

At the Preliminary Examination, held upon the 8th and 9th October, the following passed

the examination, and their names are arranged in order of merit:—

1. Arthur Beaumont.
2. Frederick C. MacNeice.
3. William P. Wall.
4. William E. Chapman.
5. William S. M'Cullough.
6. Patrick E. Rogers.
7. John P. Wray.
8. Henry Robinson.

Patrick J. Bradley passed the special examination for which he had liberty to present himself.

Thirteen candidates attended. Nine passed. Four were postponed.

At the Final Examination, held upon the 12th and 13th October, the following passed the examination, and their names are arranged in order of merit:—

1. Frank Sweeny, B.A., R.U.I.
2. {James F. D'Arcy.  
Brendan J. Fottrell, B.A., T.C.D.} Equal.
4. {Samuel H. Crawford, B.A., T.C.D.  
Arthur B. Watson, B.A., LL.B., T.C.D.} Equal.
6. Eugene P. M'Hugh.
7. James W. Hawthorne.
8. Walter Purcell.
9. Charles Thom.
10. {Conyers Baker.  
Charles J. Reddy.} Equal.
12. Patrick J. Callan.
13. John Meade.
14. Robert Stanton.
15. John P. Collin's.
16. John C. Whyte.

Twenty-five candidates attended. Sixteen passed. Nine were postponed.

#### Findlater Scholarship.

THE Findlater Scholarship for 1908 has been awarded to Henry Shannon, who served his apprenticeship with Mr. Richard F. Barry, Crown Solicitor, King's County, Parsonstown. Mr. Shannon obtained First Place and Gold Medal at the Final Examination, held in October, 1907.

#### Obituary.

MR. John A. Sinnott, Solicitor, died on the 2nd November, 1908, at his residence, Enniscorthy. Mr. Sinnott, who served his apprenticeship with the late Mr. Laurence W. Corcoran, of 4 St. Stephen's Green, Dublin, and Enniscorthy, was admitted in Hilary Sittings, 1865, and practised in Enniscorthy.

Mr. Charles R. Tillie, Solicitor, died on the 12th November, 1908, at his residence, Dúncreggan, Londonderry. Mr. Tillie, who served his apprenticeship with Mr. Robert A. Wilson, of Londonderry, was admitted in Michaelmas Sittings, 1890, and practised in Londonderry, in partnership with Messrs. W. S. M'Dermott and A. E. A. Munn, under the style of Tillie, M'Dermott, & Munn.

#### Commissioners to administer Oaths.

THE Lord Chancellor has appointed the following additional Commissioners to administer oaths:—

- Patrick O'Hagan, Solicitor, Newry.
- Florence F. MacCarthy, Solicitor, Cork.
- Stephen J. Brown, Solicitor, Naas.
- Patrick J. Shaw, Urban District Councillor, Enniscorthy.

#### Notary Public.

THE Lord Chancellor has made the following appointment as Notary Public:—

- Stephen J. Brown, Solicitor, Naas.

#### New Solicitors.

##### ADMISSIONS DURING NOVEMBER, 1908.

Name.	Served apprenticeship to
Callan, Patrick J.,	J. H. Callan, Dublin.
Collins, John P.,	William J. Morris, Dublin.
D'Arcy, James F.,	William Frewen, Tipperary.
Fottrell, Brendan J.,	Frank Fottrell, Dublin.
M'Hugh, Eugene P.,	John Tarrant, Sligo.
Reddy, Charles Joseph,	Edw. C. Jameson, Dublin.
Stanton, Robert,	John Stanton, Cork.

## Recent Decisions affecting Solicitors.

(Notes of decisions, whether in reported or unreported cases, of interest to Solicitors, are invited from Members.)

## KING'S BENCH DIVISION.

(Before Gibson, Madden, and Kenn), JJ.)

*The King (Mowbray and Stourton) v. Local Government Board for Ireland.*

Nov. 10, 11, 16, 1908—Local Government—Labourers Acts—Costs—Taxation of—Solicitor.

THE Local Government Board for Ireland made a Rule (No. 55 of the Labourers (Ireland) Order, 1906) under s. 31 of the Labourers (Ireland) Act, 1906, in the following terms:—  
 "Where costs are payable by a council to an owner or lessee of land in respect of giving proof of title to any plot by such owner or lessee such costs shall be referred to the Local Government Board, who shall arrange for the taxation of the same, and the sum, which, after taxation, the Board may certify shall be the sum payable in respect of such costs." The Board claimed that they were entitled under and by virtue of such Order and the Labourers (Ireland) Act, 1906, to refer the costs incurred by an owner in making title to land, compulsorily taken in pursuance of the Act, to their solicitor for taxation, and not to the Taxing Master of the High Court; and further, that they were not bound to permit the solicitor for such owner to be present at such taxation, or to furnish him with any particulars as to the items of deduction, or the manner in which such were made.

Held, that even assuming that s. 31 of the Labourers (Ireland) Act, 1906, includes conveyancing and title costs, and authorizes the Local Government Board to appoint a new taxing authority—(1) it does not authorize the Board to retain the taxation in their own hands, and refer to their solicitors for advice and assistance in such taxation, and that the order was therefore *ultra vires*; (2) in any taxation conducted in pursuance of s. 31 of the Act of 1906 the vendor's solicitors are entitled to be present, if they so choose, to explain or defend the various items of their bill of costs; (3) the Local Government Board have no right in a taxation of title costs to give directions to the taxing authority as to how he shall tax, as such taxing authority should be independent; (4) the certificate of taxation in this case being in the nature of an order for payment was a proper subject of *certiorari*.

Motion to make absolute a conditional order. In the year 1907 the Dunshaughlin Rural District Council, by virtue of a Provisional Order under the Labourers (Ireland) Acts, 1883 to 1906, took compulsorily two acres of the land of Branstown as sites for labourers' cottages. These lands belonged to Mary Margaret Lady Mowbray and Stourton. The arbitrator awarded the sum of £71 8s. as compensation. The vendor's solicitors furnished, by request, an abstract of title to the solicitor for the council. When the conveyance was ready for completion, the vendor's solicitors notified the solicitor for the council that they were prepared to complete on receipt of a cheque for the amount of compensation and their costs, and at the same time enclosed their bill of costs for showing title to the lands. The amount of this bill was £8 13s. 6d. On March 30, 1908, the solicitor to the rural council replied, acknowledging receipt of bill of costs, and stating that the bill of costs would be submitted to the Local Government Board in accordance with Rule 55 of the Labourers Order, 1906. On April 3, 1908, Messrs. T. T. Mecredy & Sons, solicitors to the Local Government Board, wrote to the vendor's solicitors stating that the bill of costs had been referred to them for taxation by the Local Government Board, and that they were prepared to certify the said bill on receipt of a sum of 7s. 6d., their fee for taxation. Messrs. Wm. Roche & Son (vendor's solicitors) replied to this letter on April 3, 1908, enclosing cheque for the amount demanded, and requesting that, before certifying the costs, if any deductions should be made, they might have an opportunity of dealing with them, and further protesting against the arrangement, made by the Local Government Board, under which landlords' costs were taxed without affording the solicitor whose bill was being taxed an opportunity of explaining any of the items. Messrs. Mecredy replied to this letter on April 4, 1908, by a communication in which they acknowledged receipt of the 7s. 6d., and stated that they had returned the bill of costs to the Local Government Board, that they themselves kept no note of the deductions, that the Local Government Board did not consider it necessary that parties interested should attend the taxation, and also that it was "not the practice of the Board to indicate how the amount of their certificate of taxation had been arrived at." On April 16, 1908, the solicitor to the rural council wrote to Messrs. Roche informing them that he had



received from the council a paying order in their favour for £71 8s., being the amount of the compensation money, and also a paying order for £4 11s. 4d., being the certified amount of their costs, and asking Messrs. Roche to hand over the completed receipt in exchange for these paying orders. Messrs. Roche replied on April 21, refusing to accept the paying order for £4 11s. 4d. in satisfaction of their bill of costs. Messrs. Roche then wrote to the Secretary of the Local Government Board protesting against the mode of measuring the costs, pointing out that it was not a taxation, and requiring that arrangements should be made to have the costs taxed on notice to them in a proper manner and in their presence. To this letter the Local Government Board replied on May 7, asserting that the costs had been taxed in pursuance of s. 31 of the Labourers (Ireland) Act, 1906, and of Rule 55 of the order made thereunder, and that in the arrangements they had made under the order they did not consider it necessary to put the claimants or rural councils to the expense of being represented by solicitors on the taxation of such bills of costs. Several further letters were written by Messrs. Roche to the Local Government Board protesting against the course that had been adopted, and demanding particulars of the deductions made in their bill of costs, and on June 4 the Local Government Board wrote to Messrs. Roche, stating it was not the usual practice of the Board to inform solicitors what deductions were made in certifying their bills of costs, but in the present instance the secretary was directed to send a statement showing the deductions made. After perusing the list of deductions Messrs. Roche wrote again to the Local Government Board complaining that the deductions were not made according to the existing schedule of fees, and demanding that they should be informed upon what scale or schedule of fees the bill of costs had been taxed. The Board gave no information as to the scale or schedule of fees, but on their memorandum referring the bill to Messrs. Mecredy were the words "new scale," which it appeared referred to a scale about to be introduced. Accordingly, on July 30, 1908, the applicant obtained a conditional order to remove into the King's Bench Division for the purpose of being quashed the original certificate of taxation of the bill of costs for £4 11s. 4d. dated April 13, 1908, made on the taxation of a bill of costs furnished March 28, 1908, upon the following grounds:—

(1) That there was no taxation of the said

bill of costs by a legally constituted taxing authority, and that the Local Government Board could only certify after such legal taxation; (2) that if Messrs. Mecredy were a legally constituted taxing authority, the Local Government Board could only certify for the amount ascertained by Messrs. Mecredy; (3) that if the sum of £4 11s. 4d. truly represented the result of any taxation, such taxation was illegal, because it was not carried out under and according to the existing schedule of costs and fees or any legally prescribed schedule or scale regulating the costs and charges of solicitors; (4) that the entire alleged taxation was illegal by reason of the solicitors for owners whose costs were being taxed having been excluded from attending or being present when such bill of costs was being taxed, and by reason of no subsequent opportunity having been given to them before such certificate was made up of explaining or justifying the items objected to or disallowed; (5) that if the effect of Rule 55 of the Labourers (Ireland) Order, 1906, was to enable the Local Government Board to determine and fix the amount of costs payable to the owner in respect of giving proof of title without referring such costs to a properly constituted taxing authority for taxation, or to enable the Local Government Board to certify that the sum payable in respect of such costs was an amount different from the amount ascertained as the proper amount of such costs by a properly constituted taxing authority, said rule was *ultra vires* and void. The Local Government Board showed cause.

GIBSON, J. :—

This application for *certiorari* raises questions of difficulty and importance affecting the Labourers Act, 1906, rules thereunder, and the validity of a taxation of a vendor's costs. The applicant contends—(1) that section 31 did not authorize the creation of a new taxing authority; (2) that Rule 55 was *ultra vires*, because it purports to create such taxing authority, because it purports to make the Board such authority, and because, if it does not, it purports to enable the Board to create a particular taxing authority in each case; (3) if Messrs. Mecredy were a lawful taxing authority, they were acting not on their own independent judicial responsibility, but under unlawful directions of the Board controlling them; (4) the taxation was invalid, as the vendor's solicitors were given no opportunity of defending their bill, and vouching same.

Counsel for the Board disputed the validity of all the above contentions, and, in addition, argued that *certiorari* was not an appropriate remedy. I shall discuss these various points. I have derived much help from Mr. Bolton's valuable and complete work.

As to the construction of section 31 at the time the Act passed, though what I may call litigious costs were taxed by a designated officer, whose decision was not the subject of review, conveyancing or title costs of the vendor were, it was not questioned, disposed of by a taxing master as officer of the Court, and his taxation, if erroneous, could be corrected. This appears from section 53 of the Lands Clauses Act, and the Act of 1864. Schedule 2 of the Housing of the Working Classes Act introduced a cheaper procedure *pro tanto* superseding the previous system, and also dealt with the questions of vendor's title costs (see, for example, paragraphs 10, 22, etc.), but it did not alter the taxing officer. Counsel for the Board argue that section 31 of the Act of 1896, in the interests of economy and expedition, authorizes the Board, after consultation with, or notice to the President of the Incorporated Law Society, to make rules not only as to the taxation of costs, but to erect a new taxing authority, who, unlike the taxing master, would be free from all possibility of correction. Questions as to what may or may not be included in vendor's costs on compulsory acquisition of land are often of extreme legal difficulty, as the Law Reports show, and the applicants could urge that the vendor's right to have costs taxed by a Court officer subject to judicial appeal cannot be taken away without clear and certain language. Counsel for the Board rely on the Act of 1885, section 12, and the order in Council made thereunder; and they further urge that the applicant's construction deprives the section of all substantial operation.

The Act of 1885, section 12, sub-section 7, which was probably to some extent the model on which section 31 was framed, enables general rules to be made for regulating procedure under section 12, and generally for carrying it into effect, and for fixing the amount of any fees, and the taxation and payment of any costs in relation to the confirmation of provisional orders. The order in Council thereunder made the Chief Crown Solicitor the taxing authority. This order was clearly *intra vires*, relating as it does to expropriation procedure, but it does not

appear to me to extend to vendor's conveyancing or title costs, nor does the section contemplate such costs. The existing function of the taxing master in relation to such costs was not superseded by section 12.

Section 31 of the new Act is much wider than section 12: it brings in the head of the solicitor profession, and adds in relation to costs the words, "the carrying into execution of improvement schemes." What "fees" may include does not require decision.

The section, compared with section 12 of the Act of 1885, raises two points. The first is, does it extend to conveyancing or title costs? This point was not argued, and I pass it by without expressing any opinion on it, assuming it covers such costs. Does it enable the taxing master to be displaced by a new non-appealable official? If the taxing officer is still to act, it has only small operation; it allows the petition or requisition to tax to be got rid of, and enables rules for taxation to be made in the interest of celerity and economy. It cannot, therefore, be said that the applicant's construction makes the provision inoperative. No doubt, the policy of the legislation was to check appeals and lessen expense, but is the section sufficiently clear to put in the place of the Court officer a new functionary not subject to review?

Parliament may have intended to make the change, but (as Lord Watson observed in the *Pharmaceutical Case* 5, Appendix C., at p. 857) if it has not used adequate language for the purpose, having regard to recognised rules of construction, we cannot give effect to such supposed intention. Without pronouncing any concluded opinion, as I think the order must be quashed on other grounds, I shall assume that the existing tribunal may be displaced under section 31. Assuming the section had that effect, it would seem to point to some person outside the Board; the Board itself could not tax, and such person is to act under a general rule. I do not think the section authorizes the Board to retain the matter in their own hands, getting advice and assistance from others if they thought fit, and I doubt if it would justify a rule, that instead of a permanent taxing authority, they might employ individuals *ad hoc* from time to time, in their discretion—a course which might well be open to suspicion and abuse. The rules are to be laid before Parliament, and it would be desirable that the person or persons to tax should be described and identified.

2. Assuming that the Board had power to

make a rule constituting a new taxing authority; what is the construction of Rule 55? The Solicitor-General reads it as meaning that the Board are only to receive the bill of costs, and allot it for taxation to anyone they deem competent. Mr. Ronan interprets the rule as meaning that the Board was the taxing authority—they were to certify the costs, getting help if required. Comparing the rule with the new substituted rule, and looking at the terms of the memorandum on which Mr. Mecredy acted, the wording of the order of the Board of April 13th, and the correspondence, I think that the Board considered, probably rightly, that the rule meant what Mr. Ronan says. If so, it would seem to me *ultra vires*. I doubt also whether interpreted in the Solicitor-General's sense—that is, as enabling the Board to appoint any person to tax *ad hoc*—it was such a rule as section 31 contemplates. If the rule authorizes the appointment of a special individual to tax in each case, might not such appointment be within section 102 of the Local Government Act of 1898?

3. Mr. Mecredy acted under the Board memorandum, which directed him as to what he was to do. There is no certificate of taxation; but there is no doubt that, though the applicant from the frame of the order and correspondence thought otherwise, the deductions from the Bill were made all by Mr. Mecredy and not by the Board. The items disallowed or reduced were only disclosed to vendor's solicitors as a favour. If Mr. Mecredy was an independent taxing authority, the Board mistook their position: they had no right to interfere with him or give directions—a course the more objectionable as the firms were their solicitors. Their action indicates that they did not regard Mr. Mecredy as an independent responsible officer, but treated him as their solicitor to whom they could give directions and resort for assistance. There is some uncertainty as to who was to tax, as the firm consists of two partners. I assume the senior partner was intended. The direction to apply the new scale was wrong, as no such scale was then legally in force.

On the whole, I think the taxation under these circumstances cannot be supported.

4. The bill was taxed by Mr. Mecredy without giving the vendor's solicitors an opportunity of being heard in support of items or amounts. Some of the disallowances seem arbitrary; others are on the ground of want of vouching, e.g., the small postage and parcel item. As

already observed, title costs often raise troublesome questions; and I am of opinion that no title costs, as here, can be adjudicated on without giving the person affected a hearing, if he desires it. A taxation under the existing procedure requires notice to the parties, and the fact that the new taxing authority is not subject to any supervision or appeal in the discharge of duties which often involve points of difficulty, makes it indispensable that recognized principles and practice of ordinary justice should be observed. The taxation was conducted as a domestic administrative matter entrusted to the uncontrolled discretion of the Board advised by their solicitor; notice was treated as unnecessary, and inquiry as to disallowances was regarded as somewhat unreasonable curiosity. This ground of objection also seems to invalidate the taxation.

5. The last point to be considered is whether *Goff's Case*, 1905, 1 R. 121, applies. That case decided that a taxing officer acting as *persona designata* is free from *certiorari*, because his duty is ministerial, and does not impose final liability. What is challenged here is not a taxation certificate, but the order of the Local Government Board, which purports to fix the sum payable as the result of taxation. In my opinion, if the objections I have discussed are well founded, the order was such as to be subject to *certiorari*.

Section 31 refers to rules as to payment as well as taxation, and the order is an order relating to payment. As I think the order must be quashed on the above grounds of substance, I need not consider whether its ambiguous and uncertain character in point of form might not also lay it open to impeachment.

MADDEN, J. :-

The order, before us has been made by the Local Government Board under the powers vested in them by the 31st section of the Labourers (Ireland) Act, 1906, by which the Board is given power to "provide for the taxation and payment of any costs to be received, allowed, or paid in relation to the confirmation by the Local Government Board, and the carrying into execution of improvement schemes." The order not only fixes the amount of costs, but provides for payment. It is thus clearly distinguishable from the certificate of taxation which came before this Court in *R. (War Secretary) v. Goff* (1905, 2 Ir. R. 121). The Court held that *certiorari* did not lie, because the function of the Taxing Master as *persona designata* was ministerial, and his certificate,

*per se*, created no liability to pay. I observe that my brother Gibson pointed out that different considerations might apply to a taxation under section 52 of the Lands Clauses Act of 1845, a case which bears considerable resemblance to that before us. In my opinion an order, by the Local Government Board providing for the payment of costs, contains the element which was wanting in *Goff's Case*, and is the proper subject-matter of *certiorari*. The costs with which this order is conversant are the costs of an owner of land compulsorily acquired under the Labourers Acts, and are those incurred in making title to the land, and in complying with the requirements of the local body by which it was acquired. The rights which are at issue are those of the owner of land compulsorily acquired, and not those of his or her solicitor, whose right to his costs as between solicitor and client cannot be affected by the action of the Local Government Board.

I need not examine in detail the various statutes which have been enacted during the last half century or so for the purpose of enabling land to be compulsorily acquired for purposes of public utility. The tendency has been especially in later years to extend widely, in different directions, the classes of purposes to which this legislation has been applied. But the entire system of legislation has been based upon the principle of indemnity to the individual landowner, both as regards compensation for the land compulsorily acquired, and the costs incurred in making title to the body by which it is acquired. The procedure under the Irish Statute engrafted in the Lands Clauses Act (the Railways (Ireland) Act, 1851) was intended to secure to the landowner the full value of the land taken, to which indeed arbitrators were, at one time, in the habit of adding 10 per cent. in consideration of compulsory sale. The statutes were equally clear as regards his right to indemnity in the matter of costs, commencing with section 82 of the principal Act (8 & 9 Vict., c. 18). By this section the conveyancing costs of the owner are to be paid by the promoters of the undertaking. The widest possible interpretation is adopted in this section, so as to secure a complete indemnity for the owner, and the 83rd section for the taxation of those costs, when the parties do not agree, by the taxing masters of the Court, at the expense of the promoters of the undertaking. This section, which was incorporated in the Railways (Ireland) Act of 1851, regulated the taxation of conveyancing costs in proceedings under that Act. The 12th section of the

amending Act of 1864 (27 & 28 Vict., c. 71) simplified procedure by making conveyancing costs taxable by a taxing master of the Court of Chancery on the requisition of the Company, but did not in any way affect the rights of the owner.

The costs of obtaining an order for an improvement scheme, and carrying it into effect, occupy a different position from the conveyancing costs of the owner. An argument has been addressed to us, founded on the 12th section of the Labourers Act of 1885, and on the General Order of 1887, made under its provisions, but they have no relevance to the question before us. This statute and order relate to a distinct class of costs. Under the first Labourers Act—that of 1883—opposition to a Bill confirming a provisional order was by petition to Parliament, and the Committee to which the petition was referred had power to award costs to the promoters or to the opponents of the Bill. Costs so awarded are taxable under 28 & 29 Vict., c. 27, by the Parliamentary taxing officer. By the 12th section of the Labourers Act of 1885, the jurisdiction of Parliament in relation to provisional orders under these Acts was transferred to the Privy Council. Sub-section 6 provided that the costs of the parties should be in the discretion of the Lord Lieutenant in Council, who was empowered to make general rules for carrying the Act into effect, including “fixing the amount of any fees, and the taxation and payment of any costs to be taken, allowed, and paid in relation to the confirmation of provisional orders.” It was necessary to make special provision by General Order for the taxation of these costs, as was done by the Order of 1887, inasmuch as no statutory provision existed for their taxation by the taxing officer of the Court.

The conveyancing costs of an owner must also be distinguished from another class of costs, the taxation of which is now regulated by 58 Vict., c. 41 (1895), the application of which is limited to “costs of and incidental to the inquiry or to the arbitration and award when compensation is assessed under the Lands Clauses Acts, or any amending Act by a jury or by arbitration.” Taxation under this section differs from that applicable to owners' conveyancing costs as regards both subject-matter and the position of the taxing officer, who acts, not as the officer of the Court, but as *persona designata*, to whom the Legislature had transferred the duty of taxation.

Such was the position of the owner when the Act of 1906 was passed. He had a statutory right of indemnity expressed in the amplest terms, against costs incurred by him in making title to the lands compulsorily taken, and he had a statutory right to have these costs taxed by the taxing officer of the Court, on the scale laid down by the rule-making authority, subject, in certain cases, to an appeal to the Court. The amount of these conveyancing costs are not within the control of the owner or of his solicitor.

They are mainly determined by the degree of particularity with which the solicitor for the promoters of the undertaking requires the owner's title to be deduced and vouched. The costs properly and necessarily incurred in proving the title to land bear no proportion to the extent and value of the estate. Indeed, if I was called on to establish a proportion, I would suggest the inverse ratio of their respective amounts, for large estates are commonly dealt with by carefully-drawn instruments.

The rights of the owner as regards costs as well as purchase-money being clear and undisputed, and such as could only be abrogated or abridged by clearly expressed legislation, I proceed to consider the 31st section of the Act of 1908, in view of the state of the law when it was passed. It enacts that the Board may, by rules, provide for the taxation of the costs with which it is conversant.

Taxation by whom? According to the Solicitor-General by the nominee of the Board, who may be their solicitor, or any person to whom they may think fit to entrust the work. According to Mr. Ronan by the Board itself. The latter view is not taken by the Board, for, by the 55th Order, purporting to be made under the statute, it is provided that where costs are payable by a council to an owner or lessee of land in respect of giving proof of title, these costs (except in certain cases) shall "be referred to the Board, who shall arrange for the taxation of the same." In the present case what is called the "taxation" was done by the Board itself, who "arranged for it" by asking their solicitor to inform them what items in the owner's bill of costs might reasonably be struck off. The bill was never referred to Mr. Mecredy. If it had been so referred, I do not suppose for a moment that this gentleman would have entered on the mockery of a proceeding so illusory and unjust as a so-called "taxation" in the absence of the solicitor who had prepared the bill; and who would alone be in

a position to explain a questioned item, and whose duty it would have been to safeguard the interests of the owner. There has, of course, been no taxation of the bill, in any real sense of the term, and if there had been nothing more in the case, I think that the order of the Board should be set aside. I am, however, clearly of opinion that the 31st section has no operation to deprive the owner of the statutory rights which I have stated, by substituting for the taxing officer of the Court either the nominee of the Board, or the Board itself, over neither of whom this Court could exercise any control. The words "arrange for taxation," in my opinion, mean arrange for taxation by the statutory taxing authority.

This interpretation is in accordance with the natural meaning of the words taken by themselves. I decline to put upon the section a construction which it does not necessarily bear, when the result would be the abrogation of clearly defined statutory rights by legislation so obscure that the eminent counsel for the Board are unable to agree as to its meaning. I express no opinion upon an important matter to which my brother Gibson has referred, that is, whether the Board have power to deal in any way with the conveyancing costs of an owner under the terms of section 31, which relate to costs "to be received, allowed or paid in relation to the confirmation by the Local Government Board, and the carrying into execution of improvement schemes."

KENNY, J. :—

At the date of the passing of the Labourers Act, 1906, the costs incurred by an owner of land in deducing title to a plot compulsorily taken for the purposes of the then existing Labourers Acts, were taxable by one of the taxing officers of the Supreme Court, and the broad proposition is now put forward on behalf of the Local Government Board that the effect of the 31st section of the Act of 1906 and Rule 55 is to substitute for that tribunal one that is absolute and unappealable—that is bound by no scale of fees and charges, and that can set up for itself a mode of procedure in my opinion inherently unfair and unjust. If that contention be correct, the facts of the present case show that the landowner whose position has been by section 11 (10) of the Act differentiated from that of other owners whose lands are compulsorily acquired under other Acts of Parliament, may be subjected to still further loss in having to bear the burden of a large proportion of the

costs of making out title—which *prima facie* should be borne by the public body which acquires the land. In the case before us, the owner's costs, as drawn by his solicitors, a firm of high standing in the profession, amounted to £9 1s. 0d. They were cut down behind the solicitors' back, and without explanation or excuse, to £4 11s. 4d., while the uncontradicted affidavit on which the application for a *certiorari* is based, states that the bill as furnished was drawn in accordance with the schedules of fees and charges authorized by the Supreme Court. If that statement be accurate, and I have no reason to doubt it, the balance of the solicitors' costs will have to be made good to them by their client, the applicant in the present case. It is not unimportant to bear in mind that such balance—if the costs be taxed as between the applicant and his solicitors—will be so taxed with reference to the Supreme Court scale, and will not be subject to the unfettered discretion of the Local Government Board or any person employed by them as assessor or adjuster. Furthermore, this inconsistency would arise if the Act and Rule have effected the revolution in procedure contended for by the Local Government Board, that, if the compensation money were paid into Court and was afterwards paid out to the parties entitled to it, the costs of showing title would, under a High Court order, be taxed in the ordinary way by one of the taxing masters, and under a County Court order might in certain cases be taxed in accordance with the rules and schedule of fees relating to Equity proceedings in the County Courts (County Court Rules under the Labourers Act, Nos. 14 and 15). That this must be so, is, I think, clear. It has not been, and in my opinion could not be, contended that costs of proving title awarded under an order of the High Court, or of the County Court, were to be "referred to the Board" under the 55th Rule in cases where the amount of the compensation was lodged in Court.

If, therefore, the 55th Rule is applicable only to bills of costs where the amount of the compensation has not to be brought into Court, it is effective for the purpose put forward by the Local Government Board of (1) making the Local Government Board the taxing authority, or (2) enabling the Local Government Board to set up any sort of taxing authority that it chooses, and (3) rendering legal a taxation conducted *ex parte* and without reference to any recognized schedules of fees and charges. While desiring to guard myself against expressing a definite opinion as

to the class of rule which the Local Government Board may legitimately make under the provisions of the 31st section of the Labourers Act, I am very clearly of opinion that a Rule which purported to sanction a secret taxation, unfettered by any scale of fees and charges, would be *ultra vires*. It would require very clear language in an Act of Parliament to deprive the land-owner of the statutory right, which he hitherto enjoyed, of having an open taxation conducted by an officer bound to have regard to a certain standard of charges. I can find no such clearness in the words of the section "provide for taxation." Even if the section enables a Rule to be made, nominating a person other than the taxing officer of the Supreme Court to assume the functions of the latter, as to which I entertain very great doubt, it would be strange, indeed, in the absence of express language, if it should be held to authorize a departure also from the methods of taxation theretofore in practice. There has not, in my opinion, been any taxation of the applicant's bill of costs, and, consequently, the certificate of the Local Government Board was unwarranted.

As to *certiorari* being applicable to the present case, I concur with the judgment of the other members of the Court, and have nothing to add.

Reported in I.L.T.R., Vol. XLII., page 255.

NOTE.—Notice of appeal against the above decision of the King's Bench Division has been served upon behalf of the Local Government Board.

COURT OF THE IRISH LAND COMMISSION.

IRISH LAND ACT, 1903.

(Before Wylie, J.)

IN CHAMBER.

*Estate of Nicholas Ffolliott Giles and Others.*

5th November, 1908.

APPLICATION upon behalf of W. J. Byrne (the owner of a superior rent which had been redeemed) by way of appeal from the taxation of applicant's costs of making title to the redemption money, which costs had been taxed under the order in this matter of 29th June, 1908, by the taxing officer of the Land Commission, for an order declaring that on the true construction of the schedule of fees pursuant to the rules of the 4th December, 1903, an "affidavit of title" should be treated as an "abstract of title," and that in consequence

thereof the allowance for the perusal of deeds for the purpose of preparing the said affidavit of title should be 3s. per skin, being the charge allowed by the said Schedule for perusing deeds for the purpose of preparing an abstract of title, and not at the rate of 12s. per skin, the amount allowed by the taxing officer, being the fee allowed by the said schedule for perusing deeds for purposes other than an abstract of title.

The Judge granted the application.

**Irish Land Act, 1903.**

**THE REVISED BONUS.**

THE *Dublin Gazette* of 24th November contains the following announcement:

"Whereas by Section 48 (1) of the Irish Land Act, 1903, it is provided that the Land Commission may, out of advances by the National Debt Commissioners from the Land Purchase Aid Fund, pay to the vendor of each estate sold a sum calculated at the rate of 12 per cent. on the amount of the purchase-money advanced under the Land Purchase Acts:

"And whereas by Section 48 (3) the Treasury may revise the percentage above-mentioned for the purpose of adjusting the relation between the unexpended balance of the fund and the claims which may be made upon it.

"Now we, being two of the Commissioners of the Treasury, hereby declare that for the purpose of adjusting the relation between the unexpended balance of the fund and the claims which may be made upon it, a rate of 3 per cent. shall be substituted for the above-mentioned rate of 12 per cent.

(Signed)

"CECIL NORTON.

"J. H. WHITLEY.

"23rd November, 1908."

**Dublin Civil Bill Courts.**

By an order of the Lord Lieutenant in Council, dated 10th December, 1908, it is directed that from and after the first day of January, 1909, the Court for the hearing of civil bills in the City of Dublin in the month of August shall be discontinued.

By a further order of the Lord Lieutenant in Council, dated 10th December, 1908, it is directed that from and after the first day of January, 1909, a Court for the hearing of civil

business for the Division of Kilmainham, in the County of Dublin, shall be held ten times in each year at the Sessions Courthouse, Green Street, Dublin, and that the sittings of the said Court be held with and at the same times as the sittings of the Courts appointed to be held at the said Courthouse for the hearing of civil bills for the city of Dublin, in the months of January, February, March, April, May, June, July, October, November, and December.

**Irish Land Commission.**

THE following sittings of the Court of the Land Commission for hearing appeals have been provisionally arranged:—Dublin, January 14th, 1909; Leinster (part of). Waterford, January 19th, 1909; County Waterford. Ennis, January 26th, 1909; County Clare (part of). Dublin, February 4th, 1909; Leinster (part of). Sligo, February 9th, 1909; County Sligo and County Leitrim (part of). Dingle, February 16th, 1909; County Kerry (part of). Dublin, February 25th, 1909; Leinster (part of). Belfast, March 2nd, 1909; County Antrim and County Down. Cork, March 9th, 1909; County Cork (part of). Dublin, March 18th, 1909; Leinster (part of). Castlereagh, March 23rd, 1909; County Roscommon (part of).

**Reported Cases on Costs.**

THIS book, published by the Society some years ago, contains a collection of *verbatim* reprints of the Reports of cases relating to costs decided in Ireland from 1867 to 1891; and also of such of the English cases on the Solicitors' Remuneration Act up to 1891 as are applicable to the law in Ireland. It consists of 735 pages. The remaining copies will be sold at the reduced price of 5s., postage 6d. extra, and can be obtained from the Secretary of the Society, Four Courts.

**Hilary Sittings Lectures.**

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon Real Property, Equity, and Conveyancing on the following dates in Hilary Sittings, 1909:—

January 12th, 15th, 19th, 22nd, 26th, 29th.

February 2nd, 5th, 9th, 12th, 16th, 19th.

Professor Boyd will deliver lectures to the Junior Class in Common Law upon the following dates in Hilary Sittings, 1909:

January 11th, 14th, 18th, 21st, 25th, 28th.  
February 1st, 4th, 8th, 11th, 15th, 18th.

Lectures to both classes will be delivered at 4 p.m. in the Lecture Theatre of the Society at the Four Courts.

Solicitors' Apprentices Debating Society.

The Inaugural Meeting of this Society was held in the Solicitors' Buildings, Four Courts, Dublin, upon the 30th November. Mr. George H. Lyster (President of the Incorporated Law Society) occupied the Chair, and an address was read by the Auditor, Mr. Enda B. Healy, Solicitor, upon the subject of "Women's Suffrage." The first resolution was moved by Mr. M'Inerney, K.C., and seconded by Miss Gaythorpe; and the second resolution was moved by the Right Hon. T. W. Russell, M.P., and seconded by Mrs. Cousins.

The meetings of the Debating Society are held during Sittings upon Monday evenings at eight o'clock, in the Antient Concert Rooms, Great Brunswick Street. Apprentices desirous of joining the Society should communicate with the Hon. Secretary, Mr. Charles B. W. Boyle, 29 Lower Gardiner Street, Dublin.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 18 Nassau Street, Dublin.

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2607 (2 lines).

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# The Incorporated Law Society of Ireland.

## COMMITTEES OF THE COUNCIL FOR THE YEAR ENDING 26TH NOVEMBER, 1909.

No. 1. House, Library, and Finance.	No. 2. Parliamentary.	No. 3. Costs.	No. 4. Court and Offices.
F. C. E. BLAND.	GERALD BYRNE.	SIR GEORGE ROCHE.	A. E. BRADLEY.
A. L. BLOOD.	GEORGE COLLINS.	T. C. FRANKS.	G. FOTTRELL.
C. G. GAMBLE.	T. W. FITZGERALD.	JOSEPH GALLOWAY.	R. A. MACNAMARA.
R. S. REEVES.	F. W. MEREDITH.	JAMES HENRY.	W. V. SEDDALL.
H. J. SYNNOTT.	W. V. SEDDALL.	R. A. MACNAMARA.	R. G. WARREN.
No. 5. Gazette.	No. 6. County Courts.	No. 7. Land Act.	
SIR A. F. BAKER.	THE EXTRA-ORDINARY MEMBERS.	SIR GEORGE ROCHE.	
F. C. E. BLAND.	THE PROVINCIAL DELEGATES	SIR A. F. BAKER.	
A. L. BLOOD.	A. E. BRADLEY.	S. J. BROWN.	
W. S. HAYES.	GERALD BYRNE.	W. FRY.	
C. A. STANUELL.	J. A. DENNING.	J. P. LYNCH.	
	M. J. O'CONNOR.	W. S. HAYES.	
	R. B. WHITE.	C. A. STANUELL.	
		H. J. SYNNOTT.	

The PRESIDENT and the two VICE-PRESIDENTS are members *ex-officiis* of all Committees of the Council.

### COURT OF EXAMINERS FOR 1909.

President:

WILLIAM J. SHANNON.

Vice-Presidents:

CHARLES ST. G. ORPEN.

JOHN W. RICHARDS.

F. C. E. BLAND.

J. G. FOTTRELL.

R. A. MACNAMARA.

A. L. BLOOD.

C. G. GAMBLE.

M. J. O'CONNOR.

A. E. BRADLEY.

T. W. FITZGERALD.

H. J. SYNNOTT.

M. BUGGY.

JAMES HENRY.

R. BLAIR WHITE.

Special Examiners:

C. H. DENROCHE, B.A., LL.D., R.U.I.

THE REV. J. P. MAHAFFY, S.E.T.C.D.

F. V. GORDON, B.A., Ex-Scholar (T.C.D.).

Professors:

THOMAS G. QUIRKE, B.A., LL.D., R.U.I.

W. HERBERT BOYD, B.L.

Secretary:

WILLIAM GEORGE WAKELY.

# THE GAZETTE

## OF THE Incorporated Law Society of Ireland.

Vol. II, No. 7.] January, 1909.

FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

#### December 2nd.

THE Council met upon Wednesday, the 2nd December. Mr. Lyster, and subsequently Mr. W. J. Shannon, in the Chair, and twenty-seven other members being present.

#### Extra-ordinary members of Council.

A letter was read from the Northern Law Society, submitting the names of the following members of that Society to be extra-ordinary members of the Council:—Mr. G. B. Wilkins, President, Messrs. C. W. Black, Martin J. Burke, John D. Coates, and J. W. M'Ninch.

A letter was also read from the Southern Law Association, submitting the names of the following members of that Association to be extra-ordinary members of the Council:—William Guest Lane, President; Messrs. A. Blake, Frederick Hall, Arthur H. Julian, and Walter Thornhill.

The ten members nominated were declared duly elected as ten extra-ordinary members of the Council for the year ending the 26th November, 1909.

#### Election of President and Vice-Presidents.

The Council proceeded to elect a President and two Vice-Presidents for year ending the 26th November, 1909, with the result that Mr. William J. Shannon was elected to the office of President, and Mr. Charles St. G. Orpen and Mr. John W. Richards were elected Vice-Presidents. Mr. Shannon having taken the chair, a cordial vote of thanks was passed to the outgoing President and Vice-Presidents for the manner in which they had discharged the duties of their respective offices during the past year.

### Gazette of the Society.

It was resolved that the December number of the Society's Gazette, containing report of the General Meeting, should be sent to the entire profession, and that a circular should be sent to those who are not members of the Society, inviting them to become members.

### Transfer of Government Securities.

It was resolved that the question of the desirability of transfers of Government securities being made by deed; as in the case of Public Companies, be referred to a special Committee of the Council to report upon.

### Land Act.

A special Committee was appointed to consider the questions arising under the working of Land Act of 1903, and also the provisions of the Irish Land Bill, 1908.

The Council adjourned for one week.

#### December 9th.

The Council met upon Wednesday, the 9th December. Mr. William J. Shannon, President, in the Chair, and twenty-seven other members being present.

### Labourers (Ireland) Act, 1906.

A letter was read from Messrs. Roche and Son, intimating that in the case of *The King (Mowbray and Stourton) v. the Local Government Board*, notice of appeal had been given by the Local Government Board against the order of the King's Bench Division, granting a writ of *certiorari*.

### Taxing Office.

A letter was read from a member of the profession, drawing attention to the practice in the Taxing Office which required that, in the taxation of solicitor and client's costs, an

affidavit of credits should be approved by the solicitor on the other side, and the matter was referred to the Costs Committee for consideration.

#### Statutory Committee.

A letter was read from the Secretary to the Lord Chancellor, intimating that His Lordship had appointed the following seven members of the Council to be the statutory committee under section 34 of the Solicitors (Ireland) Act, 1898, for year ending the 26th November, 1909:—Sir A. F. Baker, Mr. Fry, Mr. Hayes, Mr. Lyster, Mr. Lynch, Mr. Shannon, and Mr. Stanuall.

#### Court of Examiners and Committees.

The Court of Examiners and Committees for the year ending the 26th day of November, 1909, were elected.

#### Council Meetings.

MEETINGS of the Council will be held upon the following dates:—

January 13th and 27th.  
February 10th and 24th.

#### Committee Meetings.

THE following Committee Meetings were held during December:—

Land Act, 7th and 14th.  
Court of Examiners, 14th.  
Gazette, 15th.  
Costs, 17th.

#### New Members.

THE following joined the Society during December, 1908:—

Allen, Joseph, Lisburn.  
Bannin, M. J., Bagenalstown.  
Carson, R. Haldane, Omagh.  
Kilpatrick, Thomas W., Armagh.  
Moody, William P., Strabane.  
O'Sullivan, Philip J., Limerick.  
Wheeler, George H., Belfast.

#### Commissioner to administer Oaths.

THE Lord Chancellor has appointed the following additional Commissioner to administer Oaths:—

Richard T. St. George, Clerk of Petty Sessions, Galway.

#### Notary Public.

THE Lord Chancellor has made the following appointment as notary public:—

John Mackay, Solicitor, Dundalk.

#### Obituary.

MR. William Fitzsimons, Solicitor, died on the 18th December, 1908, in Dublin.

Mr. Fitzsimons, who served his apprenticeship with the late Mr. Henry J. P. West, of 33 North Great George's Street, Dublin, was admitted in Trinity Term, 1865, and practised in Maryborough up to 1896, when he retired.

MR. William Harper, Solicitor, died on the 28th December, 1908, at his residence, Chichester House, Antrim Road, Belfast.

Mr. Harper, who served his apprenticeship with the late Mr. Henry Seeds, of 23 Middle Gardiner Street, Dublin, and Belfast, was admitted in Michaelmas Term, 1863, and practised in Belfast, formerly in partnership with the late Mr. William J. C. Mills, under the style of Harper and Mills, and recently in partnership with his sons, Messrs. Hugh and Andrew M. Harper, under the style of William Harper & Co.

#### Solicitors' Annual Certificates.

MEMBERS are reminded that annual Certificates for year ending 5th January, 1910, should be taken out; and the duties paid thereon, between the 5th day of January and the 6th day of February, 1909.

#### Calendar of Incorporated Law Society, 1909.

THE Calendar and Law Directory, published by the Society, for 1909, can be obtained in the Secretary's office, price three shillings, or by post three shillings and fourpence.

## New Solicitor.

ADMISSION DURING DECEMBER, 1908.

Name. Served apprenticeship to  
Watson, Arthur B., Robert Hayes, Dublin.

## Irish Land Act, 1903.

COPIES of the following Memorandum by the Council were upon the 14th December, 1908, sent to the Chief Secretary for Ireland, the Irish Law Officers, Mr. Justice Wylie, the Estates Commissioners, and Mr. T. W. Russell, M.P.

## INCORPORATED LAW SOCIETY OF IRELAND.

*Memorandum as to percentage payable under the Land Act, 1903, on pending sales.*

THE Council have had under consideration the Irish Land Bill of 1908, but postponed to a later date the making of any suggestions with a view to facilitating purchase proceedings in accordance with the intentions of the Bill.

As, however, it now seems clear that no new legislation can be expected for some time, the Council submit it is of the highest importance that steps should be taken at once by the Government to enable vendors and purchasers to know definitely what percentage by way of bonus will be paid on the purchase-money of estates proceeding for sale of which were initiated on or prior to the 24th November, 1908, being the date of the *Dublin Gazette* containing notice of the Treasury Regulations.

This is especially necessary in the case of:—

(a) Estates in respect of which the Estates Commissioners have published Notices in the *Gazette* under the Evicted Tenants Act, 1907.

(b) Estates in respect of which Originating Requests for sale to the Estates Commissioners under section 6 of the Land Act, 1903, were lodged, or in respect of which Requests under section 7 were issued on, or prior to, 24th November, 1908.

(c) Estates in respect of which preliminary inspections have been made, and prices named by the Estates Commissioners on, or prior to, 24th November, 1908.

(d) Estates in respect of which some, but not all, of the purchase agreements were lodged on, or prior to, 24th November, 1908.

In all these cases the understanding in the minds of the parties, and the basis on which negotiations were carried on, was that a Bonus of 12 per cent. would be payable on the purchase-money.

As, however, in many of these cases no final "Agreement" was entered into on or prior to the 24th November, 1908, doubts have arisen as to whether such vendors may only be entitled to the revised percentage.

The Council accordingly submit that, with a view to removing the foregoing difficulties and doubts, provision should immediately be made by Treasury Notice in the *Gazette* or otherwise, that the percentage payable under section 48 of the Irish Land Act, 1903, shall be calculated at the rate of 12 per cent. on the amount of the purchase-money advanced under the Land Purchase Act in respect of:—

(a) Estates in respect of which any steps were taken by the Estates Commissioners under the Evicted Tenants Act, 1907, on or prior to 24th November, 1908.

(b) Estates in respect of which Originating Requests were lodged with the Land Commission, or in respect of which Requests under section 7 were issued on, or prior to, the 24th day of November, 1908.

(c) Estates in respect of which the Estates Commissioners have made preliminary inspections, and have estimated prices at which they are prepared to purchase such Estates.

(d) Estates in respect of which some, but not all, of the Purchase Agreements were lodged on, or prior to, 24th November, 1908.

(e) Purchase Agreements lodged after the 24th November, 1908, in substitution for, or in modification of, Purchase Agreements under the Irish Land Act, 1903, lodged on or before the 24th day of November, 1908.

Solicitors' Buildings, Four Courts,

Dublin, December 14th, 1908.

The following reply has been received from the Right Hon. the Chief Secretary for Ireland.

"Irish Office, 18 Old Queen St., London, S.W.

"15th December, 1908.

"Sir,

"I am desired by the Chief Secretary to acknowledge the receipt of your letter of the 14th instant, with enclosed Memorandum on the subject of the pending Irish Land Bill, and to add that the matter will receive Mr.

"Birrell's immediate consideration, and that he hopes to address a communication to you on the subject at an early date.

"Yours truly,  
"C. T. BEARD.

"W. G. WAKELY, Esq.,  
"Secretary, Incorporated Law Society of Ireland."

#### Irish Land Commission.

THE following sittings of the Court of the Land Commission for hearing appeals have been provisionally arranged:—

Ennis, January 26th, 1909; County Clare (part of).

Dublin; February 4th, 1909; Leinster (part of).

Sligo, February 9th, 1909; County Sligo and County Leitrim (part of).

Dingle, February 16th, 1909; County Kerry (part of).

Dublin, February 23th, 1909; Leinster (part of).

Belfast, March 2nd, 1909; County Antrim and County Down.

Cork, March 9th, 1909; County Cork (part of).

Dublin, March 18th, 1909; Leinster (part of).

Castlerea, March 23rd, 1909; County Roscommon (part of).

#### Solicitors' Benevolent Association.

A MEETING of the Directors was held on 2nd December last at the Four Courts, Sir George Roche, Vice-Chairman, in the chair, and eleven other members present.

The Secretary reported having received since previous meeting the sum of £25 4s., making the total annual subscriptions received since the beginning of the year £519 15s., a donation of £5 5s. from Mr. M. Milward-Jones.

The Directors then proceeded to consider the various cases for relief, and made grants to sixteen applicants, amounting in all to £137 10s.

The following new members were enrolled since previous meeting:—

James Mullen, Cookstown.

E. J. Malone, Cookstown.

James Malone, Cookstown.

H. N. Raphael, Cookstown.

A meeting of the Directors was held on 9th December last at the Four Courts, Mr. Fry in the chair, and sixteen other members present. The Secretary reported having received since previous meeting the sum of £4 4s. in annual subscriptions, donations of £52 10s. from the President of the Incorporated Law Society, and £5 5s. from Alexander C. Cameron, Esq., and Life Subscriptions of £10 10s. from Messrs. Charles St. John Orpen, and John W. Richards, Vice-Presidents of the Incorporated Law Society.

The Directors then proceeded to consider applications for relief, and made grants amounting to £45 to three applicants. Directions were given to hold an election for a candidate to an annuity of £15 on 24th February, 1909.

The following new members were enrolled during the month of December:—

Henry F. Chidley, Dublin.

Gerald W. Browne, Dublin.

Edward Condell, Dublin.

Thomas Conway, Tullamore.

Robert Cussen, Newcastle West.

John P. Carrigan, Thurles.

#### Solicitors' Apprentices' Debating Society.

SESSION 1908-1909.

PROGRAMME FOR HILARY SITTINGS, 1909.

THE meetings take place at 8 p.m. in the Antient Concert Rooms, Great Brunswick Street, Dublin.

Monday, Jan. 11.—Debate—"That the Educational value of the Theatre is nil."

Thursday, Jan. 14.—Legal Debate—"That the case of *Moulis v. Owen* (1907), T. K. B., 746, was rightly decided."

Monday, Jan. 18.—Impromptu Speeches.

Thursday, Jan. 21.—Debate—"That the Parliamentary Franchise should be extended to Women."

Monday, Jan. 25.—Legal Debate—“That the case of *Palmer v. Bateman* (1908), 2 K.B., 393, was rightly decided.”

Thursday, Jan. 28.—Impromptu Speeches.

Monday, Feb. 1.—Debate—“That the movement for the revival of the Irish Language is worthy of support.”

Monday, Feb. 8.—Legal Debate—“That the case of *Staples v. Young* (1908), 1 I.R., 135, was rightly decided.”

Monday, Feb. 15.—Debate—“That State-aided Education should be purely secular.”

Apprentices desirous of joining the Society should communicate with the Hon. Secretary, Mr. Charles B. W. Boyle, 29 Lower Gardiner Street, Dublin.

### Hilary Sittings Lectures.

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon Real Property, Equity, and Conveyancing on the following dates in Hilary Sittings, 1909:—

January 12th, 15th, 19th, 22nd, 26th, 29th.

February 2nd, 5th, 9th, 12th, 16th, 19th.

Professor Boyd will deliver lectures to the Junior Class in Common Law upon the following dates in Hilary Sittings, 1909:—

January 11th, 14th, 18th, 21st, 25th, 28th.

February 1st, 4th, 8th, 11th, 15th, 18th.

Lectures to both classes will be delivered at 4 p.m. in the Lecture Theatre of the Society at the Four Courts.

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. II, No. 8.] February, 1909.

[ FOR CIRCULATION  
AMONGST MEMBERS.]

### Meetings of the Council.

January 13th.

THE Council met upon Wednesday, the 13th January. The President (Mr. W. J. Shannon) in the Chair, and twenty-three other members being present.

#### Four Courts Yard.

A communication was read from the Board of Works, in reply, stating that new lanterns would be supplied for the lamps in the Inner Yard of the Four Courts.

#### Labourers (Ireland) Act.

A letter was read from a member of the profession in reference to the taxation of costs by arbitrators under the Labourers (Ireland) Act, and the matter was referred to the Costs Committee for consideration.

#### Canvassing for Business.

A letter was read from a country member of the profession, enclosing a letter which had been addressed to a client of his, by another solicitor who had never acted for the client, requesting the client to instruct him to furnish to the Rural District Council, proof of his title to lands acquired from him under the Labourers (Ireland) Act, and stating that same would be done free of expense to him. It was resolved to request an explanation from the solicitor against whom the complaint had been made.

#### Apprentices.

An application by an apprentice who had passed his Final Examination under section 25 of the Solicitors (Ireland) Act, 1898, to sanction his having acted as Deputy Registrar for a Clerk of the Peace at a revision of voters' list was considered, and it was resolved not to oppose the application.

#### Certificates.

Two applications by solicitors to take out first certificates were submitted and granted.

#### Court of Examiners.

A report from the Court of Examiners upon petitions of two law clerks seeking leave to be bound under section 16 was submitted; one application was granted, and the other was refused.

#### Preliminary Examination.

A memorial from a law clerk, under section 18, for a modified preliminary examination was considered, and it was decided not to oppose the application.

#### Costs Committee.

A report from the Costs Committee giving decisions upon two queries was submitted and adopted. The first query asked how the costs of the mortgagor's solicitor, payable by the mortgagee, should be drawn under the following circumstances:—Mortgage dated the 9th December, 1907, was given by A. to B. to secure £30 on two farms purchased under Land Purchase Acts, the titles to which were registered under the Local Registration of Title Act. The mortgage was repayable in two instalments, but A, having sold one of the farms, it became necessary to pay off the entire mortgage before the second instalment became due, and a form of receipt was sent by the solicitor of A. to the solicitor of B. for perfection by B., and was duly perfected by B.

The answer of the Council was that the costs should be drawn as in the schedule of fees in proceedings before the Land Judge.

The second query, asked how the costs of lessor's solicitor, payable by the lessee, should be drawn in the case of a lease of 20th August, 1908, of house and premises for

ten years from the 1st November, 1907, rent £32 per annum, Poor Law Valuation £21 16s., the lease reciting that the previous tenant paid £40 per annum, and also containing a covenant by the lessee to expend within three years from the 1st November, 1907, the sum of eighty pounds in making the following improvements and repairs to the premises, viz:—To repair roof of dwelling-house with slates, cement and tiles, point chimneys with cement, erect eave-shoots and down-pipes, cement walls which are at present splitting, put down new flooring, put in new grates and fire-places, paint and paper dwelling-house, put in new windows, repair sashes, paint windows inside and outside, provide w.-c., earth-closet, or privy accommodation to satisfaction of sanitary authority, repair stables, doors, and roofs of out-offices, repair yard and boundary walls, erect new wire fencing.

The answer of the Council was that the costs should be drawn as of a building lease.

#### Transfer of Government Securities.

A report from the Special Committee appointed by the Council to consider this subject was considered, and the following resolution was passed by the Council:—

“RESOLVED—In the opinion of this Council it is desirable that the Act 33 & 34 Vic., cap. 71, should be amended so as to adapt to the transfer of Consols, India Stocks, Land Stocks, and other Government Securities, the system of transfer and certificate at present in general use in the transfer of shares in Public Companies, such transfers of Government Securities to continue to be free of stamp duty.”

It was ordered that copies of this resolution should be sent to the Prime Minister, the Chancellor of the Exchequer, the Chief Secretary for Ireland, the Dublin Chamber of Commerce, the Dublin Stock Exchange, the Governor of the Bank of Ireland, the English Law Society, and the Members of Parliament for the County and for the City of Dublin and for Dublin University.

The Council then adjourned.

January 27th.

The Council met upon Wednesday, the 27th January. The President (Mr. W. J. Shannon) in the Chair, and twenty-five other members being present.

#### Labourers (Ireland) Act, 1906.

Sir George Roche communicated to the Council that the Court of Appeal had given judgment in the case of *The King (Mowbray and Stourton) v. The Local Government Board*, confirming the decision of the King's Bench, and granting a writ of *certiorari* to quash the certificate issued by the Local Government Board certifying the amount of costs payable to the owner in respect of proof of title to lands compulsorily acquired under the Act, the Court also stating that in its opinion, under section 31 of the Act, the Local Government Board have power to fix a scale of fees applicable to owner's costs of title, and also have power to appoint an independent taxing officer.

#### Bankruptcy Law.

It was resolved that the report of the Departmental Committee appointed by the Board of Trade to inquire into the administration of the bankruptcy laws be referred to a special Committee of the Council, to consider whether it is desirable that any of the recommendations in the report should be applied to Ireland in the event of legislation being introduced.

#### Court of Examiners.

A report from the Court of Examiners upon the results of the January Preliminary and Final Examinations were submitted and adopted.

It was resolved that candidate No. 8 at the Final Examination be not again permitted to present himself for examination until January, 1910, owing to his having used during the examination a text-book for the purpose of assisting him in answering his questions.

#### Canvassing for Business.

A letter was read in reply from the solicitor against whom a complaint had been made to the Council for having written to the client of another solicitor requesting him to instruct him to furnish to the District Council his title to land acquired under the Labourers Act. The letter of explanation stated that similar letters had been sent by other solicitors practising in the town in which he resides to persons who were not their clients, and that accordingly he felt justified in doing so.

It was resolved that in the opinion of the Council the solicitor had been guilty of a breach of professional etiquette, and that the Council desire to censure him; and further, that he be informed that in the event of his submitting to the Council a statement in

reference to similar actions by other solicitors the Council would deal with the matter.

#### Land Act.

Letters of the 19th and 22nd January in reply from the Chief Secretary for Ireland relative to payment of the bonus under the Land Act were submitted; and a draft reply prepared by the Land Act Committee was approved of and directed to be sent.

#### Certificates.

Applications by seven solicitors for certificates under section 47 of the Solicitors (Ireland) Act, 1898, were considered. Six applications were granted, and one was refused.

#### Costs Committee.

A report from the Costs Committee was submitted and adopted, and it was referred to the Committee to further consider the question of taxation by arbitrators of costs under the Labourers (Ireland) Act, and also the matter of the taxation of owners' costs, having regard to the decision in the case of *The King (Mowbray and Stourton) v. The Local Government Board*.

#### Court of Examiners.

A report from the Court of Examiners upon an application by a law clerk under section 16 was considered, and the application was granted.

#### Investment of Funds in Court.

It was referred to the Land Act Committee to consider and report whether it was desirable that application should be made to the Rule-making authority under the Supreme Court of Judicature (Ireland) Act, to make a rule providing that funds standing to the credit of the Accountant-General, and not otherwise expressly directed to be invested, be invested in Irish Land Stock, instead of, as at present, in Consols.

#### Certificate Duty.

The following resolution was adopted, and it was directed that a copy of same should be sent to the Chancellor of the Exchequer:—

RESOLVED—“That the Council of the Incorporated Law Society of Ireland hereby respectfully submit to His Majesty's Government that during the forthcoming Session of Parliament the financial proposals of His Majesty's Government should contain a provision whereby the annual duties payable by solicitors in Ireland under the provisions of

“the Stamp Act, 1891, would from and after the 5th day of January, 1910, be abolished or substantially reduced.”

The Council then adjourned.

#### Council Meetings.

MEETINGS of the Council will be held upon the following dates:—

February 10th and 24th.

March 10th and 24th.

#### Committee Meetings.

THE following Committee Meetings were held during January:—

Gazette, 18th.

Land Act, 19th, 22nd, and 25th.

Costs, 20th.

#### New Members.

THE following have joined the Society during January, 1909:—

Carrigan, John P., Thurles.

Corr, John, Coalisland.

Crawford, Samuel H., Dublin.

Donnelly, Alexander E., Omagh.

Healy, Enda B., Dublin.

Webb, Samuel C., Kilkenny.

Whitaker, H. T., Belfast.

#### Results of Society's Examinations.

AT the Preliminary Examination of candidates seeking to be bound as apprentices to solicitors, held upon the 4th and 5th days of January, the following passed the Examination, and their names are arranged in order of merit:—

1. James S. Boal.

2. Patrick R. Boyd.

3. Thomas S. Faloon.

4. John Meagher.

William P. Triston and William J. White passed the modified Preliminary Examination for which they had liberty to present themselves. Eight candidates attended; six passed; two were postponed.

At the Final Examination of apprentices seeking admission as solicitors, held upon the 6th and 7th January, the following passed the

examination, and their names are arranged in order of merit:—

1. Alfred E. Walker.
2. Thomas J. Dowdall.
3. John Johnson.
4. Patrick C. Markey.
5. William H. Girvin.
6. Patrick J. Kerley.

The Court of Examiners have awarded a Special Certificate to Alfred E. Walker.

Twenty-one candidates attended; six passed; fifteen were postponed.

Candidate No. 8 will not be permitted to again present himself for final examination until January, 1910.

### March Intermediate Examination.

The Intermediate Examination for apprentices will be held upon Monday, the 1st day of March, at twelve o'clock noon. Notices to be lodged on or before 15th February.

### Legal Appointments.

Mr. Michael D'Alton, Solicitor, of 70 Middle Abbey Street, Dublin, has been appointed Registrar to His Honour Judge Barry, County Court Judge of Counties Carlow, Kildare, Wexford, and Wicklow, in room of the late Mr. Henry A. Coffey, Solicitor.

Mr. Edward Joseph Mallins, Solicitor, of 7 Anglesea Street, Dublin, has been appointed Registrar to His Honour Judge Drummond, County Court Judge of Counties Cavan and Leitrim, in room of Mr. F. E. Kennedy, Solicitor, resigned.

Mr. Justice Andrews has appointed Mr. Hugh J. Jones, Solicitor, Waterford, to be District Probate Registrar at Waterford, in room of Mr. Vesey C. Nash, Solicitor, resigned. Mr. Jones was admitted a Solicitor in Michaelmas Sittings, 1899, and practises in Waterford.

Mr. Justice Johnson has appointed Mr. Vesey C. Nash, Solicitor, to be Marshal of the Court of Admiralty in room of Mr. Owen L. Wynne, resigned. Mr. Nash was admitted a Solicitor in Trinity Sittings, 1889, and practised in Cork until last October, when he was appointed District Probate Registrar in Waterford.

### Obituary.

Mr. Henry A. Coffey, Solicitor, died on the 11th January, 1909, at Dublin. Mr. Coffey, who served his apprenticeship with the late Mr. Robert O. Longfield, formerly of 62 Upper Sackville Street, Dublin, and latterly of 25 Clare Street, Dublin, was admitted in Hilary Sittings, 1880, and practised at 16 Talbot Street, Dublin.

Mr. William H. Nason, Solicitor, died on the 17th January, 1909, at Dublin. Mr. Nason, who served his apprenticeship with the late Mr. James Lane, of 33 North Great George's Street, Dublin, and Cork, was admitted in Trinity Term, 1874, and practised formerly at Middleton, Co. Cork, and subsequently at 17 Grantham Street, Dublin.

Mr. Anthony Nolan, Solicitor, died on the 30th January, 1909, at his residence, South Hill House, Nenagh. Mr. Nolan, who served his apprenticeship with the late Mr. Louis G. O'Neill, of Sandford Park, Dublin, was admitted in Michaelmas Term, 1862; and practised in Nenagh until 1907, when he retired.

Prior to his retiring he practised in partnership with Mr. John H. Dudley, who carries on the business under the style of Nolan and Dudley.

### New Solicitors.

#### ADMISSIONS DURING JANUARY, 1909.

Name.	Served apprenticeship to
Baker, Conyers,	Walter Nolan, Clonmel, and G. H. Sargent, Cahir, Co. Tipperary.
Campbell, Bernard,	Joseph Donnelly, Belfast.
Crawford, Samuel Hellyer,	Francis C. Joynt, Dublin.
Sweeney, Frank,	James E. O'Donnell, Londonderry.
Whyte, J. Campbell,	F. G. Dickson, Londonderry.

### Irish Land Act, 1903.

THE following further correspondence has passed between the Council and the Chief Secretary for Ireland:—

"The Incorporated Law Society of Ireland,  
Solicitors' Buildings, Four Courts."

"Dublin, 19th January, 1909."

"Sir—Referring to my letter to you of the 14th ultimo, enclosing memorandum on the subject of the percentage payable under the

Land Act of 1903 on pending sales, I am directed by the Council of this Society to state that they desire to add to that memorandum the following further paragraph:—

“(f) Estates which were inspected, or otherwise dealt with by the Congested Districts Board, on, or prior to, the 24th November, 1908.”

“My Council are anxiously awaiting the receipt of the communication referred to in your letter of the 15th ultimo to me, and my Council would be glad if you would consent to receive a small deputation, consisting of three members of the Council, in reference to the matters dealt with by the memorandum which I sent to you upon the 14th ultimo.

“I remain, your obedient servant,  
“W. G. WAKELY, Secretary.

“The Right Hon. the Chief Secretary for Ireland, M.P., Dublin Castle.”

“Chief Secretary’s Office, Dublin Castle,  
“January 19th, 1909.

“Sir,—With reference to your letter of 14th ultimo, forwarding a memorandum by the Council of the Incorporated Law Society of Ireland on the subject of the Irish Land Bill, I am directed by the Chief Secretary to state that since the introduction of the Bill its financial clauses have received further consideration, with the result that the Government have decided to make certain alterations in the Bill as it will be re-introduced early next Session.

“It is intended to provide in the new Bill:—

“(1) That the original rate of bonus—12 per cent—shall be paid in respect of agreements lodged with the Land Commission or entered into by the Land Commission or the Congested Districts Board up to 24th November, the date of the Treasury revision.

“(2) That the acceptance by the vendor of the Estates Commissioners’ preliminary estimate of price shall, for the purpose of the bonus only, be deemed to be an agreement, although the formal purchase agreement was not signed until after 24th November. Cases of proposed purchase which have not reached the stage of acceptance by the vendor of the Commissioners’ preliminary estimate of price will not be included under the head of agreements made on or before 24th November.

“(3) That in the case of estates sold to persons other than the Estates Commissioners or the Congested Districts Board, in respect of which some, but not all, of the purchase agree-

ments were lodged with the Land Commission on or before 24th November, the bonus of 12 per cent. shall be payable only in respect of the purchase-money represented by agreements so lodged.

“(4) That the bonus of 12 per cent. shall be payable in respect of the purchase-money of land in regard to which the Estates Commissioners have published notices in the *Dublin Gazette* under section 2 (1) of the Evicted Tenants Act, 1907, provided that either:—

“(a) An offer to purchase under sub-section (4) of that section was made before 24th November, 1908, or (b) the vendor had before that date accepted the Commissioners’ preliminary estimate of price, and an offer to purchase at the price is subsequently made under sub-section (4) of the said section.

“It must be understood that while it is the present intention of the Government to make the alterations above indicated, they must not be understood to be giving final pledges on the subject.

“The Chief Secretary considers that the matter in question cannot properly be made the subject of Treasury notice in the *Gazette*, as suggested by your Council, but he offers no objection to the publication of this letter.

“I am, sir, yours truly,  
“C. T. BEARD.

“W. G. WAKELY, Esq.,  
“Secretary to the Incorporated Law Society of Ireland.”

“The Incorporated Law Society of Ireland,  
“Solicitors’ Buildings, Four Courts,  
“Dublin, 21st January, 1909.

“Sir,—I beg to acknowledge the receipt of your letter of the 19th instant, which will be considered at the next meeting of the Council of this Society.

“I remain, your obedient servant,  
“W. G. WAKELY, Secretary.

“The Right Hon. the Chief Secretary for Ireland, M.P., Dublin Castle.”

“Chief Secretary’s Office, Dublin Castle,  
“22nd January, 1909.

“Sir,—With reference to your further letter of the 19th inst. raising the additional question of the percentage to be payable in the case of sales to the Congested Districts Board which were pending, on 24th November, 1908, I am

desired by the Chief Secretary to state, for the information of the Incorporated Law Society of Ireland, that this particular matter is under the consideration of the Government, and that a decision will be arrived at before the Irish Land-Bill is re-introduced.

"As regards the proposal of the Society to send a deputation, Mr. Birrell apprehends that his letter of 19th inst., which crossed your letter under reply, renders it unnecessary that he should put a deputation to the trouble of waiting upon him.

"I am, Sir,

"Yours truly,

"C. T. BEARD.

"W. G. WAKELY, Esq.,

"Secretary, Incorporated Law Society of Ireland."

"Solicitors' Buildings, Four Courts, Dublin.

"27th January, 1909.

"Sir,—I have submitted your letters of the 19th and 22nd instant this day to the Council of this Society, and I am desired to express to the Chief Secretary the thanks of the Council for same.

"The Council desire again to bring under the attention of the Chief Secretary the importance, not only to vendors, but also to tenants, with the view to facilitating sales, that the bonus of 12 per cent. should be allowed in every case in which an Originating Request was lodged prior to the 24th November, 1908, or where an Originating Application was lodged and the vendor had, prior to that date, at the request of the Estates Commissioners, stated that he would allow such Originating Application to be treated as an Originating Request.

"The Council submit that the lodging of an Originating Request under section 6 is tantamount to a proposal for sale, and if subsequently acted on, the agreement should relate back in point of date as these are cases in which the vendor had completed his work, but the contract for sale was not closed on the Estates Commissioners' part, in consequence of the pressure of business in the Estates Commissioners' Office.

"There are other matters in connection with the bonus which my Council believe could be more satisfactorily dealt with at an interview than by correspondence, and accordingly I am desired to request the Chief

Secretary to be so good as to receive the President and two Vice-Presidents of the Society, who can convey to him the views of the Council:

"I remain, Sir,

"Your obedient servant,

"W. G. WAKELY,

"Secretary.

"C. T. BEARD, Esq.,

"Chief Secretary's Office,

"Dublin Castle."

#### Estates Duty Office.

The following notice, dated the 16th January, 1909, has been issued by the Registrar of the Estates Duty Office:—

"In order to facilitate the discharge of the Public business, a Special Officer is now provided for the purpose of checking the figures contained in Inland Revenue affidavits and accounts. Solicitors who have Affidavits or Accounts awaiting assessments which contain lengthy schedules of Stocks and Shares, or Rentals, etc., are requested to hand the same to the Arithmetical officer, in order that the figures may be checked before proceeding to the Examiner to have the duty assessed. By so doing, they will avoid delay and will facilitate the discharge of the Official business."

#### Labourers (Ireland) Act, 1906.

THE official reports of all the judgments of the Judges of the Court of Appeal in the case of *The King (Mowbray and Stourton) v. The Local Government Board* have not yet been received, but it is hoped that they will be received in time for publication in the *Gazette* of next month.

#### Dates of Spring Assizes, 1909:

##### NORTH-EAST CIRCUIT.

Co. Meath.—At Trim, Saturday, February 27th, at 11.30.

Co. Louth.—At Dundalk, Monday, March 1st, at 11.

Co. Monaghan.—At Monaghan, Thursday, March 4th, at 11.

Co. Armagh.—At Armagh, Monday, March 8th, at 11.



County Down.—At Downpatrick, Friday, March 12th, at 12.

Co. Antrim.—At Belfast, Tuesday, March 16th, at 12.

City of Belfast.—At Belfast, Friday, March 19th, at 10.30.

NOTE.—Co. Antrim appeals will be taken up in the City Court immediately after the opening of the Co. Antrim Commission.

*Judges.*—Rt. Hon. Mr. Justice Gibson and Rt. Hon. Mr. Justice Madden.

*Registrars.*—The Hon. Edward Gibson, Clonlea, Sandyford, Co. Dublin; and Mr. W. H. Atkinson Eyre, Nutley, Booterstown, Co. Dublin.

#### NORTH-WEST CIRCUIT.

Co. Westmeath.—At Mullingar, Monday, March 1st, at 11.

Co. Longford.—At Longford, Tuesday, March 2nd, at 11.

Co. Cavan.—At Cavan, Thursday, March 4th, at 11.

Co. Fermanagh.—At Enniskillen, Saturday, March 6th, at 11.

Co. Tyrone.—At Omagh, Tuesday, March 9th, at 11.

Co. Donegal.—At Lifford, Monday, March 15th, at 11.

Co. Londonderry.—At Londonderry, Thursday, March 18th, at 11.30.

Londonderry City.—At Londonderry, Friday, March 19th, at 10.30.

*Judges.*—Lord Justice Holmes and Mr. Justice Kenny.

*Registrars.*—Mr. H. O. Holmes, 34, Trinity College, Dublin; Mr. E. H. Kenny, Marlfield, Cabinteely, Co. Dublin.

#### CONNAUGHT CIRCUIT.

King's County.—At Tullamore, Monday, March 1st, at 11.30.

Co. Leitrim.—At Carrick-on-Shannon, Wednesday, March 3rd, at 2.

Co. Sligo.—At Sligo, Tuesday, March 9th, at 12.

Co. Roscommon.—At Roscommon, Monday, March 15th, at 11.

Co. Mayo.—At Castlebar, Friday, March 19th, at 2.

Co. Galway.—At Galway, Friday, March 26th, at 12.

*Judges.*—Rt. Hon. Mr. Justice Andrews and Rt. Hon. Mr. Justice Johnson.

*Registrars.*—Mr. James T. Andrews, 1 Waterloo Road, Dublin; and Mr. Harold Murphy, 15 Herbert Street, Dublin.

#### MUNSTER CIRCUIT.

Co. Clare.—At Ennis, Tuesday, March 2nd, at 11.

Co. Limerick.—At Limerick, Saturday, March 6th, at 11.

City of Limerick.—At Limerick, Saturday, March 6th, at 11.

Co. Kerry.—At Tralee, Thursday, March 11th, at 12.

Co. Cork.—At Cork, Thursday, March 18th, at 11.

City of Cork.—At Cork, Saturday, March 20th, at 11.

*Judges.*—Mr. Justice Kenny and Mr. Justice Dodd.

*Registrars.*—Mr. T. W. Wright, 25 Henry Street, Dublin; and Mr. Huston Dodd, 94 Marlborough Road, Donnybrook, Dublin.

#### LEINSTER CIRCUIT.

Co. Wicklow.—At Wicklow, Monday, March 1st, at 12.

Co. Wexford.—At Wexford, Tuesday, March 2nd, at 11.

Co. Waterford.—At Waterford, Wednesday, March 3rd, at 12.

City of Waterford.—At Waterford, Wednesday, March 3rd, at 12.

Co. Tipperary (South Riding).—At Clonmel, Friday, March 5th, at 11.

Co. Tipperary (North Riding).—At Nenagh, Monday, March 8th, at 1.

Queen's County.—At Maryboro', Wednesday, March 10th, at 11.30.

Co. Kilkenny.—At Kilkenny, Thursday, March 11th, at 11.

Co. Carlow.—At Carlow, Saturday, March 13th, at 11.

Co. Kildare.—At Naas, Monday, March 15th, at 11.

*Judges.*—The Rt. Hon. the Lord Chief Justice (Lord O'Brien) and the Rt. Hon. the Lord Chief Baron.

*Registrars.*—Mr. Cholmondeley B. Clarke, Airfield, Donnybrook, Co. Dublin; and Mr. Francis Kennedy, Lissadel, Blackrock, Co. Dublin.

### The Land Commission.

#### SITTINGS OF THE COURT.

The following sittings of the Court of the Land Commission for hearing appeals have been provisionally arranged:—

Dublin, February 25th, 1909; Leinster (part of).

Belfast, March 2nd, 1909; County Antrim and County Down.

Cork, March 9th, 1909; County Cork (part of).

Dublin, March 18th, 1909; Leinster (part of).

Castlerea, March 23rd, 1909; County Roscommon (part of).

#### Reported Cases on Costs.

THIS book, published by the Society some years ago, contains a collection of *verbatim* reprints of the Reports of cases relating to costs decided in Ireland from 1867 to 1891; and also of such of the English cases on the Solicitors' Remuneration Act up to 1891 as are applicable to the law in Ireland. It consists of 735 pages. The remaining copies will be sold at the reduced price of 5s., postage 6d. extra, and can be obtained from the Secretary of the Society, Four Courts.

#### Calendar of Incorporated Law Society, 1909.

THE Calendar and Law Directory, published by the Society, for 1909, can be obtained in the Secretary's office, price three shillings, or by post three shillings and fourpence.

#### Solicitors' Benevolent Association.

A MEETING of the Directors was held on the 13th day of January, 1909, Mr. Wm. Fry, J.P., in the chair, and fourteen other members present.

The Secretary reported having received £269 17s. 0d. in annual subscriptions since 1st January, a donation of £10 10s. 0d. from Sir Benjamin Whitney, and a life subscription of £10 10s. 0d. from Mr. Charles Gamble.

Grants amounting to £90 were made to eight applicants since 1st January.

Mr. W. H. Corker was enrolled a member since previous meeting.

A meeting of the Directors was held on the 27th day of January last, Mr. Wm. Fry, J.P., in the chair, and eleven other members present.

The Secretary reported having received £69 6s. 0d. in annual subscriptions since last meeting, and donations £10 10s. 0d. from Mr. Richard S. Reeves, and £5 5s. 0d. from Mr. R. Blair White.

Candidates were selected for the election of an Annuitant of £15, the election to be held on the 24th of the present month.

Three applications for relief were received, and grants of £10 made to each.

The following new members were enrolled since previous meeting:—

Mr. James Cecil Parke, Clones.

Mr. John Corr, Coalisland.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 116 Grafton Street, Dublin.

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2807 (2 lines).

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. II., No. 9.]

March, 1909.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*February 10th.*

THE Council met upon Wednesday, the 10th February. The President (Mr. W. J. Shannon) in the Chair, and thirty other members were present.

#### Transfer of Government Securities.

Letters acknowledging the receipt of the Resolution of the Council relative to the transfer of Government Securities were read from the Prime Minister, The Chief Secretary, Mr. Long, M.P., Mr. Field, M.P., Mr. Waldron, M.P., the Secretary of the Bank of Ireland, the Secretary Stock Exchange, and from the Secretary of the English Law Society. It was resolved that Mr. Waldron, M.P., be asked to move for a return of the income derived from Stamp Duty on Letters of Attorney for the sale or transfer of Government Stocks.

#### Certificate Duty.

A letter was read from the Chancellor of the Exchequer acknowledging the receipt of Resolution of the Council advocating the abolition or reduction of solicitors' certificate duty.

#### Land Act.

A letter was read from the Chief Secretary, asking for a statement of the points which the Council are desirous should be discussed with him by a deputation, as to the payment of the Bonus under the Land Act, 1903. A statement, which had been prepared by the Land Act Committee, was submitted; and a further letter was read from the Chief Secretary, acknowledging its receipt. This statement will be found in detail in this *Gazette*.

#### Bankruptcy Practice.

A letter was read from a member of the profession, drawing attention to the fees paid

to solicitors examined as witnesses in bankruptcy cases, and the matter was referred to the Costs Committee.

#### Certificates.

Applications by two solicitors for a renewal of their certificates under section 47 were considered, and both applications were granted.

#### Preliminary Examination.

A memorial from a law clerk, under section 18, for a modified preliminary examination was considered, and it was decided not to oppose the application.

#### Bankruptcy Law.

A report from the special Committee of the Council appointed to consider the report of the Departmental Committee of the Board of Trade of April, 1908, on Bankruptcy Law was submitted and adopted; and it was resolved that the purport of same should be communicated to the Dublin Chamber of Commerce.

*February 24th.*

The Council met upon Wednesday, the 24th February. Mr. Orpen (Vice-President) in the Chair, and twenty-seven other members were present.

#### Land Commission Regulations.

A letter was directed to be written to the Secretary of the Irish Land Commission requesting him to furnish to the Society such departmental regulations of the Land Commission as may be made from time to time, so that same may be inserted in the *Gazette* of the Society.

#### Certificates.

Applications by two solicitors for renewal of their certificates, under section 47, were considered. One was granted, and the other was refused.

**Lectures.**

An application by an apprentice who had missed three lectures during Hilary Sittings owing to ill-health, asking for credit for such lectures, was considered, and permission was granted to supplement such lectures by attendance at two additional lectures during Easter and Trinity Sittings.

**Costs Committee.**

A report from the Costs Committee was submitted and adopted upon the following query as to what costs the vendor's solicitor was entitled to under the following circumstance:—Leasehold property of a deceased was put up for sale by auction in several lots. Lot No. 8 was sold for £150, the purchaser signing a contract, and paying £12 10s. deposit, and £7 10s. auction fees. Abstract of title and documents to vouch were sent to her solicitor; his requisitions were discharged, draft conveyance approved of and returned; but it then turned out that the purchaser had not money to complete, and time was given for her to raise it. After attempts to obtain the purchase-money failing, the lot was put upon house agents' books for sale, and a purchaser offered £150, but declined to proceed on inspecting abstract of title and copies of deeds which had to be re-drawn, as the original purchaser refused to return those furnished to him. Finally, the lot was sold privately for £125. £10 of the original deposit was, with consent of vendors, returned to the original purchaser.

The decision of the Council was that the vendors' solicitor is entitled to the scale fee on the completed sale at £125, and also to remuneration for the work done (in so far as such work is not covered by the scale fee on the completed sale) in connexion with the attempted sale to the first intended purchaser, drawn under the old system as altered by Schedule II.

**Labourers (Ireland) Act.**

Letters from two solicitors in reference to taxation of owners' costs for making title were submitted, one of which was referred to the Costs Committee to be dealt with, and a reply to the other was approved of.

**Council Meetings.**

MEETINGS of the Council will be held upon the following dates:—

March 10th and 24th.

April 21st.

**Committee Meetings.**

THE following Committee Meetings were held during February:—

House, Library, and Finance, 3rd.

Land Act, 5th.

Bankruptcy Law, 5th.

Gazette, 17th.

**New Members.**

THE following have joined the Society during February, 1909:—

Elliot, Thomas J., Belfast.

Magee, John H., Donegal.

Russell, Charles M., Downpatrick.

Walsh, Henry St. P., Tralee.

**Commissioners to administer Oaths.**

THE Lord Chancellor has appointed the following to be Commissioners to administer Oaths:—

Louis A. Finnegan, Income Tax Collector; Abbeyleix.

Walter John Joyce, Portumna.

Denis O'Carroll, Clerk of Rural District Council, Castlecomer.

James Rankin, Clerk of Petty Sessions, Garvagh.

**Obituary.**

MR. William S. O'B. Leahy, Solicitor, died on the 1st February, 1909, at his residence; Licadon, Limerick. Mr. Leahy served his apprenticeship with his father, the late Mr. Michael Leahy, of Newcastle West, County Limerick, and was admitted in Hilary Term, 1875.

Mr. Leahy, who practised in Limerick, was appointed Sessional Crown Solicitor of Limerick in 1892, and Crown Solicitor in 1893, which office he held up to 1907, when he resigned. He latterly practised in partnership with his son, Mr. Edward Leahy, who carries on the business under the style of Leahy & Son.

Mr. James J. W. Savage, Solicitor, died on the 27th February, 1909, at his residence, The Square, Castleblayney.

Mr. Savage, who served his apprenticeship with Mr. Hunter Moore, Solicitor, of Newry, was admitted in Hilary Sittings, 1887, and practised formerly in Newry, and latterly in Castleblayney.

Mr. Edward V. Garland, Solicitor, died on the 26th February, 1909, at his residence, 35 Highfield Road, Rathgar, Co. Dublin.

Mr. Garland, who served his apprenticeship with the Right Hon. Sir Patrick Coll, K.C.B., P.C., was admitted in Hilary Sittings, 1880, and practised formerly (in partnership with Mr. E. D. MacLaughlin) at 4 Palace Street, and latterly at 73 Dame Street, Dublin.

**New Solicitors.**

**ADMISSIONS DURING FEBRUARY, 1909.**

Name.	Served apprenticeship to
Dowdall, Thomas J.,	Patrick J. Noonéy, Mullingar.
Hawthorne, James Woods,	James L. Galway, Belfast.
Purcell, Walter,	Barry C. Galvin, Cork.
Thom, Charles,	William H. Carson, Belfast.

**Irish Land Act, 1903.**

THE following further correspondence has passed between the Council and the Chief Secretary for Ireland:—

“Chief Secretary’s Office, Dublin Castle,  
“2nd February, 1909.

“Sir,—I have placed your further letter of 27th January before the Chief Secretary, who instructs me to say that he does not at present see any necessity for putting a deputation of the Council of the Incorporated Law Society to the trouble of waiting upon him.

“The Chief Secretary suggests that the Council should, in the first instance, submit to him a full statement in writing upon the subject which they wish to discuss, and upon consideration of that statement he would be in a position to judge whether any further purpose could be served by receiving a deputation.

“I am, sir, your obedient servant,

“C. T. BEARD.

“W. G. WAKELY, Esq.,  
“Secretary, the Incorporated Law Society of Ireland.”

“The Incorporated Law Society of Ireland,  
“Solicitors’ Buildings, Four Courts,  
“Dublin, 6th February, 1909.

“Sir,—I beg to acknowledge the receipt of your letter of the 2nd inst.; and in accordance with the suggestion therein contained, I am directed to send to you, for the information of the Chief Secretary, the enclosed memorandum, which contains a statement of the subjects which the Council desire to discuss with the Chief Secretary.

“The Council would call attention to the fact that there are many particulars, the facts of which they would desire to bring before the Chief Secretary, and that it would be difficult to do so in correspondence.

“The Council also consider that in discussing the contents of the enclosed memorandum a deputation would be able to give the Chief Secretary information as to the actual working of the Land Act, 1903, which would be of assistance to him in considering the points raised in the memorandum.

“Under these circumstances the Council trust that the Chief Secretary will grant an interview to the President and two Vice-Presidents, either in Dublin or in London.

“I am, sir, your obedient servant,

“W. G. WAKELY, Secretary.

“C. T. BEARD, Esq.,  
“Chief Secretary’s Office, Dublin Castle.”

The Incorporated Law Society of Ireland.

MEMORANDUM, with regard to the Bonus on Estates sold under section 6 of the Irish Land Act, 1903.

It appears from the Land Commission Return, dated 19th November, 1908, that the Originating Requests under sect. 6, lodged prior to 1st November, 1908, comprise:—

- (1) Estates for purchase of which advances have been made, £2,424,820
- (2) Estates for which offers to purchase have been made and accepted by the owners, 3,737,779
- (3) Estimated purchase-money of 164 other estates, which have been offered under sects. 6 and 8, 1,347,774

£6,162,699

£7,510,373  
(1) have got, and (2) will get, a Bonus of 12 per cent. under the terms of Mr. Birrell’s

letter to the Incorporated Law Society. The only question remaining is therefore the providing of a 12 per cent. Bonus on £1,347,774, which sum will probably be reduced by the Estates Commissioners:

Assuming that the prices fixed by the Estates Commissioners in respect of this land, estimated in value for £1,347,774, to be under 22 years' purchase, the Bonus under the new Bill would be at least 6 per cent., *i.e.* £80,866; if 12 per cent. bonus is given, £161,732. The amount, therefore, involved in providing the full 12 per cent. Bonus on all outstanding sections 6 and 8 cases up to the 1st November, 1908, is about £80,000.

*Reasons why the full bonus of 12 per cent. should be paid on all estates in respect of which Requests were lodged prior to 24th November, 1908, or which are sold to the Estates Commissioners under section 6.*

The cases in which vendors lodged Originating Requests, instead of Originating Applications, come under the following heads:—

(1) Cases in which vendor had, in addition to his tenanted land, land in hand including very often turf bogs. In such cases tenants agreed to the purchase prices of their holdings only on the vendor undertaking to sell the whole estate to the Estates Commissioners, so that the untenanted land might be split up amongst the tenants.

In these cases, the tenants' purchase-moneys were agreed to before the request was lodged, and the tenants signed either undertakings to repurchase at the agreed prices, or a preliminary agreement fixing purchase-moneys. From the date of such undertakings or agreements, the tenants have ceased to pay rent, and pay interest on their purchase-moneys to the vendor. It is now practically impossible for the vendor to go back on his arrangement with his tenants.

(2) Cases in which the tenants refused to purchase unless the estate was sold to the Estates Commissioners for re-sale to them. The reasons why the tenants wished the sale to take place under section 6 were (*inter alia*):—

(a) Early in the working of the Act of 1903 there was an impression amongst the tenants that, in case of a direct sale to them under section 1: no grants could be made by the Estates Commissioners for the improvement of holdings. In consequence of this, the tenants were advised not to agree to the purchase prices suggested by the vendor,

unless he undertook to sell to the Estates Commissioners under section 6.

(b) Cases in which the tenants were advised to agree to the landlord's terms, provided he agreed to sell under section 6. The object of this was to ensure that every holding would be inspected, and on inspection the tenants could raise questions of value, enlargement of uneconomic holdings, &c. This could not be done where they signed agreements under section 1 within the zones. In all these cases, the landlord and tenant agreed to terms of sale, and undertakings for a preliminary agreement were signed.

The result is shortly thus:—

If the vendor had succeeded in getting his tenants to sign formal agreements under section 1, and had refused to allow them to have any of his untenanted land, and had lodged these agreements on or before the 24th November, 1908, he would not only have the protection of the zones, but would also be entitled to the full 12 per cent. bonus; and because he agreed to sell under section 6, which gave the Estates Commissioners an opportunity of inspecting for value, and of enlarging uneconomic holdings, he should not lose the protection of the zones, and get a diminished bonus.

The case of a vendor lodging an Originating Request without having previously arranged terms with his tenants, is practically unknown. The 164 cases in respect of which the £1,347,774 had been applied for, do not, in all probability, contain more than one or two cases in which the vendor merely lodged an Originating Request without in the first instance coming to terms with his tenants.

The question of the amount of bonus is important in another class of case which has arisen, and will in future arise, *i.e.*—

(3) Cases where the vendor lodged an Originating Application and purchase agreements under section 1, and the Estates Commissioners find on inspection that:—

(a) Some of the holdings are uneconomic.

(b) Some of the holdings are held in rundale or intermixed plots.

(c) Vendor had untenanted land or grass lands which were not included in the Originating Application. The Estates Commissioners in such cases required the vendor to turn the Originating Application into a Request, in order that they might buy the whole estate,



including any lands in hands, re-arrange the holdings, and make them economic. In many such cases the vendor has, at the request of the Commissioners, agreed to adopt this course two or more years ago, on the mutual understanding that a 12 per cent. bonus would be paid.

(4) Cases in which a vendor had tenanted land and also untenanted land. The vendor before or after he had arranged terms with his tenants (in some cases he had actually lodged his Originating Application and Agreements) received a communication from the Estates Commissioners calling his attention to the fact that he had untenanted land, and asking him would he allow such untenanted land to be inspected. The vendor consented.

The Commissioners estimated the price of the untenanted land (which price the vendor expressed himself willing to accept) and required the vendor:—

(a) To lodge an Originating Request for the tenanted and untenanted land, or

(b) To turn the Originating Application already lodged into a Request, and include in it the untenanted land which had been valued.

#### AS THE LAW NOW STANDS.

Thus, in the case of good estates with substantial and strong tenants where no alteration in procedure is necessary a bonus of 12 per cent. will be paid, while a poor congested estate, with small tenants, will only get a bonus of 3 per cent.

In this connexion it is right to remember that the *Treasury* have already estimated for a bonus of 12 per cent. on estates in respect of which Originating Application and Agreements under section 1 were lodged on or prior to 24th November, 1908. The foregoing observations apply to such cases. The turning of an Originating Application into a Request means that the Estates Commissioners will inspect for value. They will not increase the price agreed to by the vendor, and will, in all probability, reduce it. This means that if the Government agree to the foregoing suggestions, the *Treasury* will not have to pay more than they have already estimated for, and will probably have to pay a great deal less.

#### CONGESTED DISTRICTS BOARD CASES.

The cases of sales to the Congested Districts Board where the "agreement" under section 79 has not been made does not appear to be covered by Mr. Birrell's letter of the 19th

January, 1909. In these cases the purchase-money has been arranged between the vendor and the Congested Districts Board, on the distinct understanding that a Bonus of 12 per cent. would be paid, and the Board have, in many cases, actually gone into possession of the estates, and into receipt of the rents and profits, and since the date of the agreement have paid the vendor interest on the agreed purchase-money at  $3\frac{1}{2}$  per cent.

#### *Suggested Method of Providing for the Foregoing Cases in the Irish Land Bill, 1909.*

For the purpose of meeting the foregoing cases it is suggested that sections should be introduced into the Irish Land Bill, 1909, as follows:—

(1) The percentage payable under section 48 of the Act of 1903 shall be calculated at the rate of 12 per cent. in respect of:—

(a) The purchase-money of estates in respect of which Originating Requests under section 6 of the Act of 1903 were lodged on or prior to 24th November, 1908.

(b) The purchase-money of estates in respect of which Originating Applications under section 1 of the Act of 1903 were lodged on or prior to 24th November, 1908, and which Originating Applications have been, or may hereafter be, changed into Originating Requests with the consent of the vendor, and by the direction of the Estates Commissioners.

(c) Purchase agreements lodged after the 24th November, 1908, in substitution for, or in modification of, purchase agreements lodged on or prior to the 24th November, 1908.

(d) The purchase-money of estates which the Congested Districts Board on or prior to the 24th November, 1908, offered to purchase at a price which the vendor accepted. The acceptance by the vendor of the Board's primary offer shall, for the purpose of the bonus only, be deemed to be an agreement, although the agreement under section 79 of the Act of 1903 was not signed till after the 24th November, 1908.

Solicitors' Buildings, Four Courts,

Dublin, 5th February, 1909.

"Irish Office, Old Queen Street, S.W.,  
9th February, 1909.

SIR,—I have placed before the Chief Secretary your letter of 6th instant, with

accompanying memorandum, containing a statement of the matters which your Council desire to discuss with him. The Chief Secretary directs me to say, in reply, that he will give full consideration to the subject of the memorandum, and will then cause a further communication to be addressed to you with reference to the proposed deputation.

"I am, Sir,

"Your obedient servant,

"C. T. BEARD.

"The Secretary,

"Incorporated Law Society of Ireland."

### Recent Decisions affecting Solicitors.

(Notes of decisions, whether in reported or unreported cases, of interest to Solicitors are invited from Members.)

#### COURT OF APPEAL.

(Before Sir Samuel Walker, Bart., C.; Palles, C.B.; FitzGibbon and Holmes, L.JJ.)

*The King (Mowbray and Stourton) v. The Local Government Board for Ireland.*

January 20, 21, 27, 1909—Local Government—Labourers Acts—Costs—Taxation of—Fixing of Fees.

APPEAL by the Local Government Board against Order of King's Bench Division, dated 16th November, 1908, making absolute a conditional order for a writ of *certiorari* quashing a certificate given by the Local Government Board under Rule 55 of the Labourers (Ireland) Order, 1906, made under section 31 of the Labourers (Ireland) Act, 1906.

Order appealed against confirmed.

The facts are fully stated in report of proceedings before the King's Bench Division, contained in December, 1908, number of GAZETTE.

THE LORD CHANCELLOR:—

There were three questions argued in this case. (1) Whether *certiorari* lay to bring up and quash the order of the Local Government Board, which certified an amount of £4 11s. 4d. as the sum payable for the costs of the owner, but this question really comes in more appropriately last in order.

The great question is the true construction of the 31st. sect. of the Labourers Act, and what might be done under it. The question whether the section has been carried out, lawfully in this case hardly requires discussion,

because the Solicitor-General admitted that if *certiorari* lay he could not support the order impeached; but he said that on account of the reasons given by the Judges of the King's Bench Division, and the *dicta* and doubts appearing in the judgments, the Local Government Board was forced to obtain the opinion of this Court on the construction of the section, and ask for its guidance in acting under the section. I think he is entitled to obtain our opinion for the guidance of this great public body, and he contended, and I think rightly, that if the reasons for the judgments below remained unchallenged, the 31st. sect. would be rendered wholly inoperative. The important question is that which the Local Government Board has brought this appeal for the purpose of having decided—the true construction of sect. 31 of the Labourers Act, 1906. Does it apply to the costs of owners of land whose lands are being compulsorily taken? Does it enable the Local Government Board to frame a scale of costs applicable to owners' costs? And does it enable the Local Government Board to appoint an independent authority to tax those costs, having regard to the scale which they may frame, the amount of which, when measured, the Board will certify for the payment of by the local authority?

The erection of labourers' cottages and acquisition of sites for them has, since 1883, been the object and subject of numerous legislative provisions ending with the Labourers Act of 1906.

There are two stages quite distinct dealt with by the code—one the obtaining of the power to acquire the sites, and the other the acquisition of sites from the owners when the power had been obtained. The first of these processes underwent many changes in the course of simplification and struggle for economy. Beginning with what was equivalent to an Act of Parliament, it, finally, by the provisions of sect. 6 of the Act of 1906, only needs now an order of confirmation by the Local Government Board after inquiry had, in order to obtain the effect of an Act of Parliament.

The costs incident to this first stage were considered burdensome, and the lessening of them was provided for by sect. 12 of the Act of 1885, which enacts: [His Lordship read sub-sects. 6 and 7.]

Sub-s. 7 is carried out by an Order in Council of 29th January, 1897, which provides:—"If the Lord Lieutenant in Council order costs to be paid by any party, a sum may be fixed by such order as and for the said costs, or such

costs may by the said order be referred for taxation to the Crown and Treasury Solicitor, and the sum certified under his hand shall be the sum payable in respect of such costs."

The costs of the owners of the lands acquired were not yet dealt with by legislation. They remained as they stood under the Lands Clauses Acts, the Railways Act of 1851, and the 2nd schedule to the Housing of the Working Classes Act of 1890. Those costs were taxable by the officer of the Court, and measured by reference to the scale provided by the Act of 1881 (44 & 45 Vict. c. 44). The question is whether this portion also of the expense of the acquisition of sites for labourers' cottages is not dealt with by the provisions of the Act of 1906. Speaking generally, the object of that Act as regards the acquisition of sites is to acquire them (1) more expeditiously and (2) more economically; expedition in obtaining a complete improvement scheme is obtained by the drastic provisions of sects. 5 and 6 of the Act of 1906.

Then we approach the question whether the owners' costs are dealt with.

There is no doubt that under s. 11 material alterations are made in respect of money lodged in Court, and sub-s. 12 expressly cuts down County Court costs. Sub-s. 4 is important, as it deals with a case where conveyancing costs would have come in, and it also provides that "no approval fee or other charge shall be payable by the District Council in respect of any receipt given" in pursuance of the sub-section. This is a direct interference with solicitors' charges. Then after financial clauses which intervene there comes the clause—the vital one—sect. 31. [His Lordship read the section, and continued.]

First, the subject dealt with in previous legislation was embraced, and then it brings in the head of the solicitors' profession as interested parties; and after dealing with the subject of sect. 12 in the Act of 1885 it passes on to an obviously additional subject. The words are "any fees." Is this limited to "fees" of the kind suggested by Mr. Matheson? "Fees" is the technical description of solicitors' remuneration, "fees, charges, and disbursements." The words that follow are of the widest kind, "any costs," and the two stages are mentioned—those dealt with already in sect. 12 of the Act of 1885, "and the carrying into execution of improvement schemes," i.e., up to their close.

In my opinion the argument as to the construction of this section of Serjeant O'Connor and Mr. Matheson cannot be reconciled with

the language of the section or its policy. It would practically leave sect. 31 inoperative if we were to confine it to mere procedure or to the giving of a requisition or the leaving the old law as to owners' costs unaltered.

I have no doubt that the section authorizes the fixing of a scale for solicitors' charges and the creation of an authority to tax by reference to the scale.

The Solicitor-General did not contend that he could support the order of the Local Government Board, even if the construction of sect. 31 which he contended for and I adopt were correct, because when we come to test the order, it fixes the costs by a scale non-existent, and leaves no authority in Mr. Mecredy.

Mr. Justice Gibson doubts whether the construction of the section is what I think it is, but he does not decide the point.

Mr. Justice Madden deprives sect. 31 of all operation in the directions I have mentioned, and Mr. Justice Kenny thinks the language not clear enough to justify a taxation on any but the old recognized schedule of fees and charges and by the old authority. But I think it clear the section authorizes the fixing of a scale of costs for owners—costs, reasonable and moderate, having regard to the subject-matter—and also authorizes the setting up of an independent authority to tax. The selection of the authority lies, I think, with the Local Government Board.

I wish to make the observation in respect of the scale prescribed in August, 1908, or any other scale, that I think no scale or rule can be supported which excludes in terms or impliedly the owner from attending on the taxation.

I emphasize the word "excludes."

It will be for the Local Government Board to frame a legal scale and appoint an authority to tax authorized by the 31st section.

Lastly comes the question whether *certiorari* lies. If what they did was a ministerial act merely, *certiorari* would not lie. The Local Government Board exercises both ministerial and judicial functions. It is settled that the certificate of a taxing officer cannot be quashed on *certiorari*; and the *Tyrone Case*, 10 Law Rep. Ir., decides that this is so, though the taxation is made a condition precedent to liability. At first I was inclined to think that sect. 31 did not go beyond this, but for the purpose of seeing what the Local Government Board did in this case we must apply every word of the 31st sect. and Rule 55, under which they

acted. The section says that the Board may provide for the taxation and payment of any costs to be received, allowed, or paid. Rule 55, which for this purpose we must assume to be *intra vires*, provides that the owners' costs shall be referred to the Board, who shall arrange for the taxation of the same; and the sum which, after taxation, the Board may certify shall be the sum payable. [His Lordship read the certificate of 13th April.] It is admitted that taxation was a condition precedent, and they decide what is to be paid. The fact that their decision is illegal does not help, because that element exists in the case of every illegal judicial act capable of being quashed. As a general rule *certiorari* lies wherever the judicial act complained of imposes liability or affects a right. I think, therefore, *certiorari* lies.

I may observe that in the *Tyrone Case* the Chief Justice relies strongly on the circumstance that the Chairman did not make and could not make any order for payment of the costs; but this is exactly what the Local Government Board does in this case.

#### THE LORD CHIEF BARON:—

Two questions have been dealt with by the judgments in the King's Bench Division, and argued by counsel here, viz.:—(1) Whether the action of the Local Government Board was within the jurisdiction conferred upon them by sect. 31 of the "Labourers (Ireland) Act, 1906"; and (2), if not, whether the Act by which they purported to exercise that jurisdiction, whether it be called a certificate or an order, is examinable upon *certiorari*.

Of these questions, the latter is first in logical order; but when it comes to be considered, it will be found to be inextricably mixed up with the first question—that of the merits. I say this because if, upon the true construction of this 31st section, the General Rules which the Local Government Board has jurisdiction to make do not extend to fixing any scale of solicitors' fees, if those Rules cannot provide any authority other than the taxing masters of the Supreme Court to tax the costs in question, and if the Rules under that section must be restricted, so far as regards the costs of the vendor's solicitor, to limiting the periods of time within which those costs must be furnished to local authorities, to requiring local authorities to promptly furnish requisitions to tax, so as to give the taxing masters jurisdiction, for arranging with those taxing masters for immediate taxation, and to provide for the payment of those costs as ascertained upon

such taxation, it would, to my mind, be impossible to contend that those duties were judicial.

This section does not confer any jurisdiction to determine the *right* to these costs, which depends on statute; and it is absolutely settled by decisions of the highest authority, both in England and Ireland, that where the *right* to costs depends on statute, the ascertainment of the amount of those costs, when such ascertainment is not to be the act of a Court, is ministerial and not judicial.

In my opinion the law is accurately stated by the Lord Chief Justice in the following passage of his judgment in *The King v. Goff* (1905 2. I. R., at p. 128), which was a case, in reference to costs of arbitration taxed by a taxing master of the Supreme Court under the Lands Clauses (Taxation of Costs) Act, 1895.

"There remains, then, the important question, Can the taxation of the taxing master be challenged by *certiorari*? We think not. We think that in such a case the procedure by *certiorari* is inapplicable, because the taxing master's function is ministerial, and his certificate does not impose a final binding liability. The costs under the Act of Parliament are referred to him to be taxed and settled. The master has no judicial discretion to determine whether the parties shall or shall not get costs at all. His function is to ascertain an amount—to measure, moderate, and settle; and in doing this he is guided by rules of practice so far as they are applicable, or can suggest an analogy. This is not a judicial act in the sense in which the expression 'judicial act' is understood in proceedings by *certiorari*."

The same principle is laid down by Lord Hatherley in *Metropolitan District Ry. Co. v. Sharpe* (5 A. C., at p. 439), in which the question also arose as to costs of an arbitration. He says:—"The principle of taxing costs is well understood, and I do not think that the circumstance that if a reference is made to the taxing master, and he is *persona designata*, I do not think that can make any substantial difference in the case. He must proceed on definite and fixed rules, not as investigating the facts with a dubious result in law attached to those facts, but simply as taxing the bill in the ordinary way in which he acts when any gentleman who wishes to dispute a bill brought against him by his own solicitor, has a right to have it taxed. If it is decided that that gentleman is bound to pay the solicitor's bill of another person for some litigation which he has entered into, when that is settled,

and he is once fixed with the liability to pay the bill incurred by another person, or whatever it may be, you have settled everything requiring to be settled judicially. The rest follows as a matter of course upon definite and fixed principles; and it has been well described by one of the learned judges in one of the cases that were cited, as a 'ministerial' act, and not a judicial act which remains to be done. The judicial act was deciding upon the question of principle, and ascertaining whether the gentleman was liable to pay the costs at all. The case of *Holdsworth v. Wilson* (2 B. & S. 480; 4 B. & S. 1) has been cited upon this point. I am extremely glad to find that there is such an authority, and I am extremely glad to follow it, and I think it carries the case now before the House."

In these cases it is true that taxation was not a condition precedent to enforcing the liability to pay; but, in my opinion, the character of the act of taxation cannot be altered merely by there being such a condition precedent.

If one has an interest in the performance of a duty which is wholly ministerial, he can (in the event of non-performance, or of such defective performance as in law does not amount to performance) enforce performance.

In *The Queen v. The County Court Judge of Tyrone* (10 L. R. I. 217) *certiorari* was held inapplicable, notwithstanding taxation being a condition precedent.

Therefore it seems to me that, if we yielded to the contention of the Counsel for the prosecutor as to the construction of the section, we necessarily should reverse this Order, upon the ground that it is not examinable upon *certiorari*. I say this, however, not as in any sense determining this case; but to show that whether *certiorari* lies or does not lie depends upon the construction of the section, which I now proceed to consider.

The main questions which have been argued on this section are two—(1) Whether Rules can be made to alter the schedule of fees fixed by the second schedule to the Order under the Solicitors' Remuneration Act, 1881; (2) Whether such Rules can constitute an authority other than the Taxing Masters of the Supreme Court for taxation of the costs within the section.

In my view, it will be convenient to consider the section separately in two different aspects; *viz.*—firstly, *per se*, without regarding as bearing upon it, the general character of the enactment in which it is found, and secondly, to consider the extent, if any, to which the literal con-

struction, *viz.*—that arrived at by the first consideration, must yield to the general purpose and scope of the enactment.

Taking the section *per se*, it does not appear to me to present any insuperable difficulty:—

"The Local Government Board, after consultation with, or notice of consultation sent to, the President of the Incorporated Law Society of Ireland, may make rules which, subject as aforesaid,"—(that is, subject to certain other provisions of the Act, to which I shall hereafter call attention)—"may fix the amount of any fees, and may provide for the taxation and payment of any costs to be received, allowed, or paid, in relation to the confirmation by the Local Government Board and the carrying into execution of improvement schemes."

It seems to me to be incontestable that the expression "any fees" which are to be fixed by rules made in consultation with the President of the Incorporated Law Society, who in numerous modern Acts of Parliament has been selected as the person to protect the interests of the general body of solicitors, must include the fees of solicitors. Serjeant O'Connor expressly admitted that it did include them. Mr. Matheson, upon the other hand, I understood to contest this; and it is only for that reason that I mention that, as far back as our statutes in relation to solicitors extend, it will be found that the expression "fees" has been deemed to be the apt and proper word for describing the remuneration of attorneys and solicitors. It is so used in 7th George 2 (Irish), part of the title of which is "Also for the better regulating the payment of the Fees of Attorneys and Solicitors"; in the 1st and 2nd George 4, c. 17, the title of which includes the words "for better regulating the fees of attorneys and solicitors"; in the 12th and 13th Vict. c. 53, which forbids an action or suit for recovery of "any fees, charges or disbursements for any business done by attorneys or solicitors" until the expiration of a month from the delivery of the bill; in the Rules under our Judicature Act, Order LXV, Rule 19, under which the costs and fees payable to solicitors shall be those prescribed by the Rules of this Order and Appendix S, Part I; in that Appendix, "Costs and Fees in Supreme Court proceedings," and in the Order under the Solicitors' Remuneration Act of 1881, Schedule II, "such fees for instructions," &c. The distinction between fees and costs is that the latter includes disbursements. Taking it then that the section includes solicitors' fees,

there does not appear to be any ground upon the face of the section for suggesting, as argued for the Respondent, that it should be confined to the fees of the solicitor for the Local Authorities. Neither can it be said that the Vendor's costs of showing title to land are not "costs in relation to the carrying into execution of the improvement scheme." It seems to me *prima facie* to have for its subject-matter all costs payable by the Local Authority, save those specially dealt with in prior parts of the Act, which are excepted by the words "subject as aforesaid." In construing, therefore, sect. 31 by itself, without reference to the legislation of which it forms part, I should not entertain any doubt that general Rules might have been made under it fixing a scale upon which such costs might have been taxed; and that Sir George Roche's costs, the subject of consideration here, are within its scope. No such scale, however, had been fixed by general Rules at the time the business was done, and therefore there is now no scale applicable to those costs, save that prescribed by the Order under the Solicitors' Remuneration Act. So too would I hold on the words of the section that "provide for taxation" authorizes the designating of an officer to tax other than the Supreme Court taxing officers.

I now take the entire Act; and it appears to me that, so far from the legislation, as a whole, containing anything which would justify us in restricting the literal interpretation of sect. 31, there is much to be found which favours that literal construction.

By the 35th section of the Act, it is to be construed as one with the Labourers' Acts, 1883 to 1903; and by sect. 11, for the purposes of the present case, that is the taking of land otherwise than by agreement, the Lands Clauses Acts, as amended by the provisions contained in the Second Schedule to the Housing of the Working Classes Act, 1890, which by the 3rd section of the Labourers Act, 1896, was deemed to form part of the Labourers Acts, were further amended; and one of those amendments—I mean that effected by sub-s. 4—was the substitution of a Receipt for a Conveyance; and it was by that sub-section expressly provided that no Approval Fee or any other charge should be payable by the District Council in respect of any Receipt given in pursuance of that sub-section. This sub-section, therefore, expressly deals with the costs of a vendor's solicitor. Then by sub-s. 6 [His Lordship read that sub-section, and continued]

Again, by sub-s. 8, the District Council is empowered to pay compensation exceeding £10, but not amounting to £100, into the County Court; and all the jurisdiction exercised by the High Court under the Lands Clauses Act, with respect to the sum so paid in, is conferred upon the County Court. This rendered necessary some provision with respect to the costs of proceedings in the County Court, and this provision is made by sub-s. 12, which enacts that Rules of the County Court shall regulate the practice and procedure in that Court under that section, and in particular shall provide that the costs payable by the District Council incident to the payment out of Court of any money shall not exceed £10, with a proviso that if the Court is satisfied in any particular case that, owing to the difficulty of showing title, the costs properly and necessarily incurred in respect of such payment amount to a larger sum, the minimum of £10 may be exceeded.

Again, sect. 38 of the Act of 1906 repeals so much as was then unrepealed of sect. 12 of the Labourers (Ireland) Act, 1885. This 12th section was one which enacted that a Provisional Order of the Local Government Board for confirming an Improvement Scheme under the Act should become absolute and take effect, unless a petition against it were presented, in which event jurisdiction was given to the Lord Lieutenant in Council to make a confirming Order, and sub-section 6 provided that the costs of all parties of and incident to the application for the confirmation of the Provisional Order should be in the discretion of the Lord Lieutenant in Council; and by the 7th sub-section the Lord Lieutenant in Council was authorized to make General Rules *inter alia* for "fixing the amount of any fee, and the taxation of any costs to be taken, allowed, and paid in relation to the confirmation of Provisional Orders." These words are almost identical with those in sect. 31, and under it Orders in Council had been made and laid before Parliament, under which a scale of costs was fixed and an authority to tax constituted.

The code contains many other provisions which might be referred to for the purpose of ascertaining its general purpose; but without mentioning them in detail the conclusion I have arrived at from reading them all is that the statute of 1906 was the ultimate step in a legislation which commenced upwards of a quarter of a century ago for the purpose of enabling land to be acquired for labourers' dwellings in a cheap and expeditious manner.

Each successive Act contained provisions, either by changing the tribunal of ultimate decision, from Parliament to the Lord Lieutenant in Council, or from that tribunal to the County Court Judge, or by shortening the period through which title was to be deduced, or otherwise saving expense and time. At each successive step provision was made in reference to solicitors' costs; and taking the code as a whole, I have arrived at the clear conclusion that interference with the theretofore existing methods of ascertaining solicitors' costs was one of the prominent objects of the Acts.

Having gathered this from the legislation, I come back to the construction of sect. 31. The most plausible of the arguments we have heard in support of the restricted construction is that, were it intended to authorize the constitution of a new authority for the taxation of costs, such intention would have been evidenced by particular instead of general words; and we were asked to contrast the generality of the words in sect. 31 with the specific enactment in reference to costs in the County Courts contained in sect. 11. We were told that the rights of solicitors in reference to their charges upon the investigation of title to real property were the subject of special consideration of Parliament, and was determined by the Solicitors' Remuneration Act of 1881, and that the general words of sect. 31 of the Act of 1906 ought not to be taken to repeal the Act of 1881, so far as related to these Title Costs, unless an affirmative intention in the Legislature was shown. I agree in this principle. I agree that the maxim *generalia specialibus non derogant* renders it necessary, in order to support the construction which interferes with the operation of the Act of 1881, to show upon the face of the Act of 1906 that the attention of the Legislature was specially directed to the amount of the remuneration of solicitors for making title to the lands taken; and, in my opinion, this is abundantly shown in the Act itself. I have already called attention to the sections where solicitors' costs are expressly interfered with, and to the general scope of the Act, which simplified the investigation of title, and, therefore, presumably, ought to reduce the remuneration for such investigation; and then I find that the rules by which the jurisdiction under this section is to be exercised are to be made "after consultation with, or notice of consultation sent to the President of the Incorporated Law Society of Ireland." The protection afforded to solicitors by the Act of 1881 was that the same officer,

the President for the time being of the Incorporated Law Society, was made one of the four persons, any three of whom, the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls, being the other three, were given power to make a General Order regulating the remuneration of solicitors in respect of making title to real property; and, in my opinion, the provision that the President of the Incorporated Law Society should be given an opportunity of consultation with the Local Government Board before the rules were made was for the express purpose of securing that such alteration as might be made in the scale of remuneration fixed under the Act of 1881 should be a reasonable one.

Being, then, clearly of opinion that there was jurisdiction under this section to make a general rule altering the scale of fees to be allowed to solicitors in respect of matters not otherwise provided for by the Act, the remaining question is, was it necessary that those fees should be referred for taxation to the taxing masters of the Supreme Court? I cannot find anything on the face of the Act rendering this necessary. "May provide for the taxation of costs" means "may make such provision for the taxation of the costs as they shall think fit," and the appointment of any person to tax such costs who is willing or bound to tax is, in my opinion, a provision to that effect. The fact that there is power to change the scale of fees appears to me to be a strong argument in favour of this view, as the usual function of the taxing masters of the Supreme Court is to tax according to the scale binding upon them. Further, the word "fees" in the section, *prima facie*, includes Court and Office Fees; and this *prima facie* inference is strengthened by sect. 22, that "no fees shall be payable in the Local Registration of Title Office, or in the Registry of Deeds Office, as defined by the Local Registration of Title (Ireland) Act, 1891, and the registration of the ownership of any land purchased by a District Council under the Labourers Acts, or for any searches made, or land certificate issued to a District Council in respect of such land."

Now, fees are payable to the taxing masters of the Supreme Court in respect of the taxation of costs, and it seems to me perfectly clear that the general rules under sect. 31 could not alter the office fees paid in respect of taxation by the Supreme Court taxing masters; and, therefore, if it were essential that the taxation should be by the Supreme Court taxing masters, the rules under this section could not fix "the

amount of all the fees to be received, allowed, or paid in respect of the subject-matter of this section."

Were anything further necessary to demonstrate that an authority other than the Supreme Court taxing masters can be constituted under rules, it would be found in sect. 12, sub-s. 6 & 7, of the Act of 1885, page 75. Under this provision, from which the words of sect. 31 seem to have been copied, a general rule was made by His Excellency in Council not only prescribing a scale, but constituting an authority to tax.

These considerations have brought me to the conclusion that there was an affirmative intention in the Legislature that these costs should not be taxed by the Supreme Court taxing officers, but should be taxed by some tribunal, officer, or person, for a remuneration which these rules themselves would prescribe.

Upon the whole, then, I have arrived at a clear conclusion that, upon the two principal points which have been argued for the respondents, the appellants are entitled to succeed, viz., that the rules under the section may alter the scale of fees, and that the Local Government Board have power to prescribe the authority or person by whom the taxation shall take place. Strangely enough, the conclusion at which I have arrived, adverse to the respondents on the points of real importance which were argued, leads me to the conclusion that they were entitled to succeed on the appeal, upon which, in my opinion, they would have been defeated, had we been in their favour upon those two principal points. I regard the fixing of a scale of fees, or the taxing of a bill of costs, without reference to any prescribed scale, as a power of a very different nature from one to tax according to scale. In my opinion, fixing a scale for solicitors' remuneration for work in relation to title to real property is a judicial act. Further, I am of opinion that, when these costs were ascertained, Sir George Roche was entitled to be paid for the work done, according to the scale fixed under the Solicitors' Remuneration Act of 1881. The Local Government Board had no jurisdiction to alter that scale, save by a General Order, and it is not pretended that any such General Order was in existence at the time these costs were taxed. They appear to me to have misconstrued their judicial power under sect. 31, and to have applied, by a particular order in the particular case, a scale which only could have been made operative by a General Order applicable to all cases. In so doing they, in my opinion, transgressed the

limit of their judicial power; and having done so in reference to a code which limits the sum paid to that certified, and thus alters rights, their act in doing so is examinable upon *certiorari*, and being so examined ought to be quashed.

For these reasons I think the Order ought to be affirmed.

FITZ GIBBON, L.J. :—

I am not certain that, after the judgments which have been delivered, I ought to say more than that I concur, as I do, with the Lord Chancellor and the Chief Baron. But the Counsel for the Local Government Board, in opening this appeal, founded it upon dissatisfaction with observations and *dicta* of individual judges, rather than upon questioning the decision of the Court below, and I therefore state my view of the case, though I do not know whether it will satisfy the Board or not. I hope to focus my observations upon the Labourers Act, 1906, section 31, and upon the document which the King's Bench has ordered to be quashed.

Whenever the question arises, as here, whether *certiorari* lies, I hold that it is the duty of the Court to examine all the circumstances of the case. We should first ascertain the origin of the scope of the jurisdiction which is impeached, or is alleged to have been exceeded, and the character of the body or person claiming the jurisdiction is also material.

The jurisdiction here must be found in section 31, which contains three clauses. The principal enactment is in the first sentence of clause (1)—

"The Local Government Board may make General Orders for carrying into effect the Labourers Acts."

The next sentence is limited to Rules which may be made for a specific purpose:—

"Those Rules, among other things, may, subject to the provisions of this Act, for the purpose of securing expedition, fix the period within which inquiries shall be held, and improvement schemes dealt with."

"This Act" is, by section 35, to be construed as one with the Labourers Acts, 1883 to 1903. We were told that the function of the Board was to promote expedition and economy. This sentence enables it to promote expedition by fixing periods, but the conclusion of the clause imposes a condition precedent upon the exercise of the power to promote economy in costs:—



"The Local Government Board, after consultation with or notice of consultation sent to the President of the Incorporated Law Society of Ireland, may make rules which, subject as aforesaid, may fix the amount of any fees, and may provide for the taxation and payment of any costs, to be received, allowed, or paid, in relation to the confirmation by the Local Government Board, and the carrying into execution of improvement schemes."

What more certain symptom can be found that this power is judicial than that it is to be exercised only after consultation with the responsible Head of the Law Society, who is *ex officio* a member of the Rule-making Authority of the Supreme Court?

Clause (2) gives quasi-legislative powers of adapting Statutes, and Clause (3) indicates the wide scope of the power by directing all Rules and Orders made under it to be laid before Parliament.

I hold this section to confer not only ministerial or executive powers, but also powers that may be exercised judicially, and even legislative powers.

This Court had to consider similar powers of the Local Government Board under the Public Health Acts twenty-four years ago, in the *Kingsdown Case* (18 L.R.Ir. 509) upon an application for a prohibition:

In the Exchequer, the Lord Chief Baron held that prohibition did not lie, because the power questioned was "quasi-legislative," and this Court affirmed the decision. The head-note is as follows:—

"The Local Government Board, in exercising its functions as to provisional orders, is not a Court, nor are purely legislative powers, or powers of promoting legislation, on principle, subject to prohibition; but an usurpation of jurisdiction of a judicial character by the Board might be prohibited."

In that case (p. 515), I find that I indulged in a prophecy which is now fulfilled. I said:—

"I am far from satisfied that under colour, or in the course of exercising these powers, the Local Government Board might not—for example, as to costs, or the attendance of witnesses—attempt, or be proved likely to attempt, an usurpation of a jurisdiction of a judicial character, which it would be right to prohibit."

What was done by the Board in this case? The answer must be found in the Certificate of April 13, 1908. I read that document not merely as a judicial act, but as a formal judgment declaring the rights of parties upon perhaps the most touchy of all subjects—the

amount of money to which they are lawfully entitled.

There is no right of suit, nor any means of recovering any costs for the local bodies which are the vassals of the Local Government Board, except upon a document issued by the Board fixing the amount and authorizing the payment. The Certificate says:—

"In pursuance of section 31 (1) of the Labourers Act, 1906, and Article 55 of the Labourers Order, 1906, the Local Government Board have arranged for the taxation of the costs claimed in the above matter, and after taxation do certify that the sum payable by the District Council of the Dunshaughlin Rural District in respect of such costs is Four Pounds, Eleven Shillings, and Four Pence."

This recites an exercise of the power to "provide for the taxation" of the costs, and a "taxation" of them. But the President of the Law Society was not consulted; the statutory condition precedent was ignored, and when we examine the evidence, we shall find that there was no taxation. Is not this certificate, both in form and substance, an adjudication—a judicial pronouncement—that the claim to the difference between £4 11s. 4d. and £8 13s. 6d. made by a party having a lawful right to a sum legally ascertainable shall be disallowed?

To find what the alleged "taxation" really was, we must look at the document sent to Mr. Mecredy, and it shows that he made no taxation. He merely gave a recommendation, which he based, by direction of the Board, on a "new scale" of which he was not the author. He was asked on April 1, 1908, to "indicate the deductions which might reasonably be made from the bill, and the amount which he would recommend the Board to certify as payable in respect of the costs claimed."

He "indicated" deductions amounting to £4 14s. 6d., but the Local Government Board allowed more, and therefore did not act on his recommendation.

On April 13, 1908, the order of the Board was made in these words:—

(1) Let the costs be certified at £4 11s. 4d.  
(2) Return the Bill to the C. with the certificate as to amount payable."

There is no reference to Mr. Mecredy in the certificate, nor does it mention the "new scale"; and it is now admitted that the "scale" was, at the date of the certificate, only in draft: its existence had not been made known outside the Office of the Board.

Therefore there has been, in this certificate, and in the use made of it, an ascertainment, in effect judicial, of the rights of Lady Mowbray and Stourton and her trustees to money which they claimed. This is an assumption of jurisdiction, or an excess of jurisdiction, by a public body, entrusted with limited statutory powers, and it therefore appears to me to be a proper subject for *certiorari*.

It is plain that the certificate purported to determine rights—the amount which the claimants were entitled to receive had not been checked, nor was their claim reduced by any lawful “taxation”; and for these reasons the certificate is invalid, and must be quashed. Indeed, the Solicitor-General did not attempt to uphold it.

As regards the exercise by the Board of the jurisdiction to make “general rules,” I wish to repeat the warning which I gave in a former case as to the impossibility of our defining beforehand what is or may be the proper or legal scale of costs. What must be ascertained, and given, under this Act is (in my opinion) the amount of the costs which must necessarily be incurred by an owner from whom land is compulsorily taken. The Board has a wide power of simplifying procedure; the value of the property may be taken into account; the solicitors are entitled to be remunerated only according to the amount and value of the work which they must do. But the owner must be indemnified against the necessary cost of being expropriated.

I entertain no doubt that the words of section 31 cannot be narrowed either to exclude any fees or costs from the power of the Board by general rules to fix their amount, and to provide for their taxation and payment. The Board may either utilize the existing tribunal for taxation, or may by general rule provide a special tribunal for the purpose. The provision for taxation may be made consistent with economy as well as with expedition. But natural justice should prevent the Board from providing that the party chiefly concerned should not be heard by the taxing authority.

HOLMES, L.J. :—

This is an appeal from an Order directing the issue of a writ of *certiorari* to remove into the King's Bench Division, for the purpose of being quashed, a certificate given by the Local Government Board pursuant to Rule 55 made by the Board under the power conferred on it by section 31 of the Labourers (Ireland) Act, 1906. The Solicitor-General, in his reply, did not defend the validity of this document; but

he argued that it could not, in accordance with law and practice, be made the subject of *certiorari*. If he had convinced me that this was so, I should have allowed the appeal; but I should not have felt myself at liberty to express an opinion on the other important questions of law which have been discussed on both sides, and which, if the writ of *certiorari* were refused, must be decided in other proceedings.

Having, however, come to the conclusion that, in the circumstances of the case, the writ lies for reasons which I shall state presently, I propose to consider in the first place the grounds on which I hold that the certificate is illegal. The questions in controversy will be best understood by stating what is admitted to have been the law previous to the Act of 1906.

Under a series of statutes beginning in 1883, called the Labourers (Ireland) Acts, a course of procedure was prescribed to enable local authorities to purchase lands compulsorily for the purpose of providing labourers' cottages, and it was enacted that the mode of taking lands by compulsion was to be that laid down by the Land Clauses Acts as amended by the Second Schedule to the Housing of the Working Classes Act, 1890. I do not propose to examine these provisions in detail, inasmuch as I understand it is not denied by the Solicitor-General that the title costs of the vendor were taxed by one of the taxing masters of the Supreme Court pursuant to section 53 of the Land Clauses Consolidation Act, 1845, as amended by the Railways (Ireland) Act, 1851, and the Railways Act (Ireland), 1864.

It is, I think, also admitted that in taxing these costs, the Master acted on a scale of fees prescribed by orders made under the Solicitors Remuneration Act, 1881. This being the state of the law when the Act of 1906 was passed, the arguments of the Respondent's counsel turned mainly on the changes introduced thereby in relation to their costs. Some such changes are introduced by express enactment in the 11th and other sections; but it is not about these provisions that the controversy has arisen. It turns upon the construction of the following words in section 31:—“The Local Government Board, after consultation with or notice of consultation, sent to the President of the Incorporated Law Society of Ireland, may make Rules which, subject to the provisions of the Act, may fix the amount of any fees, and may provide for the taxation and payment of any costs to be received, allowed, or paid

in relation to the confirmation by the Local Government Board and the carrying into execution of improvement schemes." Serjeant O'Connor has admitted that these Rules may prescribe a scale of costs connected with the making of title and the conveying of the lands compulsorily taken, subject to the limitation that such scale must be confined to the costs of the Local Authority, and does not extend to those of the owners. I can find nothing in the language or intention of the Act to justify this limitation. It may be true, as Serjeant O'Connor argued, that the policy of the Lands Clauses Acts, taken as a whole, has been to indemnify the owner of land taken from him without his consent against the expenses to which he is put by the compulsory transfer. But this is not inconsistent with the taxation of these expenses according to a scale. Hitherto there has been such a scale, and there is nothing unreasonable in providing for a revision of the present fees. The other point argued on behalf of the respondents is that even if the provision I have read authorizes a rule prescribing the amount of fees, it does not empower the Board to appoint a new taxing authority. This is a matter as to which I have some doubt. I am satisfied that the words "to provide for the taxation" of the costs do not enable the Board itself to assume the duty of taxation. They may, however, permit the Board to nominate independent officers to do so; and I do not differ from the view of my colleagues on a point which seems to me to be of small importance, as it is not likely that the Board will substitute a new tribunal for a taxing department consisting of experienced civil servants whose skill, competence, and strict impartiality are universally recognized.

Having thus stated my opinion on the two principal questions argued, I have to add that the question for our decision—the validity of the certificate—is not affected thereby.

The only rule made under sect. 31 relating to costs is the 55th of the Rules of the 1st November, 1906, which provides that, "where costs are payable by a council to an owner or lessee of land in respect of the giving proof of title of any plot by such owner or lessee, such costs shall be referred to the Board, who shall arrange for the taxation of the same; and the sum, which, after taxation, the Board may certify shall be the sum payable in respect of such costs." Except in one respect, this rule merely repeats portion of the section; but I am rather disposed to think that it was drawn on the assumption that the Board was given

by the statute complete authority to ascertain for itself, irrespective of any prescribed scale of fees or independent taxation, the amount to be paid. If this be so, the view was erroneous; until a new scale of fees is prescribed by Rule, the former scale is operative; and until a new taxing authority is appointed, the existing mode of taxation continues. Therefore, when Sir George Roche sent Lady Mowbray and Stourton's costs to the Board, they ought to have been dealt with by a taxing-master as before the Act of 1906. The portion of sect. 31 that enacts that the Board may by Rule provide for their payment justifies so much of Rule 55 as says that "the sum which, after taxation, the Board may certify shall be the sum payable." This is both new and valid, and imposes on the Board the duty of seeing that there has been a legal taxation, and of giving its certificate for the amount so ascertained. The certificate furnished in this case to the Local Authority is perfectly correct in form, reciting in effect that there has been a taxation, and certifying the result. The objection to it is that there had been no taxation. The Board sent the bill of costs to its own solicitor, asking him to offer his recommendations, and in doing so to have regard to a scale of fees that had never been prescribed by rule or otherwise. He reported as to the several items to his employers; and the sum certified, though based on this report, varied slightly from it in amount, and was less by almost a half than what the owner was entitled to. All this was done behind the backs of the persons interested, who had no notice of the proceedings. In these circumstances there can be no doubt that the certificate is bad in law; and I have now to consider whether the owner has any, and, if so, what, remedy. The Solicitor-General has argued that it cannot be quashed by means of a writ of *certiorari*; as that proceeding is only applicable where the document impeached is judicial, and not ministerial. The line of separation which these words imply is very shadowy and difficult to fix by definition; there is, however, one test which I apply in the present case. The certificate under the rule, which in this respect is *intra vires*, is a necessary condition to give a right and impose a liability to the payment of the costs. Without it the owner cannot sue, and the council cannot pay. In this respect it resembles the judgment of a court of justice, and ought to be regarded as judicial in its character. This is the distinction between the present case and *The Queen (Powerscourt)*

v. *The County Court Judge of County Tyrone* (10 L.R.I.), and *The Secretary for War v. Goff* (2 I.R. 1905); relied on by the appellants.

I asked the Solicitor-General at the end of his argument what the remedy was, and he replied—"a writ of mandamus"; but he did not suggest the form of mandamus that would be applicable. I may, however, point out that if pursuant to such a writ there was a real taxation and another certificate, that document would and ought to correspond with the last in every respect except the amount; and how could the local authority choose between them? The result would be to introduce a new element of confusion. Therefore I hold that the order appealed from is right, and that the appeal must be disallowed. I ought to add that, after these proceedings began, the Board made a Rule prescribing a new scale of fees. I say nothing about the amounts of those fees, which could only be properly fixed after much careful consideration and the best expert assistance.

In some other respects, however, the order is plainly illegal; and it would be well to have it reviewed and corrected as soon as possible by someone who understands that the basis of our whole legal system is that no man's rights can be adjudicated upon without giving him an opportunity of being heard.

#### KING'S BENCH DIVISION.

(Before Gibson and Kenny, JJ.)

*Gaussen and Venables and Byers v. Magherafelt District Council.*

Feb. 12, 1909.—*Labourers Acts—Costs of Owners*  
—Schemes commenced prior to 1st November, 1906—Taxation.

THE lands of the plaintiff (Gaussen) were acquired by the defendants under a Provisional Order dated the 11th day of October, 1906, pursuant to the Labourers (Ireland) Acts, 1883 to 1903.

The Labourers (Ireland) Act, 1906, came into operation upon the first day of November, 1906, and the Provisional Order did not become absolute until 11th November, 1906; but the Acts of 1883 to 1903 were the only Acts incorporated in the Provisional order, and all proceedings as to title, etc., were carried out in the manner required by the Acts in force prior to the Act of 1906.

The defendants refused to sign a requisition to tax plaintiffs' costs of proving title, claiming that they should be taxed under Rule 55 of the

Labourers (Ireland) Order, 1906, and Plaintiffs obtained a Civil Bill Decree for the amount of these costs, subject to taxation by the Registrar of the County Court Judge of Londonderry.

Defendants appealed. Madden, J., reversed decree, and at the request of plaintiffs, stated a case.

The question put in the case, stated for the decision of the Court was, whether the defendants have the right to demand that the costs shall be taxed under the provisions of the Act of 1906, and the rules thereunder.

To which the Court answered—

"The Court doth answer the said question as follows:—"That the Labourers Act, 1906, does apply; and the plaintiffs not producing a Certificate of the Local Government Board for Ireland of the sum payable, are not entitled to recover."

#### Solicitors' Benevolent Association.

A MEETING of the Directors was held on 24th of February, 1909, Mr. Wm. Fry, J.P., in the chair, and eleven other members present.

The Secretary reported having received £113 8s. in annual subscriptions, donations of £5 5s. each from Sir Augustine F. Baker and Mr. Joseph H. Bennett, and a life subscription of £10 10s. from Mr. E. M. F. G. Boyle.

Grants amounting to £47 10s. were made to five applicants for relief.

Mr. Fry was re-elected Chairman, Sir George Roche, Vice-Chairman, and Mr. M. Barrington Jellett, Hon. Secretary for the current year.

The report of the scrutineers as to the result of the voting for the election of a candidate to an annuity of £15 was submitted, and Mrs. Anne J. Johnson, having received the highest number of votes, was accordingly elected.

The following new members were enrolled since previous meeting:—

Richard D. Tighe, Arklow.  
George C. Lepper, Belfast.  
John H. Peden, Belfast.  
M. Wylie, Belfast.  
Maurice Staunton, Castlereagh.  
S. B. Edmundson, Dublin.  
Frank V. Gordon, Dublin.  
Arthur G. Joyce, Dublin.  
A. R. O'Connor, Dublin.  
J. J. O'Meara, Dublin.  
George H. Parkes, Dublin.  
John F. Young, Dungiven.

Timothy J. Hunt, Ennis.  
 Thomas Kelly, Kilrush.  
 I. J. Trew Colquhoun, Londonderry.  
 William King, Londonderry.  
 Charles S. Caldwell, Londonderry.  
 Edwin Harris, Newry.  
 Michael J. Heverin, Roscommon.  
 Arthur C. Houlihan, Roscrea.  
 Atwell H. Allen, Queenstown.  
 John R. Brennan, Wexford.

Next meeting will be held on the 21st April.

### Solicitors' Apprentices' Debating Society.

SESSION 1908-1909.

PROGRAMME FOR EASTER SITTINGS, 1909.

MEETINGS are held at 8 p.m. in the Antient Concert Rooms, Great Brunswick Street, Dublin.

Monday, April 19.—Debate—"That the Irish University Act, 1908, provides a satisfactory settlement of the University Question."

Monday, April 26th.—Legal Debate—"That the case of *Hennessy v. Keating* (1908), 1 I.R. 43, was rightly decided."

Monday, May 3.—Impromptu Speeches.

Monday, May 10.—Debate—"That the rush to the cities is detrimental to the best interests of the nation."

Monday, May 17.—Legal Debate—"That the case of *Ismay, Imrie, & Co. v. Williamson* (1908), A. C. 437, was rightly decided."

### Dates of Examinations.

THE following are the dates of the May, 1909, Examinations:—

May 13th and 14th.—Preliminary (Papers to be lodged before April 16th).

May 19th and 20th.—Final (Papers to be lodged before April 19th).

### Easter Sittings Lectures.

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing, on the following dates in Easter Sittings, 1909:—

April 16th, 20th, 23rd, 27th, 30th.

May 4th, 7th, 11th, 14th, 18th.

Professor Boyd will deliver lectures to the Junior Class upon Common Law on the following dates in Easter Sittings, 1909:—

April 15th, 19th, 22nd, 26th, 29th.

May 3rd, 6th, 10th, 13th, 17th.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 116 Grafton Street, Dublin.



# THE GAZETTE

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# THE GAZETTE

OF THE

Incorporated Law Society of Ireland.

Vol. II, No. 10.]

April, 1909.

[ FOR CIRCULATION  
AMONGST MEMBERS.

## Meetings of the Council.

*March 10th.*

### Index to Judgments, K.B.D.

A SUGGESTION from a member that the Council should take steps to secure the continuance of the keeping of an Index to Judgments Book in the King's Bench Division was considered, and was referred to the Court and Offices Committee, with power to the Committee to take action in reference to the matter.

### Bankruptcy Law Amendment.

A letter was read from the Hon. Secretary of the Dublin Chamber of Commerce, asking for a statement of the reasons of the Council for having arrived at the conclusion that it is not desirable that intended legislation embodying the recommendations contained in the report of the Departmental Committee of the Board of Trade upon bankruptcy law should be made applicable to Ireland. The letter was referred to the Parliamentary Committee.

### Canvassing for Business.

A letter was read from a London firm of Solicitors, who also have an office in Hamburg, enclosing a printed card of advertisement sent to their Hamburg office by an Irish firm of Solicitors with whom they had never had any business transactions. It was decided to ask for an explanation from the Solicitors.

### Apprentices.

A memorial from an apprentice for liberty to have his indentures assigned was submitted and sanctioned.

A report from the Court of Examiners upon the March Intermediate Examination was submitted and adopted.

*March 24th.*

### Taxing Office.

It was resolved that a letter be addressed to the Lord Chancellor, requesting His Lordship to make application for an increase in the clerical staff of the Taxing Office, in order that there might be a sufficient clerical staff in that office to secure that certificates of taxation would be ready to be given out on the day after the lodgment of the draft certificate.

### Labourers (Ireland) Act.

A communication was received from Messrs. William Roche & Sons, informing the Council that the costs of Lady Mowbray and Stourton of proving title to lands acquired under the Labourers (Ireland) Act, 1906, which costs had been the subject-matter of the litigation in the case of *The King (Mowbray and Stourton) v. The Local Government Board*, are to be taxed by a Taxing Master of the High Court.

### Irish Land Bill, 1909.

The following letter from the Chief Secretary for Ireland, in reply, was read:—

“ Irish Office,  
“ Old Queen Street,  
“ London, S.W.,  
“ 17th March, 1909.

“ Sir,—With reference to previous correspondence on the subject of the financial clauses of the Irish Land Bill, and in particular to my letter of 9th February last, I am desired by the Chief Secretary to state that the Government have given full consideration to the questions raised by your Council, and have made such provision in the Bill now introduced as they consider necessary for dealing with the matters at issue. In the circumstances, the Chief Secretary has not thought it necessary or

desirable to put a deputation from the Council to the trouble of waiting upon him.

"I am, sir, your obedient servant,  
"C. T. BEARD.

"The Secretary,  
"Incorporated Law Society of Ireland."

#### Registry of Titles.

A letter was read from the Chief Clerk of the Registry of Titles Office, in reference to the bespeaking of Land Certificates, and enclosing printed circular of particulars upon the matter.

A full copy of this letter, and of the circular enclosed, will be found in this GAZETTE.

The consideration of this letter and circular was referred to the Land Act Committee.

#### Land Judge's Court Advertisements.

A letter was read from the Registrar of the Land Judge's Court, with particulars of revised scale of charges in respect of advertisements published in the newspapers under the direction of the Court.

A full copy of this letter will be found in this GAZETTE.

The letter was referred to the Costs Committee.

#### Coroner's Court.

A letter was read from a member, drawing attention to the action of a Coroner who claims the right to retire with the jury, when they proceed to consider their verdict in private, and to discuss with them the evidence, before they arrive at a verdict. It was decided to communicate with the Lord Chancellor in reference to the action of this Coroner.

#### Criminal Injuries Decrees.

A letter was read from a member relative to the form of affirmance of a decree for compensation for criminal injuries, and the matter was referred to the County Courts Committee.

#### Index to Judgments, K.B.D.

A communication was received from the Chief Clerk, King's Bench Division, informing the Council that, owing to the reduction in the staff of the King's Bench Division early this year, it had been decided to discontinue the keeping of the Index to Judgments book in the King's Bench Division, and that having discontinued this index during the month of February, it was found that the discontinuance was a cause of inconvenience to the profession, and accordingly the matter was reconsidered, and the book had been kept from the beginning of March in a more useful form than hitherto, and would continue to be kept.

#### Canvassing for Business.

A letter was read from the Hon. Secretary, Sunderland Incorporated Law Society, enclosing circular letter issued upon behalf of an Irish Solicitor, canvassing for business for him. It was resolved to request an explanation from the Solicitor.

#### Certificate.

Application by a Solicitor for renewal of his certificate was considered, and the application was granted.

#### Council Meetings.

MEETINGS of the Council will be held upon the following dates:—

April 21st.

May 5th.

#### Committee Meetings.

THE following Committee Meetings were held during March:—

Bankruptcy, 1st, 15th, and 23rd.

Court of Examiners, 8th.

Gazette, 10th.

Court and Offices, 16th.

Parliamentary, 18th.

#### Obituary.

Mr. Timothy E. O'Connor, Solicitor, died on the 4th March, 1909, at Dublin. Mr. O'Connor, who served his apprenticeship with Mr. Maurice Healy, of 37 South Mall, Cork, was admitted in Hilary Sittings, 1895. After his admission, Mr. O'Connor joined the Estate Duty Office staff, and was recently appointed Secretary and Assistant-Registrar in the Registrar-General's office, Charlemont House, Dublin.

Mr. William B. Allingham, Solicitor, died on the 9th March, 1909, at Dublin. Mr. Allingham, who served his apprenticeship with Mr. Charles E. R. A. Irvine, of Enniskillen; was admitted in Easter Sittings, 1902, and practised at Enniskillen.

Mr. Patrick Lavelle, Solicitor, died on the 12th March, 1909, at his residence, 13 Lower Ormond Quay, Dublin. Mr. Lavelle, who served his apprenticeship with Mr. Arthur E.

Bradley, of 11 Lower Ormond Quay, Dublin, was admitted in Trinity Sittings, 1904, and practised formerly at No. 5, and latterly at No. 13, Lower Ormond Quay, Dublin.

### New Solicitors.

#### ADMISSIONS DURING MARCH, 1909.

<i>Name.</i>	<i>Served apprenticeship to</i>
Johnson, John,	John C. Coates, Belfast.
Kerley, Patrick J.,	A. N. Sheridan, Dundalk, and Charles J. M'Gahon, Dundalk.

### Labourers (Ireland) Act, 1906.

THE Local Government Board, owing to the decision in the case of *The King (Mowbray and Stourton) v. The Local Government Board*, have intimated that in that case, and in a number of other cases brought under their attention, the costs of the owner of proving title to lands acquired under the Labourers (Ireland) Act, 1906, may be taxed before one of the Taxing Masters of the High Court, or, in the alternative, that such costs may be paid as agreed upon between the solicitor for the District Council and the solicitor for the owner.

### Results of Intermediate Examination.

AT the Intermediate Examination, held upon the 1st March, the following apprentices passed the examination:—

Cooney, William J.

Moon, James T.

Three Candidates attended; two passed, one was postponed.

### Registry of Titles Office.

THE following is the letter referred to in the Council minutes of the 24th March:—

"HIGH COURT OF JUSTICE IN IRELAND.

"Chancery Division.

"Land Judges.

"Local Registration of Title (Ireland).

"Central Office, Henrietta Street,

"Dublin,

"2nd March, 1909.

"PRACTICE.

"Sir,—I should be obliged if you would give publicity to the enclosed circular with reference

to the practice in bespeaking Land Certificates, Copy Maps, &c., from this Department.

"We are frequently blamed for delay in these matters, which can almost always be attributed to the fact that proper care was not taken by the person bespeaking the required document.

"This refers only to the bespeaking of documents by post.

"Solicitors should understand that the Registrar and officials of the various offices cannot undertake to make searches on their behalf; and, further, that very frequently it is really unnecessary to bespeak the Land Certificate or copy folio at all, seeing that an inspection of the Register in either the Local or Central Office, and an extract of the required particulars taken by the solicitor, would be sufficient for the purpose of preparing a transfer, or for most other purposes.

"It is obviously of importance that the practice in regard to registration of title should become well known to the profession; and I should, therefore, be obliged if you can devise some method of giving publicity to the above remarks.

"I am, sir,

"Your obedient servant,

"RAYMOND SMITH,

"Chief Clerk.

"The Secretary,

"Incorporated Law Society,

"Four Courts."

*Circular referred to in the above letter.*

Registry of Titles,

Central Office,

Henrietta Street,

Dublin, 19

BESPEAKING OF LAND CERTIFICATES, COPY FOLIOS, MAPS, &c.

Dear Sir,—Referring to your letter of the

I am directed by the Registrar to ask you to be good enough to note that in all applications for Land Certificates, Copy Folios, Maps, &c., the correct *Folio Number* must be specified (see Rule 38).

Every owner is furnished on registration with a form of requisition for Land Certificate, in which the Folio Number and other particulars are given. Should this form not be forthcoming, before bespeaking a Land Certificate the Register must always be inspected to ascertain whether a Land Certificate has already been issued, and, if not, whether the case comes within the provisions of section 49 of

the Land Act of 1903, in which event no fee is payable; otherwise a fee of 10s. is payable for a Land Certificate.

The search to ascertain the Folio Number must in all cases be made in either the Local or Central Office by the solicitor or his agent, or other party interested, as the officials do not undertake such searches.

The fee for a search is 1s., payable by the lodgment of a stamped Search Docket, procurable at the offices.

In case the registered owner be not alive, the exact date of the death should be notified, by letter specifying the Folio Number, to the Central Office, and instructions awaited before taking any further steps in bespeaking a Certificate.

When everything is in order, the Land Certificate will be made out and sent to the Local Office for counter-signature.

When returned to the Central Office, it will be lodged in the Irish Land Commission Records (if an annuity be payable), and a certified copy will be issued by the latter Department without charge, or further application.

In case a copy Map be required, please communicate with the Central Office, specifying the Folio Number as above. Instructions as to the fee payable will be issued from the Central Office, with a form of requisition for Map.

### Land Judge's Court.

THE following is the letter referred to in the Council minutes of the 24th March:—

“High Court of Justice (Ireland),  
“Chancery Division, Land Court,  
“13th March, 1909.

“Sir,—I am directed by the Land Judge to state, for the information of your Council, that he has made an Order, authorizing the Taxing Masters on taxation of costs in this Court to allow the following revised scale of charges in respect of advertisements published in the newspapers, under the direction of the Court, viz.:—

Per line of single tabular form, 9d.  
Per line of double tabular form, 1s. 6d.

“Nine words to constitute a line, necessary space to be counted as lines, capitals two lines, and the concluding line of a paragraph, even if it does not contain nine words, to be counted as a line.

“The order is strictly confined to proceedings before the Judge as Land Judge, and does not affect the scale of charges of the ‘General Advertiser.’

“I am, sir, your obedient servant,

“J. M. KENNEDY, Registrar.

“The Secretary,

“Incorporated Law Society of Ireland,  
Four Courts.”

### Recent Decisions affecting Solicitors.

(Notes of decisions, whether in reported or unreported cases, of interest to Solicitors are invited from Members.)

#### COURT OF APPEAL (ENGLAND).

(Before the Master of the Rolls, Fletcher Moulton and Buckley, L.J.J.)

*Attorney-General v. Herbert Till.*

Feb. 18, 1909.—*Revenue—Income Tax—Statement of income—Incorrect statement—Penalty—Income Tax Act, 1842 (5 & 6 Vict., c. 35), s. 55.*

A PERSON who has delivered a statement of his income chargeable with income tax which, through negligence or carelessness, but without fraud, is incorrect, is not liable to the penalty of £50 under section 55 of the Income Tax Act, 1842.

This was an appeal from a judgment by the Lord Chief Justice sitting with a special jury, which raised a question on the construction of section 55 of the Income Tax Act, 1842. The question was raised by an information laid by the Attorney-General against the defendant, seeking to recover the penalty of £50 imposed by section 55 of the Act of 1842 upon a person who has to render an account of his profits under Schedule D for the purposes of income tax, if, as the Crown alleged, he does not make a true and accurate return. The defendant was a solicitor practising at Dorchester, and he had made some yearly returns of his average net profits which were admittedly inaccurate. When the mistake was discovered by the Revenue authority, the defendant offered to pay the difference on the last year's return, but not for inaccuracies in previous years, which were statute-barred; the Commissioners of Inland Revenue declined to accept this offer, with the result that the present information was laid by the Attorney-General claiming the £50 penalty. At the trial the jury found that

the mistake was made in consequence of the defendant's own negligence.

The LORD CHIEF JUSTICE held that, if the return was incorrect, *prima facie* an offence entitling the Crown to a penalty had been committed, and he accordingly gave judgment for the Crown for £50 and costs.

The defendant appealed, and argued his case in person. The nature of his contention appears from the judgment.

The Solicitor-General (Sir S. T. Evans, K.C.) and Mr. W. Finlay appeared for the Crown.

The question of law turned entirely on the interpretation to be placed on numerous sections of the Income Tax Act of 1842 (5 & 6 Vict., c. 35).

The MASTER of the ROLLS read the following judgment allowing the appeal:—This appeal raises the question whether a man who has delivered a statement of his income chargeable with property tax which, through negligence or carelessness, but without fraud, is incorrect, is liable to a penalty of £50 under section 55 of the Income Tax Act, 1842. That Act is so framed that it is difficult, if not impossible, to arrive at a clear and satisfactory conclusion, and I confess that my views have fluctuated in the course of the discussion. But upon the whole I think the arguments on the part of the appellant ought to prevail, and the question ought to be answered in the negative. It is necessary to refer to other sections of the Act of 1842 before approaching section 55. Section 47 provides for a general notice, to be published as prescribed, requiring all persons falling within the subsequent provisions of the Act to make out and deliver lists, declarations, and statements. Section 48 provides for a personal or particular notice to the like effect, and in case of refusal or neglect to make out "such lists, declarations, or statements as may be applicable to such person and as the case may require, and deliver the same," the commissioners shall issue a summons to such person making default as aforesaid, in order that the penalty for such refusal or neglect may be duly levied. These words clearly refer to section 55. Section 49 prescribes the place and time of delivery. Section 50 requires a person to prepare and deliver a "list" containing "to the best of his belief" the names and addresses of any lodgers or *employés*. And there is a proviso that no person shall be "liable to the penalties hereinafter mentioned" for any omission if the *employé* is found to be entitled to exemption from all duties. Section 51 requires trustees for other

persons chargeable in certain circumstances to prepare and deliver a list containing a true and correct statement. Section 52 deals with a person who is himself chargeable and requires such person to prepare and deliver "a true and correct statement" containing (*inter alia*) the amount of the profits or gains arising to such person from all and every the sources chargeable under the Act. Sections 53 and 54 do not call for special notice. Section 55 is ungrammatical and almost unintelligible. It is as follows:—"And be it enacted, that if any person who ought by this Act to deliver any list, declaration, or statement as aforesaid shall refuse or neglect so to do within the time limited in such notice, or shall under any pretence wilfully delay the delivery thereof, and if information thereof shall be given, and the proceedings thereupon shall be had, before the Commissioners acting in the execution of this Act, every such person shall forfeit any sum not exceeding twenty pounds, and treble the duty at which such person ought to be charged by virtue of this Act, such penalty to be recovered as any penalty contained in this Act is by law recoverable, and the increased duty to be added to the assessment, but, nevertheless, subject to such stay of prosecution or other proceedings by a subsequent delivery of such list, declaration, or statement in the case following: (that is to say) if any trustee, agent, or receiver, or other person hereby required to deliver such list, declaration, or statement on behalf of any other person, shall deliver an imperfect list, declaration, or statement, declaring himself unable to give a more perfect list, declaration, or statement, with the reasons for such inability, and the said Commissioners shall be satisfied therewith, the said trustee, agent, or receiver, or other person as aforesaid, shall not be liable to such penalty in case the Commissioners shall grant further time for the delivery thereof; and such trustee, agent, receiver, or other person shall, within the time so granted, deliver a list, declaration, or schedule, as perfect as the nature of the case will enable him to prepare and deliver; and every person who shall be prosecuted for any such offence by action or information in any of Her Majesty's Courts, and who shall not have been assessed in treble the duty as aforesaid, shall forfeit the sum of fifty pounds." On the one hand it is contended that the words "as aforesaid" refer to the previous sections, and that the first lines of the section must be read thus—"If any person who is required by the prior sections of this Act to deliver a true

and correct list, declaration, or statement, shall refuse or neglect so to do." The result would be that any error or omission, however slight or however innocent, involves a liability to treble duty and £20 penalty at the hands of the Commissioners, or a penalty of £50 from the High Court. On the other hand, it is contended that the section applies only to non-delivery, as distinct from delivery of an imperfect or inaccurate statement. I think the latter is the preferable view for several reasons:—(1) The Act in other sections speaks of a person as having delivered "such account as aforesaid"; although it is false: see sections 68 and 178. (2) The words "as aforesaid" naturally refer to section 48, where the words are "make out such lists, declarations, or statements as may be applicable to such person"—that is to say, lists, declarations, or statements of the character appropriate to the particular person, and nothing more. To avoid misconception, I may add that a document may be so illusory that the tribunal would be justified in holding that there had been no delivery, but no such case arises here. (3) The Act contains provisions not of a penal character for rectifying any omission or wrong statement in a statement or schedule; see section 129. (4) The Act imposes a penalty on a false or fraudulent statement which is less severe than that which, on the other hypothesis, is imposed upon an honest mistake; see section 178. (5) The proviso in the middle of section 55, dealing only with the case of the trustees acting on behalf of parties chargeable, pre-supposes non-delivery of any statement and then authorizes a delivery, after prosecution, of an imperfect list. (6) The Revenue is protected by the power possessed by the Commissioners to assess a person making default (section 113), and to surcharge (sections 161, 162). I am aware that there are some provisions of the Act which support the opposite view. The most weighty seems to be found in section 50, the section which requires a person to give a list of his lodgers and *employés*, with a proviso exempting him from a penalty in one event only. Section 129 does not, it seems to me, apply to such a list, nor does section 113 or section 161. Notwithstanding the difficulty caused by section 50 and by several other sections, I think the better view is that which I have already expressed. Thus far I have dealt with the case apart from authority, and in truth there is singularly little authority. After fifty-five years—viz., in 1897, the question was raised in the Scotch Courts in the case

of *The Lord Advocate v. Sawers* (35 Sc. L.R., 190, 3 Tax Cases, 617). There the Lord Ordinary and the Judges of the First Division of the Inner House held that the penalty of £50 was incurred if the statement delivered was untrue or incorrect. Now, with the utmost respect for the learned Judges who decided that case, and notwithstanding my strong sense of the importance of uniformity of decision in fiscal matters in all parts of the United Kingdom, I feel unable to decide the present case in accordance with the view adopted in the Scotch Courts. I am not satisfied that the arguments addressed to us were so fully presented to them. The Lord Chief Justice followed the decision in the Scotch Courts, and, I think, expressed his own concurrence with their view, but he did not substantially add to their reasoning. Upon the whole, I think this appeal must be allowed, with costs here and below.

LORD JUSTICE FLETCHER MOULTON also read a written judgment, discussing and reviewing the same sections, and the decision in the Scotch Courts, which he also declined to accept, and continued:—A large portion of the contention on behalf of the Crown was that it was no hardship in enacting these penalties, which are so utterly out of proportion to the gravity of the offence, because the Commissioners had power to relieve against them. I confess that this argument has very little effect in reconciling me to an interpretation which would make the penalties of an unnecessary and almost barbarous severity. I have no doubt that the Commissioners do their duty to the best of their ability, and that in most cases they would exercise their power of relief equitably; but there is a great temptation to use powers of this kind for an indirect purpose, an example of which is given in the present case. The action is for a penalty of £50; and if the contention of the Crown be correct, the Court has no jurisdiction to lessen the amount, however trivial the inaccuracy may be. Now in the present case, where no fraud is suggested, the appellant offered to pay the difference in the assessment, but the Income-tax officers refused to stay their hands, unless he would also pay sums for which he would have been liable under a similar mistake in previous years, but which were barred by the provisions as to limitation of time. It was on his refusal to do so, on the ground that the Legislature had provided that these sums were not recoverable under the Statute, that this action for the penalty of £50 was brought, and it

was practically admitted in Court that it was really for the purpose of obtaining these irrecoverable sums, which would altogether be more than covered by the penalty. If penalties are to be used for indirect purposes such as these, it will be seen that the existence of so tremendous a penalty for any error, however small, must put the taxpayer who has to make the return practically at the mercy of the Commissioners. The existence of an error, however small, in a return, would put them in the position of being able to insist that almost any view they might entertain as to the rights of the Crown should be accepted without resistance by the taxpayer, because he would have hanging over his head this gigantic penalty, which must also necessarily be far greater than any surcharge which the Commissioners might seek to make, for it would be three times the total assessment, including surcharges. I do not think that the Courts ought to listen to the suggestion that His Majesty's subjects are left so defenceless, unless it can be shown that it is the clear meaning of the Act that they should be so, and therefore, this type of argument should, in my opinion, not be allowed to affect the mind of the Court.

LORD JUSTICE BUCKLEY also read a written judgment discussing the various sections and showing the appeal.

On the application of the Solicitor-General a stay of taxation and payment of costs for fourteen days was granted, to enable the Revenue authorities to consider whether they would appeal to the House of Lords.

Reported T.L.R., vol. xxv, page 342.

### The Land Commission.

THE following sittings of the Court of the Land Commission for hearing appeals have been provisionally arranged:—

Dublin, April 16th—Leinster (part of).

Glomel, April 20th—Co. Tipperary (part of).

Carrick-on-Shannon, April 27th—Cos. Leitrim and Roscommon (parts of).

Longford, April 29th—Co. Longford.

Dublin, May 6th—Leinster (part of).

Londonderry, May 11th—Co. Londonderry and Co. Donegal (part of).

Strabane, May 13th—Cos. Tyrone and Donegal (parts of).

Omagh, May 14th—Co. Tyrone (part of).

Galway, June 1st—Co. Galway.

Limerick, June 8th—Co. Limerick and Cos. Clare and Tipperary (parts of).

Dublin, June 17th—Leinster (part of).

Dublin, June 24th—Leinster (part of).

Killarney, June 29th—Cos. Kerry and Cork (parts of).

Dublin, July 8th—Leinster (part of).

### Solicitors' Apprentices' Debating Society.

SESSION 1908-1909.

PROGRAMME FOR EASTER SITTINGS, 1909.

MEETINGS are held at 8 p.m. in the Antient Concert Rooms, Great Brunswick Street, Dublin.

Monday, April 19.—Debate—"That the Irish University Act, 1908, provides a satisfactory settlement of the University Question."

Monday, April 26th.—Legal Debate—"That the case of *Hennessy v. Keating* (1908), 1 I.R. 43, was rightly decided."

Monday, May 3.—Impromptu Speeches.

Monday, May 10.—Debate—"That the rush to the cities is detrimental to the best interests of the nation."

Monday, May 17.—Legal Debate—"That the case of *Ismay, Imrie, & Co. v. Williamson* (1908), A.C. 437, was rightly decided."

### Dates of Examinations.

THE following are the dates of the May, 1909, Examinations:—

May 13th and 14th.—Preliminary (Papers to be lodged before April 16th).

May 19th and 20th.—Final (Papers to be lodged before April 19th).

Easter Sittings Lectures.

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing, on the following dates in Easter Sittings, 1909:—

April 16th, 20th, 23rd, 27th, 30th.

May 4th, 7th, 11th, 14th, 18th.

Professor Boyd will deliver lectures to the Junior Class upon Common Law on the following dates in Easter Sittings, 1909:—

April 15th, 19th, 22nd, 26th, 29th.

May 3rd, 6th, 10th, 13th, 17th.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Ponsonby, 116 Grafton Street, Dublin.







