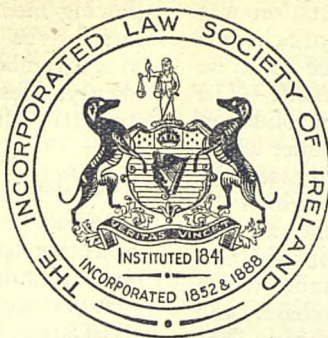


Secretary's copy.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
PATRICK R. BOYD

Vice-Presidents
JOSEPH TYRRELL
JOSEPH BARRETT

Secretary
ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

APRIL 28TH. The President in the Chair: also present: Messrs. Joseph Barrett, V.P.; Joseph P. Tyrrell, Henry St. J. Blake, Dermot P. Shaw, Reginald J. Nolan, William L. Duggan, J. D. O'Connell, William J. Norman, Gerald J. O'Donnell, Henry P. Mayne, J. Travers Wolfe, G. A. Overend, James R. Quirke, Daniel O'Connell, John P. Carrigan, Alex. S. Merrick, Niall S. Gaffney, Thomas A. O'Reilly, Jouis E. O'Dea, Arthur Cox, William S. Huggard, Patrick F. O'Reilly, Sean O'hUadhaigh, Roger Greene, John J. Dunne.

The following was among the business transacted:—

Jurisdiction of the District Court

A COMMITTEE which had considered the replies from the bar associations to a circular sent out by the Secretary, reported that the majority of the associations which had replied were in favour of legislation to increase the jurisdiction of the District Court. The Committee reported that the limit of jurisdiction in cases of contract should be increased

to £50, in cases of tort to £25, and in cases of ejectment for nonpayment of rent to £53. It was further reported that legislation should be sought to enable a decree of the District Court to be enrolled for the purposes of judgment mortgage, garnishee, and other remedies which are not at present available, owing to the fact that the District Court is not a court of record. The report of the committee was adopted, and the Secretary was directed to write to the Department of Justice.

Purchase of Property for a Mental Home

A SOLICITOR was instructed by a County Manager to attend at an auction to bid for the purchase of premises required for a mental hospital. The authority of the County Manager to purchase the premises was derived from Section 51 of the Mental Treatment Act, 1945. Section 52 of the Act incorporates the provisions of the Lands Clauses Consolidation Acts. The solicitor attended at the auction, and bid in accordance with his instructions, and at negotiations after the auction, purchased the premises on behalf of the County Manager for £13,000, paying the deposit out of his own pocket.

The title was registered under the Registration of Titles Act, 1891, as amended. The question was raised, whether, having regard to rule 11 of Schedule 1, Part 1, of S.R.G.O. 1884, the scale fee could be charged. Rule 11 provides as follows:—"In cases of sales under the Lands Clauses Consolidation Act, or any other private or public Act, under which the vendors' charges are paid by the purchaser, the scale shall not apply." A committee to which the matter had been referred reported that the sale was not a sale under the Lands Clauses Consolidation Act, or any other private or public act under which the vendor's charges are paid by the purchaser, and accordingly, that Rule 11 did not apply. The Council adopted the committee's report, and the Secretary was directed to write to the member stating that, in the view of the Council, the costs should be drawn on the scale contained in S.R.G.O., 1884, and S.R.G.O. (No. 2), 1920, as modified by the Land Registration Rules, 1937 to 1947.

Legal Aid in Murder Cases

THE President reported that the Society had received a letter from the Attorney General, stating that following the representations made by the Society as to the inadequacy of the present allowances to solicitors assigned for the defence in murder cases they would, in future, be allowed travelling and subsistence expenses in addition to the assignment fee. A note on the subject will appear in the GAZETTE.

ORDINARY GENERAL MEETING: MAY 19th

THE President, Mr. Patrick R. Boyd was in the chair: The following members of the Society signed their names as being present: Mr. Joseph Barrett, Vice-President, Mr. Joseph P. Tyrrell, Vice-President, Messrs. John J. Bolger, John P. Carrigan, Desmond R. Counahan, Arthur Cox, Roger Greene, William S. Hayes, Anthony J. Malone, Henry P. Mayne, William J. Norman, Daniel O'Connell, John D. O'Connell, Patrick F. O'Reilly, Thomas A. O'Reilly, Sean O hUadhaigh, G. A. Overerd, James R. Quirke, J. Travers Wolfe, Arthur H. S. Orpen, James J. O'Connor, T. Desmond McLoughlin, Victor D. Woulfe, J. T. Hamerton, J. E. Hamerton, R. W. R. Johnston, A. G. Ardagh, John Edmund Doyle, J. D. McClenaghan.

The notice convening the meeting was, by permission of the meeting, taken as read. The Secretary read the minutes of the Ordinary General Meeting held on 26th November, 1948, which were then signed by the Chairman.

The President announced that he nominated the following members of the Society to act as scrutineers for the Ballot of the Council to be held on 21st November, 1949:—Messrs. John R. McC. Blakeney, Desmond J. Collins, Thomas Jackson, Brendan P. McCormack, Roderick J. Tierney.

The Chairman, addressing the meeting said:
"LADIES AND GENTLEMEN:

Since we last met in General Meeting in November, death has been busy amongst us. It is with regret that we have to record the deaths of:—Fred J. W. Darley, who served on the Council from 1942 to 1946; Patrick Howard; Robert G. Ball; George W. Beaumont; Michael Tynan; Edward J. Duffy; James M. Magee; James Dickie; Patrick Rooney, who served on the council from 1914 to 1924, and filled the office of Vice-President in the years 1919 and 1920; James Shuel; Wilmot H. C. Lloyd; Patrick Sarsfield Brady; Arthur William Stirling, who served on the Council from 1918 to 1924, and filled the office of Vice-President in the years 1922 and 1923; John W. Buggy; Vincent P. McMullin; George Baxter; Francis Shields; Frederick H. Croskerry. We tender to their relatives our sympathy in their bereavement.

I have just learned of the death of Mr. R. A. Macauley of Listowel, who was a member of the Council from 1939 to 1948 and was Vice-President for 1943-44, and I am sure you will all wish me to convey your sympathy to his widow in her bereavement.

While the membership of the Society remains high, there are still some solicitors who have not joined, and I would appeal to them to join in the current year. They should now appreciate the necessity of being organised. I am glad to say that the Bar Associations have been very active during the year, and some new ones have been formed. It is to be hoped that every district will form such an Association as they are a source of great strength to the Society and render useful aid to the Council.

The Council, since our last meeting, has been active in the interests of the profession. We have had several interviews with Ministers of State and Secretaries of Departments, who have always been ready to consider carefully any suggestions or criticisms which we offer.

We also had an interview with the Attorney General on the question of assignments in murder cases—a matter which was dealt with by my predecessor at the half-yearly meeting last November. We succeeded in getting agreement that travelling and subsistence expenses will be allowed in future in addition to the assignment fee.

The legal education scheme, also mentioned by my predecessor, has now been drafted and will come into operation when the Solicitors' Bill becomes law. The lectures by members of the Council to apprentices have been continued.

We have now received the Solicitors' Bill back from the Parliamentary draftsman with his comments thereon. These have been perused by the Committee in charge of the Bill, and it is hoped at an early date to arrange a conference to settle the matter finally. The Council has every hope that the Bill will be introduced in the very near future.

The Council have again before them the condition of country Court Houses, and the members will have seen in the *GAZETTE* in the month of March the resolution passed by the Council and sent to the appropriate Government departments. It is hoped that some steps will be taken to improve the condition of such Court Houses as require it, and to make them fit for the dispensing of public justice. The condition of many of the Court Houses at the present time adds nothing to the dignity of the law and must make a very poor impression on litigants and others who resort to them.

The Registrar of Titles is at present engaged working out a scheme for the simplification of the discharge of equities. A Committee of the Council has been assisting in the matter. The forms are at present in draft and it is hoped that the new scheme will come into operation in the very near future. Under it the discharge of equities should be a much less complicated matter.

The Council recently circularised the Bar Associations with reference to the jurisdiction of the District Court and, as a result, have addressed a letter to the Minister for Justice asking that the jurisdiction should be increased in contract cases to £50, in tort to £25, and in rent cases to £53 a year. The Council notes with satisfaction that the mind of the Minister for Justice is working somewhat on these lines, and have hopes that effect will be given to their suggestions.

The Council have during the year and preceding years published in the *GAZETTE* their considered opinion of several matters affecting the profession. While some of these opinions are not binding in law it is hoped that they will be honoured by all members of the profession.

Several of my predecessors have referred to the absence of text books, and this is a subject which continues to occupy the attention of the Council. The present position is far from satisfactory, and some steps must be taken in the near future to remedy matters, as the absence of proper text books is bound to retard the administration of justice. We have hopes that when the Bill becomes law

some arrangements may be made as a result of which it will be possible for the Society to publish new text books and bring the existing ones up to date.

My predecessors have referred on several occasions to the necessity of law reform, and I regret to say that no progress has been made. While we must acknowledge that advances have been made in a number of subjects, such as the Landlord and Tenant, Workmen's Compensation, yet the great mass of our law has been left untouched. The law of property, for example, requires a complete overhaul. We still have to deal with the appendages and survivals of the feudal ages. There does not seem to be any reason, with the vivid example before us of the reform of the law of property by the Birkenhead Acts in England, why the law of property here has not being brought up to date. Similarly, the administration of estates should be brought into keeping with modern requirements. The law governing the administration of intestate estates is now nearly sixty years old and the value of money has considerably depreciated during that period. Surely it is time for new standards to be fixed? The bankruptcy law is rather ancient, and no steps have been taken either by rule or otherwise to bring it into keeping with modern requirements. Notice of bankruptcy may be even delayed due to appeal or for other reasons, to the great detriment of the creditor. I understand that in England and Northern Ireland creditors are notified immediately, but the unfortunate Irish trader may unwittingly go on dealing for months with a Bankrupt and in the end find he has to refund a large sum of money. Similarly, the Companies Act is now nearly fifty years old: the number of Companies has considerably increased, and the bringing up to date of this code is long overdue.

I have quoted these as examples of outstanding matters which seem to cry out for immediate reform, but in fact the whole system would seem to need overhaul. I think the Society is entitled to bring these matters to the notice of the Government and the public, and to ask confidently for their modernisation.

I know that members of the Society will expect me to refer to a matter of general importance both to the public and to members of our profession, namely, the increased rates of stamp duty on transfers of land and house property imposed by section 13 of the Finance (No. 2) Act, 1947. I think it will be admitted on all sides that these extraordinary rates of duty imposed by the enactment to which I have referred, namely, 5 per cent. in the case of a conveyance to a citizen of Ireland, and 25 per cent. on conveyances to foreigners, in each case calculated

upon the consideration or value of the property passing, is unprecedented in the history of taxation, and that the public were shocked in December, 1947, when these rates of duty were announced. Certainly, the solicitors' profession were shocked by these proposals, and the Council at once met to consider them. The then Minister for Finance, Mr. Aiken, in introducing the proposals, stated that their object was to stop speculation in house property values which was at its peak in the Autumn of 1947. It was not stated at that time that the tax was imposed for the purpose of revenue. The case which was made by the Minister was that the continuing inflation in house and land property values had to be ended in the interests of our social economy, and particularly in the interests of persons of modest means who were unable to purchase houses to live in, or who were induced to purchase them with the aid of loans for amounts which were beyond their means. The Council discussed the matter in the light of this information, and it was decided, that in view of the Minister's statement, and whether he was right or wrong in his view that taxation of this kind would prevent or stop inflation, that the Council could not, at that time, oppose the Act in principle. It was, however, decided to keep the matter in view, and to raise it with the Minister at the first opportunity after experience of the tax would have shown its effects. As you all know, the inflation in land and house values has ended, and if the tax was imposed with this object in view, it seems to have achieved its purpose. In the view of the Council, there is no longer any case for the continuance of this penal taxation directed at one section of the community, namely, owners or prospective owners of land and house property. It is questionable whether there were not other means of discouraging inflation than a tax of this kind; but there is certainly no longer any justification for the continuance of the tax.

The Minister for Finance, in the Budget proposals, has stated that the tax must be continued for the time being, and from this statement it would appear that the increased stamp duties are being continued, not for their economic and social effects, but for fiscal reasons, and that the tax is now being regarded from the point of view of its yield to the Exchequer. I wish again to reiterate the unfair and penal nature of a tax of this kind. If revenue is required it should not be sought from one section of the community, many of whom are least in the position to pay it. These stamp duties have now assumed the form of a capital levy imposed upon one particular form of capital, namely, house property and land, and the persons from whom the levy is being exacted are in many cases, those who

for one reason or another are forced to change their residences, possibly for domestic reasons such as growing families, or persons who intend to marry, and who wish to purchase a residence in which to settle down. Both of these classes are being mulcted to the extent of 5 per cent. of their capital.

With regard to the duty of 25 per cent, being exacted, in the main, from persons immigrating here from England, it is, in my personal view, questionable whether a prohibitive tax of this kind is, in the long run, in the national interest. If each country were to set up taxation barriers of this kind against their neighbours, it is apparent that the flow of commerce and ordinary international relations would be seriously impaired.

Before the recent Budget proposals, a deputation from the Council was received by the Minister for Finance, with great consideration, and at a time when the demands upon him must have made it extremely inconvenient for him to receive the deputation. A reasoned statement of the case for the abolition of these duties was placed before him. It was pointed out that the stamp duty on the sale of stock exchange securities is only 2 per cent., and that many stock exchange transactions are of a speculative nature whereas there are very few speculative sales of purchases of land or houses at the present time, and that it is unfair to tax the purchaser from necessity of a house at a higher rate than the speculative dealer in stocks and shares. The Minister indicated that the tax had brought in a very large sum to the Exchequer during the present year, and while he was unable, in view of the forthcoming Budget, to give any information as to his intentions, the deputation inferred that there was little hope that the tax would be remitted in the coming Finance Act owing to the exigencies of public finance. This has been borne out by the Minister's Budget statement; we can only hope that the Government realises the hardship which is imposed upon persons of small means by this penal stamp duty, and that in next year's Budget their grievances will be redressed.

One of the secondary effects of the new rates of stamp duty which was apparently unforeseen when the Act was passed was the state of chaos which it caused, and which still exists, in the machinery of assessing stamp duty, and the consequent delay in having documents of title stamped and registered. Before December, 1947, a deed lodged in the Adjudication branch of the Revenue Commissioners for assessment of stamp duty could be taken up within a week with the duty assessed. The assessment and payment of stamp duty has now become an extremely complicated operation owing to the provisions of

the Finance (No. 2) Act, 1947. The existing staff of the Adjudication Office are unable to cope with the resultant increase of work, and a heavy arrear of work has accumulated. It is no news to solicitors, but the public would be astounded to hear that it may now take six months to have a deed of conveyance of a house or an ordinary marriage settlement assessed for stamp duty, an operation which two years ago required only a week. In estimating the additional revenue yielded by the tax the Minister should take into account its injurious effects on the machinery of public administration and the inconvenience and real danger of financial loss to the public whose titles to property are being endangered owing to the delay in registration."

The following resolutions were then proposed by the Chairman. Seconded by Mr. Arthur Cox, and, having been put to the meeting, were carried unanimously.

That bye-law 2 of the Society be amended by inserting the words "Saturday or" before "Sunday" and by the addition at the end of the rule of the words "not being a Saturday or Sunday."

That bye-law 31 be amended by substituting for the words "second day of November" in line 1, the words "the day next following the last day for receipt of nominations" and for the words "second day of November" in line 6, the words "the said day."

That bye-law 40 be amended by deleting the words "on or before the 20th day of November" in lines 2 and 3, and the words "at its first meeting after its election" in lines 7 and 8.

That bye-law 46 be amended by the deletion of the words "which minutes shall afterwards be copied fairly into a minute book to be kept for that purpose."

Mr. Seán O hUadhaigh proposed and Mr. John T. Hamerton seconded a vote of thanks to the Chairman for his address, and his conduct of the meeting, which was carried with acclamation. The President replied and the proceedings terminated.

BUDGET RESOLUTIONS

Stamp Duties on Transfers of Land.

EVERY solicitor will require a copy of the parliamentary debates of 4th May, 1949 (Parliamentary Debates, Dail Eireann, Vol. 115, No. 4).

Price 3d. from the Government Publications Sales Office, Pearse Street, Dublin.

The debates contain the full text of Budget Resolutions Nos. 11 and 12, relating to Stamp Duties. The Budget Resolutions will not become law until the Finance Act is passed, but the Finance Act will give retrospective effect to the provisions of the Budget Resolutions from May 4th, the date when they were passed by Dail Eireann.

The object of Resolution No. 12, is to deal with the situation arising from the recent decision of the Supreme Court in *O'Sullivan v. the Revenue Commissioners*. Where a lease reserving a fine was first executed on or after May 4th, the fine will attract stamp duty at the rates prescribed by Section 13 of the Finance (No. 2) Act, 1947. If such a lease is stamped with the duty of £1 per cent., between May 4th and the date of the passing of the Finance Act it will have to be restamped, within 30 days from the passing of the Finance Act, with the additional duty. Failure to pay the full stamp duty within the said period of 30 days will give rise to a penalty of twice the full stamp duty payable as a debt due to the Minister for Finance. Leases first executed before May 4th, will pay only at the rate of £1 per cent., in accordance with the decision in *O'Sullivan's case*, but if duty at the new rates had been paid thereon before April 28th (the date of the decision of the Supreme Court) the duty overpaid will not be refunded, unless the duty was assessed on adjudication and notice of appeal was served.

Budget Resolution No. 12 is concerned exclusively with certain loopholes which were discovered in the Finance (No. 2) Act, 1947, and which resulted in evasion of the 25 per cent. duty. The transactions which are now declared to attract the 25 per cent. duty are:—

- (a) A conveyance to an Irish body corporate (i.e., a Company formed after 15th October, 1947, at least 51 per cent. of the share capital being in Irish hands) where the purchase price was provided by an unqualified person (i.e., a person other than an Irish citizen or other exempted person) holding shares or a right of control in the company, where a mortgage, charge or debenture is afterwards given to him by the company for the amount of the purchase money so provided.
- (b) A transaction similar to that mentioned in (a) where the security for the money advanced is an equitable deposit of the title deeds.

(c) A conveyance to an Irish body corporate where an unqualified person is entitled to a beneficial interest in the whole, or part of the property. This covers the case where property is purchased by an Irish body corporate with money provided by an alien, and the property is afterwards conveyed to such person. It is intended that duty at the rate of 25 per cent. will be payable even if the alien acquires Irish citizenship before the date of the conveyance to him from the company.

(d) A conveyance to an Irish body corporate, 51 per cent. of the share capital being in Irish hands, if at any time after 3rd May, 1949, the company ceases to be an Irish body corporate because of the shares having ceased to be held by Irish citizens to an extent exceeding one-half the nominal value thereof.

The effect of Budget Resolution No. 12 is that if a transaction falls into one of the above-mentioned categories (a) to (c), the mortgage, charge, equitable deposit or conveyance will attract the 25 per cent. duty unless such mortgage charge or equitable deposit following the conveyance to the Irish body corporate, or the conveyance from the Irish body corporate to the unqualified person who provided the purchase money, was completed before 4th May, 1949. In the latter event no further stamp duty is payable.

Case (d) creates a most awkward position from the point of view of conveyancing practice. The resolution means that where the share capital is altered after May 4th, so that less than 51 per cent. thereof is held beneficially by Irish citizens, the original conveyance to the company must be restamped, *irrespective of whether or not the deed has already been adjudged duly stamped*. From this it appears to follow, that where a conveyance to a company appears on a title on or after 1st December, 1947, the solicitor for a purchaser from the company, or from any assignee of the company, must satisfy himself that the conveyance to the company was duly stamped. In order to do this he will have to require the vendor to show that at no time after 3rd May, 1949, was 51 per cent. of the company share capital held beneficially by persons other than Irish citizens or the other persons mentioned in section 13 (4) of the Finance (No. 2) Act, 1947. Solicitors will note that the resolution creates a situation which is without precedent, namely, that a conveyance from A to B which has been adjudged duly stamped may afterwards attract additional

stamp duty by reason of a subsequent legal mortgage of the property or an equitable deposit of the title deeds by B. It is understood that only twenty or thirty companies are affected by Resolution No. 12.

The matter is under consideration by the Council, and representations are being made to the Revenue Commissioners.

NOTE.—Since the above note was printed the Finance Bill has been introduced. See sections 24-27 thereof, incorporating the Budget resolutions.

SOLICITORS' GOLFING SOCIETY

IN glorious weather the Spring meeting of the Society was held at the Royal Dublin Links on Thursday, the 12th May. Thirty-four members took out cards to compete for the various prizes with the following results:—

The Society's CHALLENGE CUP and CAPTAINS' PRIZE were won by Mr. M. S. Matthews (Co. Louth), who returned a 68. A young and very promising member Gerald Hickey, (Milltown), playing off 6, was runner up with 69.

The VETERANS CUP went to J. J. Hickey (Grange), the father of Gerald Hickey, with a score of 72.

The SAINT PATRICK'S PLATE for handicaps under 12 went to Michael Neary (Milltown), who also brought in a score of 72.

The Captain, T. A. O'Reilly, subsequently presided over a very pleasant dinner he'd afterwards in the Club House at which the principal guest was Mr. P. R. Boyd, the President of the Incorporated Law Society of Ireland, whose health was heartily proposed by Michael Dwyer. Kenneth Kennedy (Tullamore), Malachy Matthews (Drogheda), and the Captain also contributed speeches of wit and becoming brevity. With Mr. Ken O'Dea at the piano to enliven the proceedings, a most enjoyable evening crowned a pleasant day's golf. To avail of this—one of the few opportunities the members of our Profession have of meeting socially—some solicitors who do not play golf joined the party for dinner. This is an admirable spirit and should inspire all golfing solicitors within a reasonable distance to join in future outings.

EXAMINATION RESULTS

Preliminary Examination :

At the Preliminary Examination for intending apprentices to solicitors held on the 6th and 7th days of April, 1949, the following passed the examination and their names are arranged in order of merit:—

Patrick Brendan Munnely, Dominic B. A. Spelman, John Edward Russell, Ernan Rory

O'Connor, Robert McGonagle, Anthony A. Kennedy and Daniel B. Sullivan.

17 candidates entered; 7 passed; 10 were postponed.

The Council has awarded a Gold Medal to Patrick Brendan Munnelly.

Final Examination :

At the Final Examination for apprentices to solicitors held on the 4th and 5th days of April, 1949, the following passed the examination, and their names are arranged in order of merit :—

Donal E. Browne, James Houlihan, Richard Woulfe, Eugene Gillan, Francis M. Thompson, Thomas Shields, Richard F. Blair White, Mary C. Hughes, Jeremiah Ahern, Patrick J. Begley, Richard H. McDonnell, John Kirwan, Hugh Brendan O'Reilly, Hubert O'Dwyer, John James O'Reilly, Michael J. Buggy, Justin J. Hegarty, Jeremiah J. O'Connor.

25 candidates entered; 18 passed; 6 were postponed; 1 did not attend.

The Council has awarded a Silver Medal to Donal E. Browne.

OBITUARY

MR. ROBERT A. MACAULAY died at his residence, Castle Rock, Ballybunnion, Co. Kerry, on the 18th May, 1949.

Mr. Macaulay served his apprenticeship with the late Mr. Henry J. Marshall, Listowel, was admitted in Hilary Sittings 1916, and practised at Listowel, under the style of Messrs. Marshall & Macaulay. He was a member of the Council of this Society from the year 1939 to 1948, and Vice-President for the year 1943-44.

MR. FRANCIS SHIELDS, Solicitor, died at his residence, Highfield, Omagh, Co. Tyrone, on the 21st April, 1949.

Mr. Shields was admitted in Trinity Sittings, 1883, and practised at Omagh as senior partner in the firm of Messrs. Shields & Murnaghan until his retirement in 1946.

MR. FREDERICK H. CROSKERRY, Solicitor, died at his residence, Lonsdale, Sandycove, Co. Dublin, on the 4th May, 1949.

Mr. Croskerry served his apprenticeship with the late Frederick Croskerry, 21 Lr. Ormond Quay, was admitted in Trinity Sittings, 1902, and practised at 30 Lr. Ormond Quay, under the style of Messrs. Frederick Croskerry & Son.

REGISTRATION OF TITLE ACTS 1891 AND 1942

NOTICE.

Folio 766.

COUNTY CAVAN.

Registered Owner : THOMAS FOX.

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 16th day of May, 1949.

JOSEPH O'BYRNE,

Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of Thomas Fox to 17a. 3r. 36p. of the lands of Kilnacrott situate in the Barony of Castlerahan and County of Cavan being the lands comprised in said Folio.

THE REGISTER

Section A

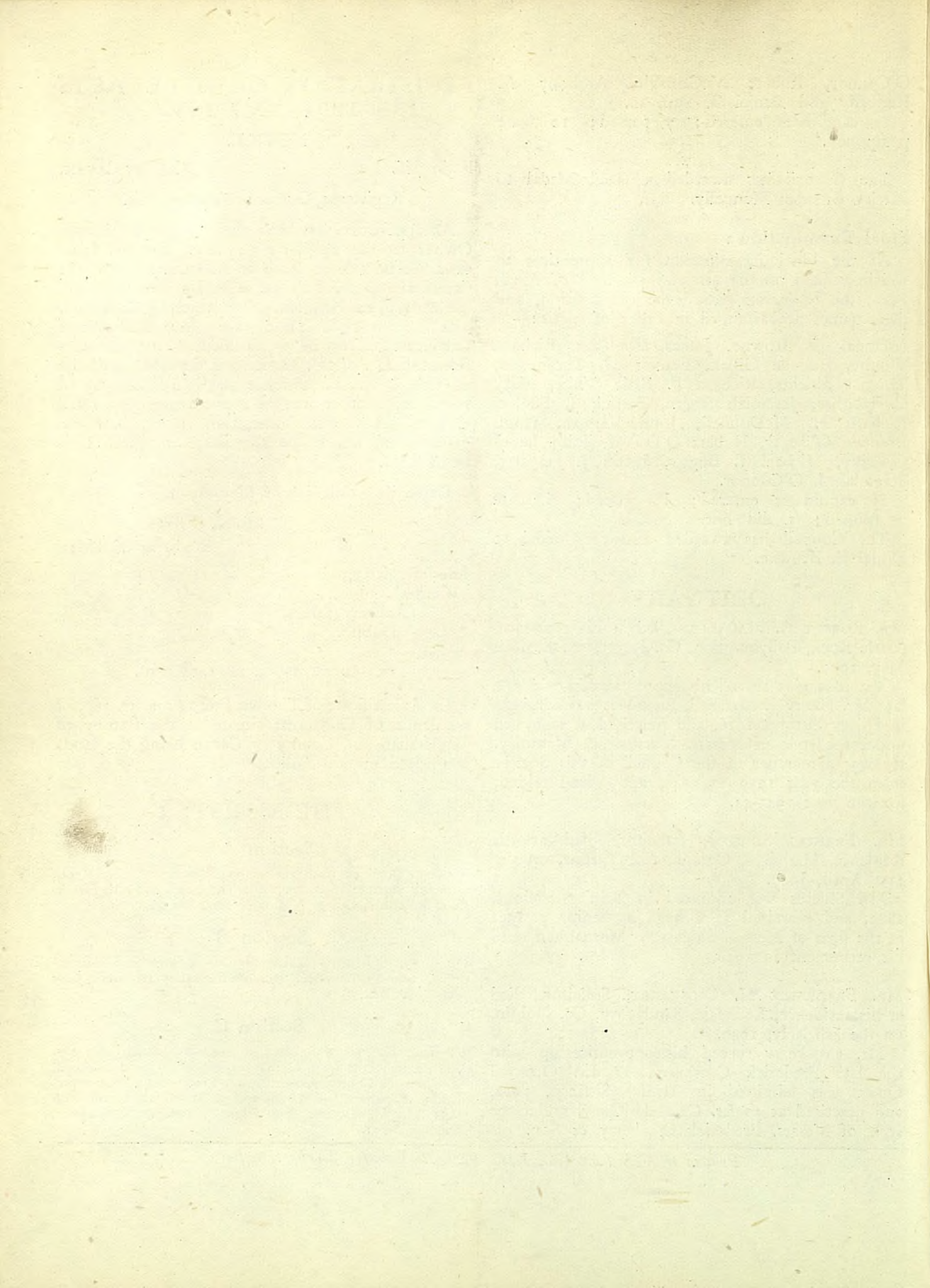
WANTED Qualified Assistant or first class Law Clerk. Reply with full particulars of age, experience, etc., to F. M. Fitt & Co., Solicitors, Lower Mallow Street, Limerick.

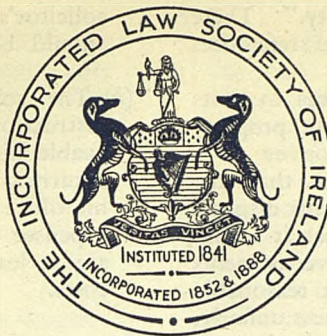
Section B

QUALIFIED Solicitor seeks position as assistant in Solicitors' office. Some experience. Reasonable salary required. City preferred. Box. B. 142.

Section C

COTTER : HELENA MAUREEN and GERALD BERNARD THOMAS. Will the solicitors who, in 1940-41 wrote to Canon Stanford, St. Colman's Church, Cosham, near Portsmouth, Hampshire, making enquiries for the above please communicate with Miss H. M. Cotter, 107 Elgin Crescent, Kensington, London, W.11.





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President

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Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

MAY 19TH, 1949. The President in the Chair. Also present: Messrs. J. Tyrrell, V.P., Joseph Barrett, V.P., Séan Ó hUadhaigh, John J. Bolger, J. Travers Wolfe, John D. O'Connell, Peter Woods, Desmond R. Counahan, Patrick F. O'Reilly, Henry P. Mayne, George A. Overend, Daniel O'Connell, James R. Quirke, John P. Carrigan, Anthony J. Malone, Thomas A. O'Reilly, Arthur Cox, Roger Greene, William S. Hayes, William J. Norman, Dermot P. Shaw.

The following was among the business transacted:—

Budget Resolutions—re Stamp duties :

THE Council considered a report from a committee on the Budget resolutions, and the President and Secretary were appointed as a deputation to interview the Revenue Commissioners with reference to same.

Advertisements for sale of property containing references to costs :

THE Council considered a report from a committee on this matter, and decided to make a

recommendation to the profession, which is printed on this page.

Applications under sections 16 and 18 :

ON a report from the Court of Examiners, an application from a law clerk for leave to be bound under indentures of apprenticeship for three years, under section 16, was granted. A similar application from another law clerk was granted, and it was decided not to oppose an application to the Chief Justice under section 18 by the same law clerk seeking exemption from the Preliminary examination.

REFERENCES TO COSTS IN ADVERTISEMENTS FOR SALE OF PROPERTY

THE attention of the Council has been drawn to the form of certain newspaper advertisements for the sale of property inserted by solicitors and containing references to the costs of the conveyance or lease. A practice is creeping in, generally in the case of advertisements for the sale of newly built houses by way of sub-lease, of including after the price of the house a statement that the stipulated price is "inclusive of all costs," or that "the costs

amount to £X inclusive of stamp duty." There are other possible variations of these references to the costs.

The Council deprecate such references to costs in advertisements for the sale of house property on the ground that they tend to convey to a prospective purchaser the impression that the services of the vendor's solicitor are at his disposal without any additional charge, and that it is unnecessary to retain his own solicitor. Advertisements of this kind inserted by solicitors can reasonably be regarded as calculated to attract business unfairly, and, as such, are a breach of professional etiquette.

As a general rule, references to costs in advertisements for the sale of property are unnecessary and are to be deprecated. There is one exception to this, namely, in the case of a sale by way of sub-lease reserving a fine. In such cases it is recommended that the contract should contain a clause that the vendor and purchaser will pay the costs of their respective solicitors, and it is permissible to include a statement to the same effect in the advertisement.

The view of the Council on this matter can be briefly summarised as follows :

- (1) It is in the interests both of the public and of the profession that practices which tend to induce purchasers not to be separately represented should be avoided.
- (2) The imposition on a prospective lessee-purchaser of liability for the lessor's costs of showing title and preparing the lease is such a practice to be avoided, as the expense of two sets of costs is more than most purchasers are prepared to pay.
- (3) Reference to the costs in an advertisement (other than a statement in the case of a sale by way of lease that each party will pay the costs of his own solicitor) is such a practice to be avoided as it tends to attract the prospective purchaser to the vendor's solicitor.

LEGAL AID

Assignments in murder cases

ON 10th December, 1948, the Attorney General received a deputation from the Council on the subject of the inadequacy of the present allowances to solicitors who are assigned to defend murder cases. The deputation urged that, in fixing the allowances made to solicitors, the matter should be dealt with in the following way :—

- (a) All proper disbursements, including the

solicitor's travelling and subsistence expenses, should be paid in full subject to vouching.

- (b) The solicitor should receive a reasonable instructions fee from the State, which would enable him to undertake the defence without incurring a financial loss due to absence from his office and, having regard to the overhead expenses of running a solicitor's office, which are at least 50 per cent. of his gross earned costs.

It was pointed out that the present allowances to solicitors are altogether inadequate, and it was suggested that in fixing the amount of the fee, regard should be had to the amount of work done, and responsibility involved in the case.

The deputation also suggested that the rule whereby a country solicitor is required to attend personally in Dublin for the purpose of applying for the assignment should be abolished and that it should be sufficient if the town agent attends for that purpose with an authorisation in writing from the county correspondent.

The Attorney General undertook to lay the views of the Society before the Minister for Finance, and to communicate with the judges on the subject of the necessity of the personal attendance of country solicitors to apply for the assignment.

The Society has recently received from the Attorney General copy of a minute from the Department of Finance stating that the Minister for Finance is prepared to agree that, in future, the solicitor assigned for the defence may be allowed, in addition to the assignment fee of 6 guineas, and 3 guineas refreshers, travelling expenses to and from Dublin, and subsistence allowance at the rate appropriate to the highest grade of civil servants, if he is necessarily absent from home. The rates of subsistence allowances at present in force are :—

- | | | |
|---|--------|-------|
| 1. 7 hours or more, but not more than 10 hours | | 3/-. |
| 2. 10 hours or more, not extending overnight | | 7/2. |
| 3. Overnight absence up to 24 hours, and any balance of time not amounting to 7 hours | | 21/6. |

The effect of the above authorisation is that the assignment fee in the case of Dublin solicitors will be 6 guineas with 3 guineas refreshers. The same scale applies to country solicitors in addition to travelling and subsistence allowances as set out above.

The Society has received a letter from the Attorney General stating that the judges of the High Court have now agreed that the personal attendance at Green Street of a solicitor applying for an assignment, is not necessary, provided that the following procedure is observed.

The solicitor seeking the assignment should sign a form to the following effect:

"I, _____, Solicitor, hereby apply to His Lordship, Mr. Justice _____, sitting at the Central Criminal Court that I may be assigned as solicitor for the defence of _____ on the charges about to be preferred against him/her, and I undertake, if so assigned, personally to take instructions for his/her defence from the said _____, and personally to attend the trial from day to day.

(Dated)

(Signed) _____

The Dublin agent of the solicitor seeking the assignment should attend in Court with the above authority when the case is listed for assignment. The arrangement does not affect the position of Counsel who are proposed for assignment, or affect or control the discretion of the judge in assigning solicitor and Counsel.

PROFESSIONAL MISCONDUCT— TOUTING

ON April 22nd, the Chief Justice considered a report from the Statutory Committee finding that a solicitor had been guilty of professional misconduct by canvassing and touting for business as a solicitor. The report was brought before the Court on notice of motion moved by Council on behalf of the Society. The particulars of the misconduct were as follows:—

- (a) That the respondent had approached one, AB, on or about the 7th April, 1947, at the private residence of the said AB, having been requested so to do by a medical practitioner, with a view to obtaining the instructions of the said AB, to act as his solicitor in an action for the recovery of damages for personal injuries received, and that he had accepted instructions from the said AB, when he knew, or ought to have known, that the said AB, was already represented by another solicitor, without making any enquiries from the other solicitor as to the circumstances in which the latter

had received instructions so to act, and that he had knowingly sought and canvassed instructions from the said AB, to act as his solicitor.

- (b) That the respondent had personally approached one CD, a client of the complainant on or about the 7th April, 1948, when the said CD was an inmate of a hospital under treatment for personal injuries received as the result of an accident, and solicited the said CD, to employ the respondent as his solicitor in respect of legal proceedings which were expected as a result of the accident, and to cease to employ the complainant as his solicitor in connection with the said contemplated proceedings.

The Chief Justice confirmed the report of the Committee finding the respondent guilty of professional misconduct, censured him very severely, and ordered him to pay all the costs of the proceedings before the Committee and before the Court.

PROFESSIONAL ITEMS

Conversation between Counsel

WHEN a defendant in the Dublin Circuit Court recently applied to have a judgment by default set aside and for liberty to enter a late defence, one of the grounds upon which his application was based was a conversation between counsel in the Law Library. It was set forth in his notice of motion and deposed to in an affidavit made by his solicitor that the defendant's counsel spoke to the plaintiff's counsel in the Law Library and informed him that owing to the lateness at which he had received instructions it would be difficult for him to have a defence drafted within the time limited, and asking him if he would have any objection to the time being extended. The plaintiff's counsel, who was unaware of any negotiations between the solicitors, said that as far as he was concerned he had no objection to any extension of time being granted if such were applied for. No further communication took place between the solicitors, and the defence not having been entered the plaintiff proceeded to mark judgment by default. Judge Barra O Briain stated that such conversations should not be referred to in affidavits or made the basis of any application. Meredith, J. had expressly disapproved of the practice and he (Judge Barra O Briain) was fully in agreement with that view. It would be impossible for counsel to agree to facilitate a colleague if there

were a danger that advantage would be taken of such a concession to jeopardise his client's interests. It has always been clearly understood that such arrangements are purely personal between counsel who are not entitled, and do not seek, to bind their clients by any concessions made without express instructions.

(Irish Law Times and Solicitors' Journal.)

Notice to quit—Uncertainty as to commencement of tenancy

IN *Colfix (Dublin) Ltd. v. Hendron Bros. (Dublin) Ltd.* (88 L.L.T.R. 45), a case of ejectment for overholding, the tenancy was created on an uncertain date in April or May, 1933, by oral agreement between a director of the plaintiff company and a representative of the defendant company. The rent was payable monthly. On 17th April, 1947, the following notice to quit was served by the plaintiff company on the defendant company:

"We Colfix (Dublin) Ltd., having our registered office at East Wall Road, Dublin, C.10, hereby give you notice to quit and deliver up to us on the 1st day of June, 1947, possession of all that the yard being portion of our premises at East Wall Road in the City of Dublin, on the corner of Sheriff Street and East Wall Road, which you now hold from us as tenant from month to month or tenant at will."

The defendant company, on receipt of the notice to quit, served a notice of intention to claim relief under the Landlord and Tenant Act, 1931. The plaintiffs served an ejectment civil bill for overholding, on which the Circuit Court judge gave a decree for possession. On appeal to the High Court, the evidence as to the actual date of the commencement of the tenancy was vague, and there was no accurate written record in evidence as to the date of the oral letting agreement. Mr. Justice Martin Maguire held that, in the absence of satisfactory evidence as to the date when the tenancy commenced, and as the notice to quit was given for 1st June, 1947, and no alternative date was given, it had to be good for that date or bad altogether. He held, that on the facts before him, the notice to quit was bad, and reversed the order of the Circuit Court.

Solicitors' application for a new lease

PART I of the British Landlord and Tenant Act, 1927, enables a tenant to claim compensation for improvements and goodwill on the termination of a tenancy of business premises. Section 5 of the same Act entitles the tenant to obtain a new lease of the premises in certain cases, where he can

prove that compensation under the section would not be adequate compensation for the loss he would suffer if he removed to or carried on his trade or business in other premises. Section 17(3) provides that, for the purposes of Part I of the Act, premises shall not be deemed to be premises used for carrying on thereat a trade or business (a) by reason of their being used for carrying on thereat any profession. The solicitors applied under section 5 for a new lease of their office premises. The County Court judge found that a considerable amount of business, including building society and insurance business, was carried on by the applicants apart from their professional activities as solicitors, and that if the applicants left the premises they would be worth more to another solicitor by reason of the tenants' activities, and accordingly held that goodwill attached to the premises. He found that the tenants were entitled to a new lease under section 5 of the Act. The landlords appealed. Counsel for the solicitors argued that, as it had been found that goodwill existed, it was sufficient, in order to found the application for the new tenancy, to show that a business, as distinct from a profession, was carried on by the tenants, without showing that the goodwill was referable exclusively to the business. The Court of Appeal declined to accept this view and held that the only way of showing that goodwill attached to the premises by reason of the carrying on there of a trade or business was by bringing evidence on which the court could ascertain what goodwill was actually referable to that trade or business, as distinct from what was referable to the profession, and that the profession must not be brought in for the purpose of the claim to compensation or to a new lease.

This decision, although of interest to solicitors, does not affect the legal position in Ireland, as the term "business" in section 2 of the Landlord and Tenant Act, 1931, is defined as meaning "any trade, profession or business carried on for gain or reward" in contrast to section 17 of the British Landlord and Tenant Act, 1927.

Solicitor's lien for costs

IN *James Bibby, Ltd. v. Woods (Howard, Garnishee)* (207 L.T. 314), certain judgment creditors obtained a garnishee order on a sum of £90 which became payable to the judgment debtor on the compromise of certain actions to which he was a party. On 4th March, on the application by the judgment creditors to have the garnishee order made absolute, the judgment debtor stated that his solicitor claimed to be entitled to a charge on the garnished debt for his costs. The solicitor knew of the garnishee

order *nisi* on 28th February, but he had not applied to the Court to obtain a charging order thereon under section 69 of the Solicitors Act, 1932, which is similar to section 3 of the Legal Practitioners (Ireland) Act, 1876. The court made the garnishee order absolute without reference to the solicitor's lien for costs. On appeal, it was held that a solicitor has a lien on property which is in his possession, and where a sum of money is recovered through his professional exertions he does not obtain a charge on the money for his costs, but merely the right to apply to the court for such a charge. As the solicitor had not applied for a charging order before the application to have the garnishee order made absolute, he was not entitled to an inquiry as to the amount due to him; and the judgment creditors were entitled to have the garnishee order made absolute.

INDEX TO THE STATUTES

COMPRISES the legislation enacted in the period December, 1922 to December, 1948, and with Chronological Tables showing the effect on Pre-Union Irish Statutes, British Statutes, Saorstát Eireann Statutes and Acts of the Oireachtas. Price 20s., postage 8d.

IRISH LEGAL TERMS

THE attention of apprentices studying for the Second Irish examination is directed to the following orders:

Irish Legal Terms (No. 1) Order, 1947, price 6d; and
Irish Legal Terms (No. 2) Order, 1948, price 3d;
copies of which can be obtained from the Government
Publications Office, 3 College Street, Dublin.

OBITUARY

MR. ANDREW D. COMYN, Solicitor, died at his residence, Loughrea, Co. Galway, on 23rd May, 1949.

Mr. Comyn served his apprenticeship with the late Mr. Joseph T. Maxwell of Nth. Gt. George's Street, Dublin, was admitted in Hilary sittings of 1896, and practised at Loughrea.

REGISTER

Section B

SOLICITOR, experienced all branches City and Country practice, including conducting cases in Court, desires Assistantship, City or Country office; disengaged July. Box No. B. 143.

Section C

FOR SALE: 4 drawer steel filing cabinet in perfect condition, quarto size. Inspection arranged. Apply Messrs. Fletcher, Sheedy & Co., Solicitors, Mountrath, Leix.

WANTED: (a) Digest of Irish cases, 1928-38.

(b) Landlord and Tenant Act, 1931 (Kingsmill Moore).

(c) Judicature Practice (Wylie).

M. J. Kenny, Solicitor, Molesworth Street, Dublin.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

Last year over £1,300 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

The active co-operation of the Profession in the Association's good work is asked for and all who are not members are urged to join without delay.

Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

Address:

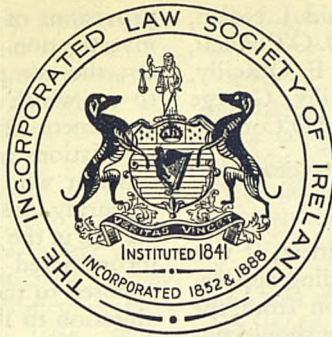
THE SECRETARY,

SOLICITORS' BENEVOLENT ASSOCIATION,

12 NASSAU STREET, DUBLIN.

The Solicitors' Benevolent Association

The Solicitors' Benevolent Association was formed in 1871 for the purpose of providing relief to the families of deceased solicitors and their widows and children. The Association has since that time been engaged in various charitable and benevolent work, and has been successful in raising a large amount of money for its various objects. The Association is now in a position to provide relief to the families of deceased solicitors and their widows and children, and to engage in various charitable and benevolent work.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

PATRICK R. BOYD

Vice-Presidents

JOSEPH TYRRELL
JOSEPH BARRETT

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

9TH JUNE, 1949. The President in the Chair. Also present: Messrs. Joseph Tyrrell, V.P., Joseph Barrett, V.P., Seán Ó hUadhaigh, William J. Norman, Daniel O'Connell, James R. Quirk, Derrick M. Martin, Roger Greene, Dermot P. Shaw, Henry St. J. Blake, Gerald J. O'Donnell, Patrick F. O'Reilly, Thomas A. O'Reilly, Henry P. Mayne, Arthur Cox.

The following was among the business transacted:

Budget Resolutions

THE Secretary reported that a letter had been written on behalf of the Society to the Minister for Finance, pointing out the difficulties in the practice of conveyancing which would be caused by Sections 24 to 27 of the Finance Bill, 1949, and that it was probable that these sections would also lead to further delay in the assessment of stamp duties. It was ordered that a copy of the letter should be sent to each solicitor who is a member of Dáil Éireann.

Land Registry costs

It was ordered that an application should be made

to the Land Registration Rules Committee seeking an amendment to the Land Registration (Solicitors' Costs) Rules, 1947, by the substitution of thirty-three and one-third per cent. for twenty-five per cent. therein as the permitted increase in the scale fees under the Land Registration Rules, 1937. It was also decided to ask the Committee to amend the Schedule to the 1937 Rules (relating to the costs of voluntary transfers) so as to allow the costs to be charged in detail under Schedule 2, in cases where the value of the land transferred is less than £1,000.

High Court Costs and Commissioners' fees

It was decided that an application should be made to the Superior Court Rules Committee for an amendment of the rules to enable the Taxing Masters to allow travelling and subsistence expenses to country solicitors attending Dublin for the trial of actions in the High Court.

It was also decided to apply to have Commissioners' fees increased by 50 per cent.

30TH JUNE, 1949. The President in the Chair. Also present: Messrs. Joseph Tyrrell, V.P., Joseph Barrett, V.P., William S. Hayes, Niall S. Gaffney, John Dundon, William J. Norman, Henry

P. Mayne, William S. Huggard, Reginald J. Nolan, James R. Quirke, Roger Greene, John D. O'Connell, J. Travers Wolfe, Arthur Cox, Patrick F. O'Reilly, Seán Ó hUadhaigh, Thomas A. O'Reilly, George A. Overend, Gerald J. O'Donnell, Daniel O'Connell.

The following was among the business transacted:

Application under Section 18

ON a report from the Court of Examiners, it was ordered that an application by an intending apprentice to the Chief Justice for exemption from the Preliminary Examination of this Society should not be opposed.

Members' subscriptions

ON a report from the Finance Committee it was decided to issue bankers' orders to members for payment of their annual subscriptions direct from the members' bank accounts to the Society's account in the Bank of Ireland.

Land Registry delays

It was decided to make further representations to the Minister for Justice concerning the delays in the transaction of business in the Land Registry, due to shortage of staff.

FINANCE BILL, 1949

IN March last, a deputation from the Council was received by the Minister for Finance. The object of the deputation was to urge upon the Minister that the increased rates of stamp duty on transfers of land and house property should be repealed in the Finance Bill, 1949, and the rates of duty in force prior to December, 1947, should be restored. A reasoned case for the reduction of the duties was made by the deputation, and carefully considered by the Minister. As was stated in the President's speech at the half-yearly general meeting of the Society on 19th May, the Minister, while appreciating the facts in the case put forth by the Society, was unable, for financial reasons, to accede to the request. It was stated at the interview that the increased stamp duties had yielded over half-a-million pounds in additional revenue during the financial year, 1948-1949.

When the Budget Resolutions were introduced, it was seen that the Government did not intend to make any change in the rates of duty. The Council carefully considered the Budget Resolutions and the Finance Bill, and decided to make representations to the Minister concerning a number of technical difficulties which would arise from the

provisions of the Bill, particularly in regard to the investigation of titles, and, in general, to point out the complications introduced by Sections 24 to 27 which would lead to further delay in the assessment of stamp duties. A copy of the representations made to the Minister was sent to each solicitor who is a member of Dáil Éireann.

During the debate on the Committee Stage of the Bill in the Dáil, it was stated by a deputy that the Incorporated Law Society of Ireland was not opposed to the rates of duty, and was confining its objection to the technical aspects of the Bill. The deputy was mistaken in stating that this Society is not opposed to the new rates of duty. On the contrary, the Council took every opportunity of impressing upon the Minister the inequitable nature of the heavy tax on transfers of land and house property. This is clear from the speech made by the President at the half-yearly meeting on 19th May. When the attention of the deputy concerned was drawn to the matter, he corrected his speech by a letter in the morning newspaper which had published it.

Section 24 of the Finance Bill alters the rate of stamp duty on leases, and changes the law as declared in the recent case of *O'Sullivan v. the Revenue Commissioners*, in which it was decided that the Finance (No. 2) Act, 1947, did not apply to leases. In future, a lease reserving a fine will attract the same rate of duty in respect of the fine as a conveyance. Sub-section (6) enables the Revenue Commissioners, if they are of opinion that the rent reserved by a lease is inadequate, to assess it to stamp duty as a voluntary conveyance. The section is presumably intended to prevent the device of evading stamp duty on a voluntary conveyance by drawing it in the form of a lease at a nominal rent.

Section 25 deals with the same subject matter as Section 24. The object of the section is to provide for cases in which an instrument falling within Section 24 may have been stamped between the date of the Budget Resolutions and the date of the passing of the Finance Act. The Budget Resolutions have not the force of law, but the Finance Act when passed will be retrospective to the 4th May, the date of the passing of the Budget Resolutions. Section 25 provides that instruments falling within Section 24, stamped at the lower rate between 4th May and the date of the coming into operation of the Finance Act, must be restamped with the difference in stamp duty within 30 days from the last mentioned date, on pain of a penalty of twice the stamp duty.

Sections 24 and 25 do not apply to any lease first executed before 4th May, 1949.

Section 26 is concerned exclusively with certain loopholes which were discovered in the Finance (No. 2) Act, 1947, and which resulted in evasion of the 25% duty. The transactions which are now declared to attract the 25% duty are, very briefly, as follows:—

- (1) A conveyance to an Irish body corporate (i.e. a company formed after 15th October, 1947, at least 51% of the share capital being in Irish hands) where the purchase money was provided by an unqualified person (i.e. a person other than an Irish citizen or other exempted person) holding shares or a right of control in the company, where a mortgage, charge or debenture is afterwards given to the unqualified person by the company for the amount of the purchase money so provided. (Section 26 (2) (a) and (b)).
- (2) A transaction similar to that mentioned in (1) where the security for the money advanced is an equitable deposit of the title deeds. (Section 26 (2) (c) and (d)).
- (3) A conveyance to an Irish body corporate where an unqualified person is entitled to a beneficial interest in the whole or part of the property, unless the principal or only instrument under which such a person becomes so entitled is an instrument chargeable with the full duty. This covers the case where property is purchased by an Irish body corporate with money provided by an unqualified person and the property is subsequently conveyed by the company to such person. It is intended that duty at the rate of 25% should be payable even if the unqualified person becomes an Irish citizen before the date of the conveyance to him by the company. (Section 26 (3)).
- (4) A transfer to an Irish body corporate, if, at any date after 3rd May, 1949, the company ceases to be an Irish body corporate, because of the shares held by Irish citizens ceasing to exceed 51% of the share capital in nominal value. (Section 26 (4)).

The effect of section 26 is, that if a transaction falls within one of the above-mentioned categories (1), (2), or (3), the mortgage, charge, or equitable deposit in case (1) or (2), or the conveyance from the company to the beneficial owner in case (3) will attract the 25% duty unless such mortgage, charge or equitable deposit in cases (1) or (2), or the conveyance in case (3) was completed before

4th May, 1949. In the latter event, the section does not apply.

Case (4) above means that where property was purchased on any date after 1st December, 1947, by a company formed after 15th October, 1947, 51% of whose capital was in Irish hands, and the share capital is altered on any date after 4th May, 1949, so that less than 51 per cent. thereof continues to be so held, the conveyance to the company must be re-stamped with the full 25 per cent. duty *even though the deed may have already been adjudged duly stamped*. This provision, that a deed which has been duly stamped in accordance with the law and the facts existing at the date of its execution may attract additional duty on the happening of an uncertain future event, is both novel and undesirable, and is a departure from the principles of the Stamp Act, 1891. Counsel or solicitor, investigating a title in, say, 1953, on which a conveyance to such a company appears, in order to satisfy himself that the conveyance was duly stamped, may have to require the vendor's solicitors (who may not be the solicitors for the company) to furnish evidence that on no single day subsequent to the 3rd May, 1949, was less than 51 per cent. of the share capital of the company held by Irish citizens. Inspection of the share register of the company will not necessarily afford evidence that the persons whose names appear therein are Irish citizens; and it is difficult to visualize the nature of the evidence that will have to be required. The adjudication stamp on the deed, instead of being a protection to the purchaser, may be a pitfall. A good deal of property may be held by private companies, formed, since 15th October, 1947, for the purpose of building and estate development. A solicitor for a subsequent purchaser dealing with a conveyance to such a company about which he may know nothing, will have to assume that the section applies until the contrary is proved. The profession will have to consider how best the practical difficulties created by this sub-section can be solved, with due regard to their obligation to ensure that their clients will obtain good titles to property purchased.

The attention of the Minister was drawn to the practical difficulties arising out of the sub-section. In reply, he stated that while it is true that the sub-section may cause some difficulty where the property is sold by a company many years after its formation, as the sub-section applies only to a company incorporated in the State after 15th October, 1947, the matter of ascertaining the beneficial ownership of the shares in the company at all dates since the date of its formation will not present any great difficulty for some years to

come. As companies within the Control of Manufactures Act are entitled to the benefit of the 5 per cent. rate, by reference to paragraph (e) of sub-section (4) they are not affected. He also said that almost all the companies concerned will be private property holding companies which normally have few shareholders, and infrequent transfers of shares.

EXAMINATION RESULTS

At the Intermediate Examination for apprentices to Solicitors held on the 1st day of June, 1949, the following passed the examination:—

Passed with Merit

1. Michael Lucas and John S. Wilcock. 3. Dermot F. Jones. 4. Francis E. A. Taylor. 5. Mary C. C. O'Mahony. 6. Michael C. O'Driscoll. 7. T. Finbarr O'Reilly. 8. Desmond E. M. Matthews. 9. Edward R. Rogers. 10. Donal G. Binchy. 11. Patrick J. Creagh. 12. Cahir F. Davitt. 13. Patrick J. O'Driscoll (Jnr.) 14. James M. Cawley. 15. Joseph M. L. Dockery. 16. Daniel C. Brillely. 17. Michael Kenefick and Gerard J. Lyons. 19. Patrick J. McCormack and James Marshall. 21. Gerald J. M. Moloney. 22. Patrick E. Thornton. 23. Michael D. Lambe. 24. Augustine I. Cunningham. 25. Charles P. Forde. 26. Timothy F. G. O'Toole.

Passed

Edward Joseph Barrett. Mary A. B. M. E. Callery. Patrick Noel Downes. James McD. Kerr. Kevin P. Loftus. Patrick O'R. Markey. Myles C. Murphy. Edward O'Carroll. Patrick D. O'Connor. Helena B. A. O'Doherty. Patrick Hugh O'Doherty. Brendan O. M. O'Reilly. David R. Pigot. James J. Sheerin. Jasper R. H. Swanton. Patrick L. Tracey. Brendan J. Wallace.

Fifty-two candidates entered, forty-three passed, seven failed, two did not attend.

PROGRAMME OF LECTURES

1949-'50

Course A

Common Law (including Personal Property, Contracts and Torts), 42 lectures delivered as follows:—

Michaelmas Sittings—12; Hilary Sittings—21; Easter Sittings—9; Minimum attendance for credit is Michaelmas—9; Hilary—16; Easter—7. Lectures each Monday and Thursday at 2.15 o'clock, save where otherwise notified.

Course B

Equity and Real Property, 42 lectures delivered: as follows:

Michaelmas Sittings—12; Hilary Sittings—21;

Easter Sittings—9; Minimum attendance for credit is Michaelmas—9; Hilary—16; Easter—7. Lectures each Tuesday and Friday at 2.15 o'clock, save where otherwise notified.

Course C

Conveyancing (18 lectures, of which at least 14 must be attended); General practice of a solicitor's office (20 lectures, of which at least 15 must be attended) and the rights, duties and responsibilities of solicitors (4 lectures, of which at least three must be attended).

Lectures will be delivered as follows:—

Michaelmas Sittings—12; Hilary Sittings—21; Easter Sittings—9. Lectures on Monday and Wednesday at 3.30 o'clock, save where otherwise notified.

For a selection of recommended reading see the published syllabus for the Intermediate and Final Examinations. The Lecturer will not necessarily undertake to cover the entire field in each subject or lecture out of any particular text book. He will advise the class as to its reading and will assume that each student will have read on the lines advised, in advance of each lecture, on the subject matter of the lecture. The aim of lectures will be to guide students in their work and to illustrate, explain and supplement their reading.

A written examination will be held at the end of each term's lectures.

Courses B. and C. may be attended in the same year, but Course A. must be completed before either Course B. or C. is commenced. An apprentice who had on 1st October, 1948, already attended and obtained credit for the Society's Junior and Senior Lectures is eligible for Course C. lectures, but is not obliged to attend them. Every other apprentice is obliged to take Courses A., B. and C. but will be allowed credit for lectures already attended.

REGISTRY

Section A.

Wanted Assistant, with some experience country, to manage Branch Office, Ballycastle, Co. Antrim. Articles given, if desired, to suitable applicant. Protestant. Apply, Greer Hamilton & Gailey, Solicitors, Ballymoney, Co. Antrim.

Section C

THE partnership hitherto carried on by HUGH C. MCGAHON, Solicitor, and PETER WOODS, Solicitor, under the title of McGahon & Woods, Solicitors, 18 Francis Street, Dundalk, is being dissolved as from the 1st July, 1949. Each partner will henceforth carry on business on his own account, Mr. Woods at 18 Francis Street, Dundalk, and at Carlingford, Co. Louth; and Mr. McGahon 14 Francis Street, Dundalk.

NOTICE

Folio 1173.

COUNTY MEATH

Registered Limited Owner: JANE ROURKE

An application has been made to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered limited owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 16th day of July, 1949.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of Jane Rourke to 97a. 2r. 15p. of Augherskea situate in the Barony of Deece Lower and County of Meath being the lands comprised in said Folio.

OBITUARY

MR. FRANCIS J. MAGAN, Solicitor, Granard, Co. Longford died on 11th June, 1949.

Mr. Magan served his apprenticeship with the late Mr. Philip C. P. MacDermot, Boyle, was admitted in Hilary sittings 1905, and practised at Granard, Co. Longford.

MR. ALURED F. ROLLESTON, Solicitor, died at his residence, Ivyleigh, Maryborough, on 27th June, 1949.

Mr. Rolleston served his apprenticeship with the late William M. Beauchamp, Limerick, was admitted in Trinity sittings, 1899, and practised at Maryborough.

MR. HENRY C. ROPER, Solicitor, died at his residence, Quarryside, Elton Park, Sandycove, Dublin, on 30th June, 1949.

Mr. Roper served his apprenticeship with the late Murdock Green Foley, 52 Lr. Sackville St., Dublin, was admitted in Hilary sittings, 1899, and practised at 51 Merrion Square, Dublin, as senior partner in the firm of Messrs. S. S. & E. Reeves & Sons.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

Last year over £1,300 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

The active co-operation of the Profession in the Association's good work is asked for and all who are not members are urged to join without delay.

Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

Address:

THE SECRETARY,
SOLICITORS' BENEVOLENT ASSOCIATION,
12 NASSAU STREET, DUBLIN.

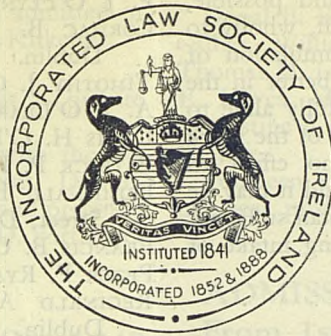
OBITUARY

Mr. [Name] was born [Date] at [Location]. He was a member of the [Organization] and served as [Position]. He was a devoted family man and a respected member of the community. He passed away on [Date] at the age of [Age]. He is survived by [Family Members].

Mr. [Name] was born [Date] at [Location]. He was a member of the [Organization] and served as [Position]. He was a devoted family man and a respected member of the community. He passed away on [Date] at the age of [Age]. He is survived by [Family Members].

The Salinas Benevolent Association

The Salinas Benevolent Association was organized in 1882 for the purpose of promoting the welfare of the community. It has since that time been engaged in various benevolent and charitable work. The association has a long and honorable record of service to the community and its members. It is a proud member of the [Organization] and is committed to the highest standards of service and integrity.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

PATRICK R. BOYD

Vice-Presidents

JOSEPH TYRRELL
JOSEPH BARRETT

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

JULY 21ST, 1949. The President in the Chair. Also present: Messrs. Joseph P. Tyrrell, Joseph Barrett, Vice-Presidents; Messrs. H. P. Mayne, D. M. Martin, Daniel O'Connell, J. P. Carrigan, James R. Quirke, John J. Dunne, William J. Norman, G. J. O'Donnell, H. St. J. Blake, Arthur Cox, Sean O hUadhaigh, Thomas A. O'Reilly, Roger Green, Patrick F. O'Reilly.

The following was among the business transacted:—

Salaries of Solicitors in the State Service

THE Council considered a report from a Committee on the salary scales of certain solicitors employed in legal departments of the State. The Committee reported that the salary scales as appearing from the published Estimates are unsatisfactory, and that this is a matter affecting the profession. It was decided to make representations to the Minister for Finance and a deputation was appointed to seek an interview with him.

Solicitors' Bill

A DEPUTATION was appointed to attend a conference with the Secretary and officials on matters arising on the Parliamentary Draftsman's draft of the Solicitors' Bill.

THE LAND REGISTRY

THE following statement was made in Dáil Eireann by the Minister for Justice on June 9th:

Deputies will remember that the need for additional staff in the central office of the Land Registry was foreshadowed in what I said on this subject last year. The requisite provision is being made in this year's estimate. Because of circumstances outside our control, some of the newly-created posts remain to be filled, and others have had to be filled by temporary staff with a consequent loss of efficiency. Accordingly, it cannot be said that our staff requirements have been fully met. The time lag, which is inseparably associated with the provision of additional staff, has had a more adverse affect in this instance because of the fact that we are witnessing an unprecedented expansion

in the work of the central office of the Land Registry. For this reason it has not been found possible, despite the best endeavours of the staff, wholly to avoid delays and to prevent the accumulation of arrears. However, it is hoped to do better in the coming year. Needless to say, I am fully alive to the importance to the rural community of the work of the Land Registry, and will spare no effort to restore the position, although I am afraid it may be some time before there is an inflow of staff sufficient to keep pace with the rapidly increasing intake of work.

NEW MEMBERS

The following have joined the Society:—

JOHN F. BINCHY, Clonmel.
 HAMILTON R. BLAKENEY, 24 Dame Street, Dublin.
 PATRICK V. BOLAND, Newbridge.
 BRENDAN BREATHNACH, Dundalk.
 PATRICK BURKE, 63 Upr. O'Connell Street, Dublin.
 RICHARD P. CALLAGHAN, Cork.
 BERNARD J. CLARE, 29 Albany Road, Ranelagh.
 MAURICE L. CLIFFORD, 62 Dawson Street, Dublin.
 DANIEL COGHLAN, 45 Pembroke Road, Dublin.
 GEORGE J. COLLEY, 2 Lt. O'Connell Street, Dublin.
 MICHAEL T. DAVIS, 3 Dawson Street, Dublin.
 C. HUGH DOYLE, 32 Nassau Street, Dublin.
 JOHN E. DOYLE, 25 Suffolk Street, Dublin.
 ANTHONY DUDLEY, 14/15 Lt. O'Connell Street, Dublin.
 JOSEPH A. EGAN, 12 Dame Street, Dublin.
 DERMOT D. FANNING, 60 Sandford Road, Ranelagh.
 HUBERT A. J. FETHERSTONHAUGH, Mountmellick.
 JOHN HEALY, Cahirciveen.
 JAMES M. HESSON, Tuam.
 JAMES GERALD HICKEY, 14/15 Lt. O'Connell Street, Dublin.
 FRANCIS P. HOWLEY, Sligo.
 TIMOTHY O'N. KIELY, Kilkenny.
 THOMAS R. R. KING, Granard.
 HENRY B. LINEHAN, 43 Dame Street, Dublin.
 TIMOTHY LINEHAN, Millstreet.
 JOHN B. LYNCH, 50 Grand Parade, Cork.
 WILLIAM T. MORAN, Swords.
 MATTHEW J. NAGLE, Buttevant.
 PATRICK J. NUTLEY, 11 Dame Street, Dublin.
 BLATHNAIDH NÍ UADHAIGH, 51 Dawson Street, Dublin.
 MICHEÁL Ó HAODHA, 3 St. Andrew Street, Dublin.
 THOMAS K. O'CONNOR, 4 Upr. Ormond Quay, Dublin.
 WILLIAM F. O'CONNOR, 55 Sth Mall, Cork.
 JAMES O'DOHERTY, Sligo.
 HUBERT O'DWYER, 5 St. Andrew Street, Dublin.
 A. J. O'FLYNN, Gott.

BRENDAN O'FLYNN, 30 Sth. Frederick Street, Dublin.
 P. J. O'FLYNN, Galway.
 CORMAC B. J. O'HARE, 11 Lt. Ormond Quay, Dublin.
 TIMOTHY J. C. O'KEEFFE, Roscommon.
 A. J. O'LEARY, 28 Mt. Shannon Road, Dublin.
 DENIS H. O'RIORDAN, 18 Dame Street, Dublin.
 PATRICK P. P. O'SHEA, Kilrush.
 DOMHNALL B. O'SULLIVAN, 34 Upr. O'Connell Street, Dublin.
 FRANCIS B. O'TOOLE, Edenderry.
 PETER P. RYAN, Rathdowney.
 REGINALD A. SAINSBURY, 19/20 Fleet Street, Dublin.
 PATRICK SHANNON, 30 Molesworth Street, Dublin.
 THOMAS SHIELDS, Loughrea.
 JAMES E. B. SKELLY, Mountmellick.
 J. M. G. SWEENEY, Athenry.

SOLICITORS' APPRENTICES' DEBATING SOCIETY

The Solicitors' Apprentices' Debating Society elected the following Executive Committee for 1949/50: Auditor, Edmund S. Doyle. Correspondence Secretary, Joseph J. Leech. Record Secretary, Miss Mary Moore. Treasurer, William S. O'Brien. Committee, Donal E. Browne, Donald Lambe, Brendan J. Wallace, James P. Woods, Ex-Auditor (ex-officio).

The following awards were made: Oratory: Incorporated Law Society's Gold Medal, Richard Ryan. Society's Silver Medal, C. U. McGill. Special Certificate, M. Taylor. Legal Debate (President's Gold Medal), Joseph J. Grace. Society's Silver Medal, C. U. McGill. Impromptu Speeches—Vice-President's Gold Medal, James P. Woods. Vice-President's Silver Medal, Richard Ryan. Irish Debate: Society's Gold Medal, James P. Woods; Society's Silver Medal, Richard Ryan. First Year Speeches: Society's Silver Medal, Miss Mary Moore.

OBITUARY

MR. DAVID J. FARRELL, Solicitor, died at his residence, 144 Leinster Road, Dublin, on 21st July, 1949.

Mr. Farrell served his apprenticeship with the late Mr. Timothy O'Hanrahan, 38 St. Stephen's Green, Dublin, was admitted in Easter Sittings, 1939, and practised at 1 Clare Street, Dublin.

MR. FRANCIS J. CLOHOSEY, Solicitor, died at a private nursing home on 8th July, 1949.

Mr. Clohosey served his apprenticeship with Mr. Reginald J. Nolan, Kilkenny, was admitted in Hilary Sittings, 1930, and practised at Kilkenny.

MR. HENRY SHEIL, Solicitor, died at a private nursing home on 19th July, 1949.

Mr. Sheil served his apprenticeship with the late Mr. John O'Hagan, 9 Harcourt Street, Dublin, was admitted in Trinity Sittings, 1910, and practised as senior partner in the firm of George D. Fottrell & Sons, 46 Fleet Street, Dublin.

EXAMINATIONS—AUTUMN, 1949

<i>Examination.</i>	<i>Date.</i>	<i>Latest date for giving notice.</i>
First and Second Irish.	30th September and 1st Oct.	9th September
Final 3rd and 4th Oct.	12th September
Intermediate 5th October	14th September
Preliminary 6th and 7th Oct.	15th September

LECTURES—1949-50

COURSE A. Mondays and Thursdays, 2.15 p.m., commencing 10th October.

COURSE B. Tuesdays and Fridays, 2.15 p.m., commencing 11th October.

COURSE C. Mondays and Wednesdays, 3.30 p.m., commencing 10th October.

MICHAELMAS TERM, 1949

THE Law Term will commence on Monday, 10th October.

EXAMINATION RESULTS

At the Examinations under the Legal Practitioner's Qualification Act, 1929, held on 1st and 2nd July, the following candidates were successful:—

First Examination in Irish

John Baily, John Killian Boland, Mathias Buchalter, George H. Crawford, George B. Fairbrother, Patrick C. Kilroy, Thomas Oliver P. Lloyd, Leo Joseph Loftus, Finbarr McCarthy, John Niall O'Sullivan, Gerard Michael Quirk, Francis D. Sweeney, Frans Hendrik Van der Lee, Raymond Maurice Walker.

Twenty-one candidates entered; fourteen passed; five were postponed; two did not attend.

Second Examination in Irish

Donal E. Browne, Michael J. Buggy, Thomas L. Callan, William F. Carroll, Peter A. Connellan, Thomas M. L. Coyle, Andrew P. Curneen, Margaret E. Hayes, Mary C. Hughes, Philip T. Meagher, Augustine A. Mooney, Henry N. Robinson, Richard Woulfe.

Fourteen candidates entered; thirteen passed; one was postponed.

ADMISSIONS AS SOLICITORS From 1st. July, 1948 to 31st. July, 1949.

<i>Name</i>	<i>Served Apprenticeship to</i>
BACON, THOMAS HUGH, 23 Clyde Road, Ballsbridge, Dublin.	JAMES G. O'CONNOR, 9 Clare Street, Dublin.
BEGLEY, PATRICK, 9 Lauderdale Terrace, Bray, Co. Wicklow.	LIAM CAFFERKY, 29 Mary Street, Dublin.
BOWEN, CAROLINE ROSE, Ballinaparka, Cappoquin, Co. Waterford.	DONAL McCLEMENT, Cork.
BREATHNACH, BRENDAN, O'Neill Street, Carrickmacross, Co. Monaghan.	PATRICK J. KENNEDY, Carrickmacross.
BREEN, JAMES JOSEPH, 25 Nth. Main Street, Wexford.	THOMAS WALSH, Wexford.
BRENNAN, JAMES C., Carrowteagh-Cooper, Tubbercurry, Co. Sligo.	MICHAEL J. O'HARA, Ballina.
BRENNAN, PATRICK JOSEPH, Carrowkeel, Roscommon.	MARTIN J. NEILAN, Roscommon.
BUGGY, MICHAEL JOHN, Castle View, Kilkenny.	JOHN W. BUGGY, Kilkenny.
CALLAN, FRANCES MARY, Boyle, Co. Roscommon.	C. E. CALLAN, Boyle, Co. Roscommon.
COLLEY, GEORGE JOSEPH, 62 Malahide Road, Dublin.	MARCUS A. LYNCH, 12 Lr. Omond Quay, Dublin.
DAVIS, MICHAEL THOMAS B., Rathduff, Cloghans, Ballina.	PATRICK T. J. MULLIGAN, Ballina.
DONNELLY, BARRY G. M., The Abbey, Athy, Co. Kildare.	H. G. M. DONNELLY, Athy.
DOYLE, JOHN EDMUND, 37 Villiers Road, Dublin.	JAMES R. QUIRKE, 15 Sth Frederick Street, Dublin.
GILLAN, EUGENE, 2 St. Mary's Road, Drogheda.	GERALD ST. JOHN NOLAN, Drogheda.
HARAN, MARTIN, Callow, Foxford, Co. Mayo.	MICHAEL J. O'HARA, Ballina.
HOUSTON, DESMOND G., 26/27 Mary Street, Dublin.	EUGENIE HOUSTON, 31 Upr. O'Connell Street, Dublin.

<i>Name</i>	<i>Served Apprenticeship to</i>
KEARNS, PAUL DESMOND, Kilmovee, Ballaghaderreen.	PATRICK M. O'DWYER, Ballyhaunis.
KEENAN, JOHN EDWARD, Greenmount, Monaghan.	JOHN J. KEENAN, Monaghan.
KILLEEN, SARAH CARMEL, Station House, Bagenalstow- town, Co. Carlow.	JOHN FOLEY, Bagenalstown.
KING, THOMAS R. R., Carron Hill, Longford.	WILLIAM A. BEERS, 6 Merrion Square, Dublin.
MCCRANN, THOMAS V., Castle Street, Roscommon.	MICHAEL LARKIN, Roscommon.
MCDONNELL, RICHARD A., Mullacloe, Ardee.	JOHN KIERAN, Ardee.
MCEVOY, WILLIAM DESMOND, Newcastle, Galway.	GEORGE G. GERAGHTY, Galway.
MACKLIN, OLIVER ANTHONY, Athleague, Co. Roscommon.	PATRICK C. SWEENEY, Roscommon.
MOLONEY, JOHN FRANCIS, "Cranna," Cowper Rd., Rathmines.	JAMES R. RYAN, 9 Harcourt Street, Dublin.
NOONAN, JOHN REGINALD, Castletown House, Kilberry, Navan.	THOMAS D. NOONAN, Navan.
O'CONNOR, THOMAS KEVIN, "Iona," 130 Howth Rd., Dublin.	JOHN S. O'CONNOR, 4 Upr. Ormond Quay, Dublin.
O'DRISCOLL, EDWARD, The Retreat, Bandon, Co. Cork.	PATRICK J. O'DRISCOLL, Bandon, Co. Cork.
O'DWYER, HUBERT, 5 St. Andrew Street, Dublin.	B. R. W. DORAN, 5 St. Andrew Street, Dublin.
O'FLYNN, SEAMUS BRENDAN, 4 Whitebeam Road, Clonskagh.	JOHN B. McCANN, 32 Nassau Street, Dublin.
O'REILLY, JOHN JAMES, Greyfort, Clonmel.	FRANCIS MURPHY, Clonmel.
RONAN, JOHN GALWAY, The Grove, Rushbrooke, Co. Cork.	JOHN RONAN, Cork.
SHIELDS, THOMAS, Loughrea.	VINCENT P. SHIELDS, Loughrea.
WHITE, RICHARD F. BLAIR, 5 Eglinton Park, Dun Laoghaire.	G. E. GROVE-WHITE, 13 Upr. Ormond Quay, Dublin.

INDEX OF STATUTORY INSTRUMENTS

received by the Society pursuant to the Statutory Instruments Act, 1947. The last list was printed in the Society's GAZETTE for March, 1949.

AGRICULTURE LANDS AND FISHERIES

SUBJECT MATTER AND REFERENCE NUMBER

Agricultural Co-operative Societies—149/1949.
Agricultural Wages (minimum rates)—63/1949.
Cheese, prohibition of import—101/1949.
Diseased Animals Act, 1894 (extension)—57/1949.

Foot and Mouth Disease (Importation of rodents and insectivora)—58/1949.
Forestry Act, 1946 (Commencement)—66/1949.
Forestry Act, 1946 (Part 4)—67/1949.
River Foyle Fisheries—103/1949, 104/1949, 105/1949.
Tobacco—55/1949.
Wheat, home-grown, national percentage, year 1949/50—436/1948.
Wheat, home-grown, percentage, year 1949/50—147/1949.
Wheat, home-grown, storage and drying plant, year 1949/50—89/1949.

COMMODITIES, GOODS AND SERVICES.

SUBJECT MATTER AND REFERENCE NUMBER

Black Puddings—227/1949.
Bread—130/1949, 135/1949, 136/1949.
Butter—131/1949, 140/1949, 176/1949, 192/1949.
Candles—170/1949.
Ducks, Prohibition of Storage—81/1949.
Fish, canned—213/1949.
Footwear—177/1949.
Gas (Waterford)—80/1949.
Geese, Prohibition of Storage—81/1949.
Grapefruit—199/1949.
Horse Meal—116/1949.
Kerosene—85/1949, 102/1949.
Maize—217/1949.
Margarine—53/1949, 218/1949.
Meat, Fresh—87/1949, 180/1949.
Milk—108/1949, 109/1949, 117/1949, 118/1949, 119/1949, 120/1949, 121/1949, 219/1949.
Motor Spirit—84/1949, 91/1949, 211/1949.
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Peas—145/1949.
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Soap—79/1949, 220/1949.
Standard Specification Orders: Asbestos Cement, Slates and Sheets, 156/1949; Cold Size, 160/1949; Concrete Plain Roofing Tiles and Fittings, 152/1949; Concrete Interlocking Roofing Tiles, 155/1949; Galvanised Cisterns and Cylinders, 157/1949; Knotting, 161/1949; Linseed Oil, 159/1949; Liquid Driers for Paints, 158/1949; Portland Cement, 162/1949; School Paper, Stationery, 154/1949; Turpentine, 150/1949; Varnish, 153/1949; White Spirit, 151/1949.
Sugar—83/1949, 86/1949, 132/1949.
Tea—138/1949, 223/1949, 228/1949.
Timber—188/1949, 210/1949.
Tobacco—134/1949.
Wheat—217/1949.
White Puddings—227/1949.

CONTROL OF IMPORTS AND EXPORTS

SUBJECT MATTER AND REFERENCE NUMBER

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Brushes, for Personal Use—166/1949.
Brushes, Brooms and Mops—167/1949.
Butter—176/1949.
Cheese—101/1949.
Electric Filament Lamps—124/1949.
Footwear—181/1949.
Gin—137/1949.
Headwear—163/1949.

Marble Chippings—204/1949.
 Miscellaneous Articles—138/1949, 178/1949, 204/1949.
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 Rubber Footwear—206/1949, 207/1949.
 Rubber Proofed Clothing—164/1949.
 Screws—168/1949.
 Sheepskin—94/1949.
 Sparking Plugs—72/1949.
 Sugar—125/1949.
 Tubes for Bicycle Tyres—202/1949.
 Tubes for Motor Tyres—200/1949.
 Tyres—199/1949, 201/1949.
 Whiskey—137/1949.
 Wine in Bond, Restrictions on Sale—99/1949.
 Wool or Worsted—195/1949, 212/1949.

COUNTY AND TOWN MANAGEMENT

SUBJECT MATTER AND REFERENCE NUMBER

Changing of Place Names—126/1949.
 Local Government, Dublin, Temporary Act, 1948 (Continuance)—203/1949.
 Storekeepers—143/1949.

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SUBJECT MATTER AND REFERENCE NUMBER

Blankets—197/1949.
 Books MS.—76/1949.
 Chairs—189/1949.
 Clothes—127/1949.
 Coal—77/1949.
 Hollow Ware—69/1949.
 Linen Goods—194/1949.
 Miscellaneous Duties, Suspensions of, —75/1949.
 Silk and Artificial Silk—194/1949.
 Wearing Apparel (*see* Clothing).
 Wool and Worsted Yarns—196/1949.
 Woven Piece Goods—194/1949.

EDUCATION

SUBJECT MATTER AND REFERENCE NUMBER

Irish Legal Terms (No. 4) Order, 1949—68/1949.
 School Attendance (Dun Laoghaire Borough School Attendances Committees)—50/1949.
 Vocational Education Act, 1930 (Extension of Technical Education)—74/1949.

ELECTIONS

SUBJECT MATTER AND REFERENCE NUMBER

Dublin District Milk Board—219/1949.
 Seanad Bye-elections (Panel Members)—148/1949.

EMPLOYMENT REGULATION AND CONDITIONS OF EMPLOYMENT

SUBJECT MATTER AND REFERENCE NUMBER

Agricultural Wages (Minimum Rates)—63/1949.
 General Drapery and Footwear (Castlereagh), Hours of Trading—221/1949.

FINANCE AND CENTRAL GOVERNMENT

SUBJECT MATTER AND REFERENCE NUMBER

Agriculture, Transfer of Departmental and Ministerial Functions—78/1949.
 Control of Lights and Sounds—184/1949.

Coras Iompair Eireann (Amending Superannuation Scheme)—115/1949.
 Defences Forces Pensions—209/1949.
 Garda Siochana Pay—205/1949.
 Gas Fund Contribution—55/1949.
 Minister for External Affairs, Agency—92/1949.
 Power of Entry, Search and Seizure—184/1949.
 Statistics Act—22/1949, 47/1949.
 Statistics, Census of Production (Forms)—122/1949.
 Transfer of Ministerial Functions—142/1949.
 Vocational Education Acts, 1930 (Grants under s. 53)—95/1949.

HARBOURS

SUBJECT MATTER AND REFERENCE NUMBER

Arklow Harbour Works—111/1949.
 Buncrana Harbour and Pilotage Authorities, Audit Fees—28/1949.
 Galway Harbour and Pilotage Authorities, Audit Fees—421/1948.
 Harbour Act, 1946 (Section 178 (1)) Pier Roadway—420/1948.
 Killybegs Harbour Works—392/1948.
 New Ross Harbour and Pilotage Authorities, Audit Fees—29/1949.
 Tralee and Fenit Pier Harbour Works—300/1948.
 Waterford Harbour and Pilotage Authorities, Audit Fees—45/1949.
 Wicklow Harbour Order, 1949—172/1949.

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SUBJECT MATTER AND REFERENCE NUMBER

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 Duties of Health Officers—128/1949.
 Infectious Diseases (Maintenance)—171/1949.
 Infectious Diseases (Temporary Provision)—107/1949, 149/1949.

HOUSING

SUBJECT MATTER AND REFERENCE NUMBER

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JUSTICE

SUBJECT MATTER AND REFERENCE NUMBER

Defence Forces, Rules of Procedure, 1949—112/1949.
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 Entry, Search and Seizure, Power of—184/1949.
 Irish Legal Terms (No. 4) Order, 1949—68/1949.
 Irish Nationality and Citizenship—188/1949.
 Jury Districts, Variation—100/1949.
 Petty Sessions (Ir.) Act, 1851, s. 10 (4) Suspension; Revocation of—185/1949.

MISCELLANEOUS

SUBJECT MATTER AND REFERENCE NUMBER

Game Birds, Protection Order, 1949—54/1949.
 Game Birds, Preservation Act, 1930—199/1949.
 Game Preservation Act, 1930 (Period under s. 27)—114/1949.
 Gas Fund Contribution Order, 1949—65/1949.
 Statistics, Census of Production (Forms)—122/1949.
 Statistics Act, 22/1949, 47/1949.
 Transfer of Ministerial Functions—142/1949.

Wild Birds, Co. Cavan—183/1949.
 Wild Birds, Co. Dublin—208/1949.
 Wild Birds, Co. Galway—216/1949.
 Wild Birds, Co. Kerry—146/1949.
 Wild Birds, Co. Mayo—182/1949.
 Wild Birds, Co. Wicklow—144/1949.

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SUBJECT MATTER AND REFERENCE NUMBER

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 —97/1949.
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 179/1949.

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SUBJECT MATTER AND REFERENCE NUMBER

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 Athlone Traffic (Parking and Waiting)—439/1948.
 C.I.E. Decree (Revocation)—123/1949.
 Cork (Parking and Waiting)—174/1949.
 Cork Traffic—173/1949.
 Dublin Traffic (Parking and Waiting)—70/1949.
 Dundalk, Newry, Greenore, Maximum Rail Charges—
 129/1949.
 G.N.R. Maximum Rail Charges—110/1949.
 Londonderry and Lough Swilly, Maximum Rail Charges—
 113/1949.
 Lough Corrib Navigation Act, 1945 (s. 13)—31/1949.
 Milk, Carriage of—198/1949.
 Monaghan Traffic (Parking and Waiting)—71/1949.
 Road Transport Act, 1932 (Regulations)—64/1949.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

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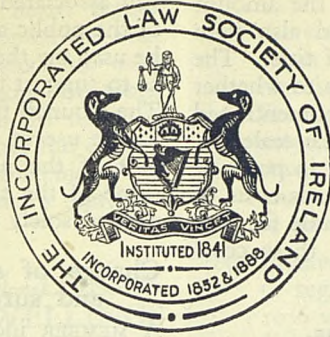
Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

Address:

THE SECRETARY,

SOLICITORS' BENEVOLENT ASSOCIATION,

12 NASSAU STREET, DUBLIN.



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President

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JOSEPH BARRETT

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL.

OCTOBER 6TH. The President in the Chair. Also present: Messrs. J. P. Tyrrell and Joseph Barrett, Vice-Presidents; Messrs. W. S. Hayes, H. P. Mayne, D. M. Martin, T. A. O'Reilly, D. P. Shaw, G. O'Donnell, W. J. Norman, J. Travers Wolfe, H. St. J. Blake, J. P. Carrigan, D. O'Connell, W. S. Huggard, D. R. Counahan, S. O hUadhaigh, F. J. Gearty, A. J. Malone, N. S. Gaffney, J. S. O'Connor, J. J. Bolger, A. Cox, J. R. Quirke, L. E. O'Dea, W. L. Duggan.

The following was among the business transacted:

High Court on circuit.

ISSUE of subpoenas: The Council considered, on a report from a Committee, the procedure adopted on the issue of subpoenas for circuit appeals heard outside Dublin. The Committee reported that in some areas the subpoenas are issued from the County Registrar's office, but that in others, it is necessary to send the papers to Dublin where the subpoena is issued and sent to the country for

service, by the applicant's solicitors. This caused considerable delay in some cases, and it was recommended that the Council should request the Superior Court Rules' Committee to make a new rule to remove any doubts as to the authority of the County Registrars to issue these subpoenas from the local offices. The report of the committee was adopted.

Lessor's costs of furnishing title.

THE Council considered a report from a committee on a statement of facts submitted by two members asking for the opinion of the Council.

A, a lessor, demised property in the County of Dublin to B in consideration of a fine of £1,100, and a yearly rent of £130. The lessor was not obliged by the contract to furnish title, and there was no provision as to the incidence of the costs of the lease. The lessee's solicitor requested the lessor's solicitor to furnish evidence of A's title to make the lease, and an abstract of title with copy documents of title was furnished. There was no reference in the correspondence to the costs of showing title. Before completion, the lessor's solicitor furnished a

bill of costs charging the scale fee on the amount of the consideration and the rent, and also item charges in respect of the furnishing of title. The opinion of the Council was requested as to whether or not the lessee was liable to pay the last-mentioned charges. There was no dispute as to the scale fee. The Council expressed the opinion that in point of law the lessee was liable to pay the lessor's costs of furnishing the title in addition to the scale fee, but that, in the circumstances of the case, these costs should not be charged.

Costs of road traffic prosecutions.

At page 68 of the Society's GAZETTE for April, 1949, there is a note of an opinion of the Council as to the minimum fee for defending proceedings under the Road Traffic Act in the District Court on behalf of a client in which an insurance company had agreed to pay the costs as part of their liability under the policy of indemnity. The Council expressed the view that the minimum fee, on the facts submitted, should be 4 guineas. In the case in question, the solicitor was not acting generally for the insurance company, and the case was heard outside the town in which he carried on practice. The Council, having reconsidered this matter, decided that the report should be amplified by stating that the minimum fee of 4 guineas applies only where the solicitor is required to attend a court which is not held in the town where he carries on practice. In the case of a Dublin solicitor appearing in the Dublin Metropolitan Court, or a country solicitor appearing in the local court, the minimum fee in a case of this kind would be 3 guineas.

OCTOBER 27TH. The President in the Chair. Also present: Messrs. J. P. Tyrrell and Joseph Barrett, Vice-Presidents; Messrs. W. S. Hayes, Daniel O'Connell, J. R. Quirke, C. E. Callan, J. Travers Wolfe, W. J. Norman, Henry P. Mayne, D. R. Counahan, William L. Duggan, Reginald J. Nolan, Dermot P. Shaw, H. St. J. Blake, Patrick F. O'Reilly, A. Cox, L. E. O'Dea, T. A. O'Reilly, Séan Ó hUadhaigh.

The following was among the business transacted :

Sale of solicitor's practice—use of retired solicitor's name.

ON the facts of a particular case submitted for their opinion, the Council decided that, on the sale of his practice by a solicitor who is about to take up a whole-time position in the service of the State, it is improper that his name should continue to be displayed on a name plate attached to the office premises in such a manner as to suggest that he is

still associated with the practice during the tenure of the public appointment, or that his name should be used on the firm's notepaper in such a manner as to suggest that he is associated with the practice. The Council further held that there is no objection to the use of the name of the retired solicitor as part of the name of the firm, provided that the name of the solicitor who acquired the practice is printed solely underneath.

Change of solicitors—duty to beneficiaries and sureties.

A MEMBER inquired as to whether he was under any obligation or duty towards the beneficiaries or the sureties on an administration bond in a case in which he acted for the personal representative who had subsequently changed his solicitor, and required him to hand over to him all moneys in his hands. The Council expressed the opinion that unless the solicitor had given an undertaking to the beneficiaries or sureties, with the authority of the personal representative, his professional duty is solely towards the personal representative, and not towards the beneficiaries or sureties, and that he is obliged to hand over all papers connected with the matter and all moneys in his hands to the personal representative, for the solicitor acting for the latter, on receipt of a proper authority signed by the personal representative.

Death Duties—certificate of discharge.

THE Council considered a report from a committee on correspondence with the head of the Estate Duty Office in regard to the form of certificate of discharge from Death Duties at present issued by the office. The head of the Estate Duty Office stated that the Revenue Commissioners do not consider that they are under any obligation to issue an unqualified certificate of discharge from death duties or to determine the value of the property until the expiration of two years from the date of the death of the deceased. The Secretary was directed to reply, drawing attention to the provisions of Section 14 of the Finance Act, 1907, which empowers the Revenue Commissioners in their discretion to determine the value of the property for the purpose of duty at any time after the date of death, and submitting that effect should be given to the last-mentioned section.

EX PARTE APPLICATIONS BEFORE MASTER OF THE HIGH COURT.

REPRESENTATIONS have been made by the Council to the Master of the High Court in regard to the

recent alteration in the practice as the result of which motions on notice are now heard before *ex parte* applications. It has been pointed out that the former practice, which has existed for over 25 years, by which *ex parte* applications are taken first in the list, is in accordance with the order of business in every other court, and that the change in this practice has resulted in inconvenience to solicitors and their clients. The Council's representations are under consideration.

DUBLIN CORPORATION—LOANS UNDER THE SMALL DWELLINGS ACQUISITION ACTS.

THE Council have recently considered representations from the profession as to the procedure on the completion of a purchase in which part of the purchase money is advanced by the Dublin Corporation under the Small Dwellings Acquisition Acts. For some time the practice of the Corporation has been to require the lease or conveyance from the vendor to the purchaser to be stamped, and registered in the Registry of Deeds, before it is delivered to the Law Agent of the Corporation in exchange for a direction to the Finance Department of the Corporation to pay over the amount of the advance to the vendor's solicitor. The objection to this practice is that the vendor parts with the title deeds, and with the legal estate before receiving the purchase money, and accepts the risk that his title to the purchase money may be defeated by a subsequent act of bankruptcy, or by the registration of a judgment mortgage against the purchaser. The Law Agent to the Corporation has now agreed that in any case in which the vendor's solicitor desires, the following procedure may be adopted :—

1. The lease or conveyance and memorial shall be delivered to the Law Agent already compared by the officials of the Registry of Deeds, with all registry fees paid, and ready for registration, but not registered.
2. The mortgage and memorial shall, at the same time, be handed to the Law Agent, duly executed.
3. In consideration of the documents mentioned at 1. and 2. the Law Agent will deliver to the vendor's solicitor a direction to the Finance Department of the Corporation to issue a cheque for the amount of the advance. The registration of the lease or conveyance to the purchaser will be effected by the Law Agent.
4. As some delay may occur between the issuing of the direction to the Finance Department

and the issuing of the cheque by that Department, it is agreed that, in any case in which the vendor is unwilling to hand over the title deeds without an assurance that he will receive the cheque immediately, the parties will be at liberty to delay completion until it has been ascertained by inquiry at the Corporation that the requirements of the various departments have been satisfied, and that the cheque is ready for issue.

5. In any case in which the Law Agent is required to register the lease or conveyance, a sum of 10/6 will be added to the costs payable to the Corporation.

RENT RESTRICTIONS (AMENDMENT) ACT, 1949.

THE attention of solicitors is drawn to the provisions of the above Act, which imposes certain limitations on the lawful additions to the basic rent in the cases mentioned in paragraph (9) of Subsection (a) of Section 11, or paragraph (e) of Subsection (2) of Section 17 of the Rent Restrictions Act, 1946. The Act further provides for the recovery of any amount paid on account of rent which accrued due after the date of the passing of the Act and which is not one of the lawful additions to the rent under the relevant provisions of the Rent Restrictions Act, 1946, as amended.

EMPLOYMENT REGULATION ORDER (LAW CLERKS JOINT LABOUR COMMITTEE) 1949.

THE Labour Court has published a new Employment Regulation Order (S. I. No. 265 of 1949) consolidating the provisions of the previous orders, which have all been revoked, and prescribing minimum rates of remuneration for female general law clerks and book-keepers (female) who were not included in the previous orders. Book-keepers (female) are now included in the scale for shorthand typists and typists. The order may be purchased at the Government Publications Office, College Street, Dublin, price 3d.

THE INCORPORATED LAW SOCIETY OF IRELAND.

EXAMINATION RESULTS.

At the Preliminary Examination for intending apprentices to solicitors, held on the 6th and 7th days of October, the following passed the examina-

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

1. Kieran Thomas Flynn.
2. George H. Crawford.
3. Patrick F. Treacy.
4. Gerard O'Malley.
5. Martin Jarlath Curran.
6. Laurence Moore.
7. Edward A. Cody.
8. Alphonsus Grogan.
9. Patrick J. O'Connor.
10. Mary E. Reihill.
11. Mairéad F. T. Rutledge.
12. Frans H. van der Lee.

Sixteen candidates entered; twelve passed; two failed; two did not attend.

The Council has awarded Gold Medals to Kieran Thomas Flynn and George H. Crawford, a Silver Medal to Patrick F. Treacy, and a Special Certificate to Gerard O'Malley.

At examinations held on the 30th September and 1st October under the Legal Practitioners (Qualification) Act, 1929, the following passed the examinations :—

First Examination in Irish.

Desmond Thomas Breen, William Patrick Butler, Norman Paschal Colbert, Martin Jarlath Curran, Margaret Durnin, Kieran Thomas Flynn, Charles Hennessy, Anthony F. McCormack, Bryan Maguire, Gerard O'Malley, Hassia Rivlin, John Edward Russell, Patrick Francis Treacy.

Twenty candidates entered, thirteen passed, six failed, one did not attend.

Second Irish Examination.

Christopher Beatty, Sean J. Magee, Walter P. Maguire, Daniel M. F. Molloy, Patrick U. Murphy, Philip P. Reilly, Joseph D. Simon.

Ten candidates entered, seven passed, two failed, one did not attend.

Intermediate Examination.

At the Intermediate Examination for apprentices to solicitors, held on 5th day of October, the following passed the examination :—

Passed with Merit.

1. Daniel A. White.
2. Mervyn H. Taylor.

Passed.

William E. T. Bradshaw, Eileen Brennan, Francis P. Byrne, John F. X. Campbell, Leonard A. Davies, Dermot J. A. J. Devlin, Michael Flanagan, Michael L. Hession, Michael Joseph Leech, Charles J. Markey, Owen Mulholland, Patrick J. O'Gara, Sylvia M. Sheil.

Twenty-one candidates entered; fifteen passed; six failed.

Final Examination.

At the Final Examination for apprentices to solicitors, held on the 3rd and 4th days of October, the following passed the examination, and their names are arranged in order of merit :—

1. Liam O McMenamín.
2. Margaret E. Hayes.
3. Vincent Walsh.
4. Henry Norman Robinson.
5. Denis J. Bergin.
6. John B. Fitzgerald.
7. Walter P. Maguire.
8. Kevin J. Walshe.
9. Peter Connellan.
10. John P. Ward.
11. John Francis Bowers.
12. Patrick J. Ryan.
13. Patrick J. Skehan.
14. Thomas L. Callan.
15. Ellen Beatty.
16. Stanley A. E. Belford.
17. Henry V. Lynam.
18. Joseph M. MacGrath.
19. Kenneth C. P. Kennedy.
20. Stephen J. McDonogh.
21. Matthew F. J. Moore.

Twenty-seven candidates entered; twenty-one passed; four failed; two did not attend.

The Council has awarded Special Certificates to Liam O McMenamín, Margaret E. Hayes, and Vincent Walsh.

Scholarships, 1949.

THE Findlater Scholarship was awarded to John E. Keenan who served his apprenticeship with Mr. John J. Keenan, Solicitor, Monaghan.

The Overend Final Examination Scholarship (Real Property and Conveyancing) was awarded to Liam O McMenamín, who served his apprenticeship with Mr. William T. McMenamín, Solicitor, Ballybofey, Co. Donegal.

The Overend Preliminary Examination Scholarship was awarded to Kieran Thomas Flynn.

By Order,

ERIC A. PLUNKETT,

Secretary.

Solicitors' Buildings,
Four Courts, Dublin.
27th October, 1949.

SOLICITORS' BENEVOLENT ASSOCIATION.

AN Election will shortly be held for the Milward Jones Augmented Annuity of £52. Intending applicants should write for application form to the undersigned without delay :—

PATRICK GLYNN, LL.B.,

Solicitor,

22 Nassau Street, Dublin.

PROFESSIONAL ITEMS.

IN *Jacobson v. Lee* (1949 2. All E.R. 517) the English Court considered an application by one of the parties on a motion under Order 55, Rule 71 of the Rules of the Supreme Court, for an order directing that the Master's certificate should be discharged or varied after the prescribed time had expired. Order 55, Rule 71, of the English Rules of the Supreme Court, which is identical in terms with Order 55, Rule 75, of the Rules of the Supreme Court, 1905, is as follows:—

“The judge may, if the special circumstances of the case require it, upon an application by motion or summons for the purpose, direct the certificate to be discharged or varied at any time after the same has become binding on the parties.”

The certificate of the Master was filed on 15^t March, 1949. The plaintiff intended to apply to have the certificate varied or discharged, but failed to do so within the prescribed period of 8 days. On February 5th, the plaintiff had changed his solicitors and notice of change was filed on February 7th, but there was delay in forwarding the papers to the new solicitors who were not in possession of them until February 24th. On February 22nd, a substantial bill of costs was sent by the original solicitors to the new solicitors, which required examination, and at that particular time the new solicitors' managing clerk, who dealt with the matter, was away from the office owing to illness. Consequently, the summons asking for an extension of time to apply for the discharge and variation of the certificate filed on March 1st, was not issued until March 29th. It was heard on April 12th and was dismissed by the Master on the ground that there were no special circumstances warranting an extension of time. The plaintiff then appealed to the court under R.S.C. Order 55, Rule 71. In his judgment dismissing the application, Harman J. said that the sole question was whether there were any special circumstances which would justify him in varying the Master's certificate. The special circumstances relied upon namely, the change of solicitors and the illness of the managing clerk, were not sufficient and accordingly, the application was dismissed with costs.

IN *Ripington v. Hicks & Son (Oxford) Ltd., and Anor* (1949 All E.R. 239), an information preferred by the appellant against the respondent was dismissed. The appellant applied to the justice to state a case but, owing to delay on the appellant's

side due to the illness of a solicitor in the office of the Treasury Solicitor who was acting for the appellant, the case was not stated until almost ten months had expired. A preliminary objection was raised by the respondents on the ground that the case was not stated within the period of three calendar months prescribed by the relevant rules. The draft case had not been sent by the Treasury Solicitor to the respondent until May 1st, the delay being due to the fact that the official in the office of the Treasury Solicitor who was in charge of the matter, was ill. Correspondence followed between the solicitors and the draft case was under consideration by counsel. By the time the case had finally been settled, the three months period had elapsed. Lord Goddard, C.J., dealing with the preliminary objection, stated that if the appellant required a case stated, he should abide by the rules of court. These rules were meant to be observed, and if the time limit could not be observed for some reason, then it was the duty of the appellant to come before the court and ask for an extension of time. No such application had been made in this case and he was of opinion that the objection should be upheld and the appeal dismissed.

IN the *Irish Law Times and Solicitors' Journal* of 8th May, 1948, there is a note of a reference by Mr. Justice Shannon, President of the Circuit Court, to a misunderstanding which he stated exists in regard to the acceptance of rent after service of a notice to quit. “People sometimes caused a great deal of inconvenience to themselves and to others,” said Judge Shannon, “by refusing to accept rent after serving a notice to quit.” Many people, said the learned Judge, thought that the acceptance of rent in such cases was equivalent to a waiving of the notice. He was sure that solicitors would advise their clients as to cases in which rent could be accepted without prejudice, and he hoped that this would be done in future. It was very unfair to a man who was willing to pay his rent regularly to have a year's arrears accumulating against him.

In the recent case of *Clarke v. Grant and Anor*, reported in the *Solicitors' Journal* (England), April 16th, 1949, at page 252 the same question arose. The defendants were yearly tenants of a house belonging to the plaintiff. After the tenants had received from the landlord a valid notice to quit, the tenants paid to the landlord's agent a sum of money equivalent to one month's rent. The agent received that sum in the mistaken belief that it was for rent in arrear for the previous month. The Deputy County Court Judge held that, as there was no other evidence of any agreement between

the parties, the notice to quit had been waived and he dismissed the landlord's action for possession. On an appeal by the landlord, Lord Goddard, C.J. (with Buckhill & Denning, L.J.J.) said that the Judge had fallen into the error of confusing acceptance of rent after a notice to quit with an acceptance of rent after notice that a forfeiture had been incurred. The law as to payment of rent after service of a notice to quit was not the same as in the case of forfeiture. When the tenancy had been terminated by means of a notice to quit, payment of rent after that date would operate in favour of the tenant only if it could be shown that the parties intended that there should be a new tenancy. In the case before the court it was impossible to say that the parties intended there should be a new tenancy. The mere mistake of the agent in accepting as rent which had already accrued, rent which was in fact payable, if it were payable at all, in advance could not be used to establish that the landlord was agreeing to a new tenancy. The court overruled *Hartell v. Blackler* (1920 2 K.B. 161) in which the King's Bench Division fell into exactly the same error of confusing an acceptance of rent after notice of forfeiture with acceptance of rent after the expiration of a notice to quit.

THE REGISTRY.

Section A.

OLD-ESTABLISHED FIRM of Dublin Solicitors, having family and commercial practice and centrally situated premises, would consider amalgamation with another Solicitor or Firm of Solicitors. Box. No. A. 123.

FOR SALE. Old-established Solicitor's Practice in County Town in Midlands. Particulars, Box. No. C. 124.

Section B.

SOLICITOR, good general experience all branches, presently engaged, desires change; highest references. Box B. 144.

Section C.

WANTED, the following: Liability of Public Bodies (Daly), Labourers Acts (Vol. 2) (Bolton), Criminal Injury Rules, 1923, Circuit Court Practice (Horan), Notes on Perusing Title (Emmett), Investigation of Title (Jackson & Gossett), Public Authorities Protection Act, 1893 (Sommerville), Law of Evidence (Cockle), Ryland Digest & Supplements, Irish Forms & Precedents (Butterworth) Box No. C. 125.

ENGLISH and Empire Digest for sale. Particulars from P. J. O'Flynn, Solicitor, 6 St. Francis Street, Galway.

REGISTRATION OF TITLE ACTS 1891 AND 1942.

NOTICE.

Folio 95. COUNTY CORK.

Registered Owner: EDMOND RIORDAN.

An application has been made by the registered

Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 19th day of November, 1949.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of Edmond Riordan to 101A. 11. 34p. of the lands of Ballinglanna situate in the Barony of Barrymore and County of Cork being the lands comprised in said Folio.

NOTICE.

Folio 1229.

COUNTY WESTMEATH.

Registered Owner—MARIA COSTELLO.

An Application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 16th day of November, 1949.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Maria Costello to 1A. 11. 13p. of the lands of Retrear situate in the Barony of Brawny and County of Westmeath being the lands comprised in said Folio.

NOTICE.

Folio 509.

COUNTY LIMERICK.

Registered Owner—JOHN NOONAN.

An Application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 16th day of November, 1949.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of John Noonan to 106a. 3r. 37p. of the lands of Fanningstown situate in the Barony of Small County and County of Limerick, being the lands comprised in said Folio.

OBITUARY.

MR. TERENCE BYRNE, Solicitor, died at a private nursing home, Dublin, on the 30th April, 1949.

Mr. Byrne served his apprenticeship with the late Mr. Patrick J. Meehan, Maryborough, was admitted in Hilary Sittings, 1915 and practised at Portlaoighise under the style of Meehan & Byrne.

MR. CHRISTOPHER MCGONAGLE, Solicitor, died at a private nursing home on the 14th August, 1949.

Mr. McGonagle, who served his apprenticeship with the late Mr. Christopher Friery, 52 Rutland Square, Dublin, was admitted in Trinity Sittings, 1926 and practised at 34 Upper O'Connell Street, under the style of Kennedy & McGonagle.

MR. NICHOLAS A. BYRNE, Solicitor, died at a private nursing home on the 1st September, 1949.

Mr. Byrne served his apprenticeship with Mr. Fintan M. O'Connor, Solicitor, Wexford, was admitted in Hilary Sittings, 1933 and practised at 25 Westmoreland Street, as partner in the firm of Messrs. Thomas Gerard & Co.

DR. THOMAS G. QUIRKE, Solicitor, died at his residence "Grosvenor," Monkstown, Co. Dublin, on the 9th September, 1949.

Dr. Quirke served his apprenticeship with the late Mr. William Frewin, Solicitor, Tipperary, was admitted in Hilary Sittings, 1891 and practised at 15 South Frederick Street as senior partner in the firm of T. G. Quirke & Co. He was a member of the Council of this Society from the year 1913 to 1942 and was President for the year 1925-1926.

MR. JAMES J. MCCABE, Solicitor, died in September, 1949 in Cork.

Mr. McCabe was apprenticed to the late Mr. Jeremiah C. Blake, Cork, was admitted in Trinity Sittings, 1897 and practised at Cork as senior partner in the firm of James J. McCabe & Son.

MR. AUGUSTINE S. MCBREEN died at his residence, "Broomfield," Bailieborough, Co. Cavan, on the 18th September, 1949.

Mr. McBreen, who served his apprenticeship with the late Mr. Francis McBreen, Bailieborough, was admitted in Hilary Sittings, 1913, and practised at Bailieborough under the style of Francis McBreen & Co.

MR. JOHN T. HAMERTON, Solicitor, died at his residence, 17 Palmerston Park, Dublin, on the 22nd September, 1949.

Mr. Hamerton, who served his apprenticeship with the late Mr. Charles Gamble, 39 Fleet Street, Dublin, was admitted in Trinity Sittings, 1907, and practised at 39 Fleet Street, under the style of Carruthers & Gamble.

MR. WILLIAM S. HAUGHEY, Solicitor, died at a private nursing home, Dublin, on the 6th October, 1949.

Mr. Haughey, who served his apprenticeship with the late Mr. Daniel Purcell, Solicitor, 58 Dame Street, Dublin, was admitted in Hilary Sittings, 1905, and practised at Ballinamore.

MR. JOHN E. HAMERTON, Solicitor, died at his residence, 17 Palmerston Park, Dublin, on the 21st October, 1949.

Mr. Hamerton, who served his apprenticeship with the late Mr. John T. Hamerton, was admitted

in Easter Sittings, 1938, and practised at 39 Fleet Street under the style of Carruthers & Gamble.

MR. JOHN A. CULLEN, Solicitor, died at his residence, "Greenoge," Merrion Road, Dublin, on the 28th October, 1949.

Mr. Cullen, who served his apprenticeship with the late Mr. Daniel G. O'Reardon, 51 Lower Sackville Street, was admitted in Michaelmas Sittings, 1904, and practised as a partner in the firm of Messrs. Little & Cullen, 64 Dawson Street, up to the year

1943 and subsequently at 46 Dawson Street, until his retirement in 1945.

MR. WALTER BEATTY of Ardrigh, Temple Road, Rathmines, Dublin, died on 15th November 1949.

Mr. Beatty served his apprenticeship with the late Mr. John Joseph Beatty, 9, Eustace Street, was admitted in Hilary Sittings 1911 and practised at 62, Dame Street, under the style of Vincent & Beatty.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

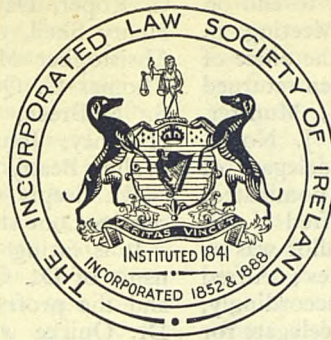
Last year over £1,300 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

The active co-operation of the Profession in the Association's good work is asked for and all who are not members are urged to join without delay.

Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

Address:

THE SECRETARY,
SOLICITORS' BENEVOLENT ASSOCIATION,
12 NASSAU STREET, DUBLIN.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
WILLIAM J. NORMAN

Vice-Presidents
THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary
ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

THE PRESIDENT

MR. WILLIAM J. NORMAN of Dublin has been elected President of the Society for the coming year.

THE VICE-PRESIDENTS

MR. THOMAS A. O'REILLY of Dublin, and Mr. Dermot P. Shaw of Mullingar have been elected Vice-Presidents of the Society for the coming year.

IMPORTANT

MEMBERS are reminded that certificates for the year to end 5th January, 1951, should be taken out, and duty paid thereon not later than 5th February, 1950. A "late" certificate, i.e. stamped after 5th February, 1950, must be produced to the Society within one month after the date of stamping.

GENERAL MEETING

A GENERAL MEETING of the Society was held in the Hall of the Society, Solicitors' Buildings, Four Courts, Dublin, on Thursday, 24th November, 1949. The President, Mr. Patrick R. Boyd, took the chair. The following members signed their names as being present:—

Joseph P. Tyrrell and Joseph Barrett, Vice-Presi-

dents, John J. Bolger, John Carrigan, D. R. Counahan, Arthur Cox, N. S. Gaffney, J. R. Halpin, W. S. Hayes, W. S. Huggard, D. J. Mayne, J. J. Nash, W. J. Norman, Daniel O'Connell, James J. O'Connor, John S. O'Connor, L. E. O'Dea, G. J. O'Donnell, P. F. O'Reilly, T. A. O'Reilly, Seán Ó hUadhaigh, G. A. Overend, James R. Quirke, Dermot P. Shaw, R. D. English, K. Meares, D. Moran, H. J. Ryan, D. Greene, H. P. Mayne, A. S. Merrick, A. G. Ardagh, John Sealy, F. W. Koenigs, Alfred E. Walker, H. Tarlo, J. J. Lynch, J. E. Doyle, E. C. Erskine, M. Purcell, G. T. Eason, M. A. Corrigan, J. H. Gorman, J. P. O'Connell, F. R. Tully, M. Dinneen, D. A. O'Connor, T. D. McLoughlin.

By permission of the meeting, the notice convening the meeting was taken as read. The minutes of the Ordinary General Meeting, held on the 18th May, were read, confirmed and signed by the Chairman.

On the motion of Mr. Desmond Moran, seconded by Mr. Gerald O'Donnell, the audited accounts of the Society for the year ended 30th April, 1949, were adopted, and, with the consent of the meeting, were signed by the Chairman.

The Secretary read the report of the scrutineers of the ballot of the Council for the year to end on the date of the Ordinary General Meeting in November, 1950, which stated that for the office of provincial delegate the following had been returned unopposed: Ulster, Derrick M. Martin; Munster, John J. Dundon; Leinster, Reginald J. Nolan, and that for the office of provincial delegate of Connaught two candidates had been nominated, namely, Christopher E. Callan, and Alfred V. G. Thornton, and that the result of the ballot was as follows: Christopher E. Callan, 27 votes; Alfred V. G. Thornton, 31 votes; and that, accordingly, Alfred Thornton was elected provincial delegate for Connaught, and Christopher E. Callan supplemental provincial delegate for the same Province. The scrutineers further reported that the following had been elected as the 31 ordinary members of the Council, having received the number of votes placed after their respective names: Henry St. J. Blake, 466; Arthur Cox, 464; Daniel O'Connell, 458; L. E. O'Dea, 452; P. R. Boyd, 436; Joseph Barrett, 434; W. L. Duggan, 431; Joseph Tyrrell, 430; Dermot Shaw, 429; P. F. O'Reilly, 423; W. J. Norman, 420; J. T. Wolfe, 408; T. A. O'Reilly, 404; Seán Ó hUadhaigh, 398; W. S. Hayes, 485; J. J. Bolger, 382; W. S. Huggard, 382; John Carrigan, 377; Desmond Counahan, 374; Niall Gaffney, 369; G. A. Overend, 368; James J. O'Connor, 358; Roger Greene, 353; Gerald O'Donnell, 348; J. D. O'Connell, 343; J. R. Quirke, 337; J. S. O'Connor, 334; John J. Nash, 314; J. R. Halpin, 309; F. J. Gearty, 299; Desmond J. Mayne, 268; with the following as the supplemental list in case of vacancies: Peter Woods, 261; Cuthbert J. Furlong, 256; P. J. Murphy, 213.

The President, in moving the adoption of the Annual Report, said:

GENTLEMEN,

I welcome you all here to-day. The Council's Report has been in your hands for some time, and it is thus only necessary to stress some of the highlights of the year's work. The Report gives an ample record of the activities of the Council during the last twelve months, and shows how various matters before the Council were dealt with. It must be remembered that there are seven or eight Sub-Committees before which the innumerable matters for the consideration of the Council come in the first place for discussion. You will appreciate, then, that the members of the Council have been busy during the past year, the number of meetings alone of the Council and the Committees being 83.

Since our last meeting we have to mourn the deaths of the following members of the Society:

Francis J. Magan, Alured F. Rolleston, Henry C. Roper, David J. Farrell, Francis J. Clohosey, Henry Sheil, Andrew D. Comyn, Terence Byrne, Christopher McGonagle, Nicholas A. Byrne, Dr. Thomas G. Quirke, James J. McCabe, Augustine S. McBreen, John T. Hamerton, William S. Haughey, John E. Hamerton, John A. Cullen, Walter Beatty.

We deeply regret their deaths, and offer their relatives our sincere sympathy.

It is fitting that I should mention specially the name of Dr. Quirke, by whose death the Society, and the profession, has suffered a grievous loss. Dr. Quirke was admitted in 1891, after a most distinguished academic record, including the degree of Doctor of Laws. His name was known for many years by older members of the profession, who owed much of their success at the Society's examinations to his skilled tuition. He served as a member of the Council for almost 30 years, and was President of the Society in the year 1925-26. When the offices were in Kildare Street, after our premises had been destroyed in the fire of 1922, he worked with our late Secretary in rehabilitating the Society's records. He retired from the Council owing to advancing age in the year 1942, but continued to lead an active professional life until his death at the ripe age of 84. During his long period on the Council, he never spared himself in advancing the interests of the profession, and it is fitting that I, as President, should pay a tribute to his memory.

As you will see from the Report, the membership of the Society is pretty high, but there are still some who have not joined, and I would urge that in these days, when results can only be achieved by co-operation and unity, that those who are not members should join the Society immediately. The subscription is only £1, and for that a member gets all the benefits of the Society, including the Library service and the GAZETTE. Out of 1,350 practising solicitors, 1,107 are members of the Society—equivalent to 82 per cent. What we want is 100 per cent.

I regret to say that the important matters mentioned in my speech at the last half-yearly meeting—namely, Law Reform, the increased stamp duties, and textbooks—still remain in the same position, and that there is no progress to report on these matters. You may be sure, however, that they will have the constant attention of the Council, and as opportunity arises, steps will be taken to improve the position.

Since our last meeting, a Sub-Committee of the Council waited on officials of the Ministry of Justice, when the Parliamentary draftsmen's draft of the Solicitors Bill was fully considered.

The conference was most satisfactory, and the Council much appreciate the help given to them. The Bill is about to be considered by the Government, and we understand it may be introduced this session, or, if not, next session. The profession will learn with satisfaction and relief that their efforts (because the whole profession have a hand in the proposed Bill) now appear to be coming to fruition. On the occasion of our conference with the Minister for Finance, mentioned in my speech at the last half-yearly meeting, the Minister held out hopes that when the Solicitors Bill became an Act he would favourably consider the Society's application for the abolition of the annual licence duty, and also the appropriation of the stamp duties on apprentices' indentures, or the greater portion thereof, to a fund to be administered by the Society for the legal education of our apprentices. The Society's expenses under the Bill, in running the profession and in educating apprentices, will considerably increase, and the Council look forward with hope to some relief in these matters and to some extra resources in meeting the heavy expenses.

I think it is appropriate that I should here say a word about the principal charges affecting the public contemplated in the Solicitors Bill, which has now advanced so far on its long and weary journey towards the Statute Book. The reason I do so is that the Bill was originally conceived in the year 1935, and there is a strong probability that the junior members of the profession who were admitted since the Bill received initial publicity are unaware of the changes which are contemplated. There are two improvements in the Bill which are of vital concern and interest to the public, as well as to the profession. In the first place, it is proposed to enact that each practising solicitor shall, annually, when applying for his practising Certificate, file with the Secretary a declaration that he is complying and has complied with the provisions of the Bill relating to solicitors' accounts. These provisions, which will be the subject of a regulation made under a section of the Bill, will prescribe that a solicitor shall lodge in a separate bank account marked "clients' account," all moneys received by him belonging to clients or received by him in the capacity of trustee, and that such moneys should be kept separate and distinct from the moneys belonging to the general office account. The bank holding a solicitor's accounts will not be entitled to set off any debit on other accounts against the moneys standing to the credit of the clients' account. There will also be a regulation obliging each practising solicitor to maintain books of accounts, which will disclose his financial position in regard to each client, and

that such books shall be kept written up to date. The second important provision in the Bill is the Compensation Fund. It is proposed to set up a fund, financed by annual contributions from the profession, which will be used for the purpose of compensating any client who suffers financial loss through his solicitor's defalcation. The fund will be administered by and in the discretion of the Council. Experience shows that the moneys which are lost in this way are only a fraction of a penny in the £1 of the total moneys handled by the profession each year, and the argument has been advanced that legislation to deal with a problem of such microscopic dimensions is unnecessary. However, when the Bill becomes law, a client will know that in the unlikely event of his solicitor's misappropriating any moneys belonging to him, he can have recourse to a fund, out of which he may obtain compensation without any cost to himself. For these reasons, the Council believe that the Compensation Fund will be an advantage to the public and the solicitors' profession alike.

My predecessors in office have drawn the attention of the profession, in their addresses at half-yearly General Meetings, to the advantages which accrue from the existence of well-supported Bar Associations throughout the country. There are many matters which accrue from day to day, differences of opinion between local solicitors, for example, which can be settled more conveniently and expeditiously by the local Bar Association than by reference to the Council. Unfair practices, such as canvassing for business and undercutting, which are as much against the interests of the client as of the profession, can best be eliminated by the action of individual members of the profession operating through their local Bar Associations. The Council, from time to time, wish to ascertain the views of the general body of the profession on matters which come up for discussion at meetings of the Council. It is too expensive and inconvenient to be issuing circulars to obtain the opinion of individual solicitors on such matters, but it is an extremely simple matter to ask the Bar Associations for their views. In this way the Council can keep abreast of local opinion and render the most useful service to the members of the profession. Some of the Bar Associations are extremely active, but others are inclined to be dormant.

In stressing their importance, I am pleased to state that two new Bar Associations have recently been formed, namely, the County Clare Law Association and the Donegal Solicitors' Association. There appear to be no Bar Associations in the following counties: Roscommon, Longford, Westmeath, part of Offaly, Laoighis and Kilkenny. I

would appeal to these areas to examine the position and endeavour to have Bar Associations founded.

The Council have noted the prevalent tendency to underpay solicitors employed as Civil Servants in Legal Departments of the State. The salaries of the assistant solicitors in most of the Government Departments, particularly those of the most junior solicitors, compare unfavourably with the salaries and conditions of Civil Servants in the administrative grades, and also with the salaries of other professional Civil Servants. It is difficult to understand why this should be so. Solicitors in the Service are called upon to discharge highly-skilled and very responsible duties, and they are entitled to be paid in accordance with the standard of work which is expected of them. Some years ago representations were made by the Council to the then Minister for Finance on the subject. It was impossible to do anything about the matter during the Emergency, but now that things have changed, the long-standing grievances of these solicitors should be redressed. The Council propose at an early date to make a strong case to the Minister for Finance with proposals for improving the conditions of service of these members of the profession.

The scheme for the simplification of the Discharge of Equities has now been completed, and a copy has been very kindly sent by the Registrar of Titles to every member of the profession. The new scheme should be found very easy in practice, and should lead to equities being discharged more promptly and with less trouble. The Society much appreciates the action of the Registrar of Titles, and the Council have already conveyed their thanks to him.

Members will have seen the answer of the Minister for Justice in reply to a question in the Dáil as to delays in the Land Registry. Provision is now being made for additional staff, and the Minister hopes that the position will improve this year. This is a matter of great urgency, having regard to the importance of the work involved and the great increase in the number of dealings, particularly under the Small Dwellings Acquisition Act. It is hoped that when the delays have been overcome, suitable arrangements will be made with an eye to future requirements, and that the time-lag mentioned by the Minister will be obviated. Certainly the fees are high enough to ensure a better service. In view of the great growth in the work, additional premises would appear to be required, and it is to be hoped that the Minister will keep this in mind.

The matter of assignments in murder cases has now been brought to a conclusion, and details of the new arrangements, fees and allowances were published in the June issue of the GAZETTE. The Council trust these will be found satisfactory in

practice. The profession is much indebted to the Attorney-General for his kindly interest and assistance.

As will be seen from the Report, applications have been made to the Superior Court Rules Committee for an amendment of the Rules to enable Taxing Masters to allow travelling and subsistence expenses to provincial solicitors attending in Dublin for the trial of actions in the High Court, and also to have Commissioners' Fees increased by 50 per cent. These applications are still pending before the Committee. An application had also been made to the Local Registration Rules' Committee (a) for the substitution of 33½ per cent. for 25 per cent. as the permitted increase in the pre-war scales of costs, and (b) for an amendment of Schedule of Costs to enable a solicitor to charge under Schedule 2 for voluntary transfers where the value of the lands is less than £1,000. The first part of the application was granted by the Rules Committee, and is at present awaiting the sanction of the Minister for Justice. The second part was not acceded to. Application was also made to the Circuit Court Rules Committee for an increase in the scales of costs prescribed in the Workmen's Compensation Rules, 1942. The Committee did not accede to the application, but have sanctioned some minor increases as set out in the Report of the Council.

Since the Report was prepared, two new Bills affecting the profession have been introduced in the Dáil, e.g., the Criminal Justice Bill and Land Bill. These Bills have been fully examined by the Council, and copies have been circulated to the provincial members of the Council.

I think it only right that I should draw attention to the claims of the Solicitors' Benevolent Association on every member of the profession. We are all bound to exercise a certain amount of charity, and the Benevolent Association has, surely, first claim on members of the profession. Owing to the decrease in the value of money, the claims of the Association are continually mounting. Surely, our primary duty is to our own profession, as the Association is dependent on us for support. The subscription is only £1 1s., and I would appeal to those who are not now members, to join the Association.

As my year of office is drawing to a close, I would like to thank the members of the Council for the great help and co-operation which they gave me during the year. No one could hope to hold the office unless he had the co-operation and support of the Council, and I had this in an ample degree from the Vice-Presidents and every member of the Council. I would also like to thank members of the Society for their loyal support of the Council

during the past year, and the ready way in which they accepted the various decisions of the Council.

Finally, I cannot sit down without expressing to the Secretary my appreciation of all the help he gave me during my year in office. Mr. Plunkett, I think, lives and breathes for the Society, and it is hard to imagine how we could carry on without him.

I now beg to move the adoption of the annual Report.

Mr. Louis E. O'Dea seconded the adoption of the report, and Mr. A. S. Merrick and Mr. Alfred Walker addressed the meeting. Mr. J. R. Halpin pointed out that a Bar Association in County Leitrim was founded about two years ago. The President replied to the points raised, and the motion having been put to the meeting, was unanimously adopted.

The following motion was proposed by Mr. G. A. Overend, seconded by Mr. O'Dea, and having been put to the meeting, was passed: "That the following persons be appointed to be members of the Nomination Committee for the Cultural and Educational Panel pursuant to Section 22 of the Seanad Electoral (Panel Members) Act, 1947, and that all necessary steps should be taken to give effect thereto, and that the seal of the Society be affixed to all necessary documents: Messrs. Patrick R. Boyd, Arthur Cox, Wm. J. Norman, P. F. O'Reilly, Seán Ó hUadhaigh."

The following resolutions were then proposed by Mr. Hayes, seconded by Mr. Merrick:—

- (a) That the first sentence of Bye-law 3 be deleted, and that the following be substituted therefor:—
 3. The annual subscriptions to the Society shall be: For members who have been admitted for three years and upwards, £1; for all other members, 10s.
- (b) That Bye-law 32 be amended by the deletion of the words "save that members who have been admitted for upwards of three years paying the 10s. (country) subscription shall not be entitled to nominate for or vote at the election of ordinary members."
- (c) That Bye-law 33 be amended by deleting the words "(who shall have paid the one pound subscription for the current year)" in the first sentence thereof.
- (d) That paragraph 5 of the directions in the voting paper in Schedule C be deleted.

It was decided that the next annual general meeting of the Society should be held on Thursday, 23rd November, 1950.

Mr. Quirke suggested that the Council should consider the revision of Bye-law 36, which fixes the date of the ballot for the Council, having regard to the short period intervening between that date and the date of the November half-yearly General Meeting. The President stated that this would be considered by the Council.

On the motion of Mr. Henry P. Mayne, the President vacated the chair in favour of Mr. Tyrrell. Mr. Mayne then proposed a vote of thanks to the President for his distinguished services to the Society during his year of office. The Chairman associated himself with the motion which was put to the meeting and carried with acclamation. The President replied. The meeting terminated.

MEETINGS OF THE COUNCIL

NOVEMBER 10, 1949. The President in the chair. Also present: Messrs. Tyrrell and Barrett, Vice-Presidents, Messrs. W. S. Hayes, G. A. Overend, Daniel O'Connell, J. D. O'Connell, Reginald J. Nolan, Thomas A. O'Reilly, William J. Norman, L. E. O'Dea, H. St. J. Blake, G. J. O'Donnell, Desmond R. Counahan, James R. Quirke, Henry P. Mayne, Patrick F. O'Reilly.

The following was among the business transacted:—

Acquisition of Land—Costs of Arbitration

THE Council considered a report from a committee on the subject of the costs awarded to a solicitor for an owner of land in proceedings under the Acquisition of Land (Assessment of Compensation) Act, 1919. It was decided that the Council should make representations to the arbitrator on the subject. Pending the results of such representations, solicitors are advised when appearing on behalf of owners on the assessment of value where lands are being acquired, that particulars of the costs of the owner should be available to be submitted to the arbitrator at the conclusion of the proceedings. It was ordered that the attention of the profession should be drawn to Section 5 of the Act, particularly to the provisions of sub-sections (4) and (5) thereof. The Council expressed the view that the costs which are within the discretion of the arbitrator, under the Section, include the owner's costs of preparing the case to be submitted to the arbitrator as well as the actual costs of the appearance at the arbitration.

Valuation Office

ON a report from a committee, it was decided to make representations to the Commissioner of

Valuation on the subject of the delay which occurs in the assessment of the value of land for death duty purposes.

Costs of Mortgage

ON a report from a Committee on the facts of a particular case, the Council expressed the opinion that in a case in which a solicitor acted for the purchaser of a holding of registered land, and also acted for the same client in deducing title of the property to a building society, who advance the whole or part of the purchase money on the security of a mortgage of property, the full scale costs in connection with the mortgage were chargeable as a matter of law, in addition to the scale costs of the purchase of the property, provided that the work in relation to the mortgage specified in the General Order had been substantially carried out. It was decided to inform the member that the practice of the profession is to charge a reduced fee for the work in connection with the mortgage proportionate to the services rendered.

Solicitor's Privilege

A MEMBER of the Society, acting on the instruction of a client, wrote to the owner of a motor vehicle claiming damages for injuries alleged to have been sustained by the client in a road accident. The client subsequently instructed the solicitor to take no further action. The client was subsequently prosecuted on a charge of attempting to obtain money by false pretences, and it was part of the case for the prosecution that he was not, in fact, involved in any accident. The solicitor received a subpoena from the State to attend and to give evidence before the District Justice. On a report from a committee, the Council decided to advise the member that if the State make a *prima facie* case that the instructions given by the client to the solicitor to write the letter were in furtherance of an intention to commit a fraud, such instructions are not privileged, and the solicitor must disclose his authority to write the letter, but should claim privilege in respect of other conversations with the client.

Rights of Solicitors paying lower licence duty

THE Council considered a report from a committee on a query from a solicitor who pays the lower rate of licence duty as to whether he is entitled to practise in Dublin Metropolitan District Court. The Committee reported that, in their opinion, such a solicitor is entitled to appear occasionally in the Dublin Metropolitan Court and that if he has not an office in Dublin (other than the office

of his registered Dublin agent) such occasional appearances would not constitute practising or carrying on business in the city of Dublin. The Committee reported that the determination of this question is a matter for the justice, but that, in their opinion, the question should not be raised by a Dublin solicitor against a country solicitor. The report of the Committee was adopted.

NOVEMBER 24, 1949. The President in the chair. Also present: Messrs. Joseph P. Tyrrell, V.P.; Arthur Cox, Desmond J. Mayne, James J. O'Connor, Thomas A. O'Reilly, Dermot P. Shaw, W. S. Hayes, John J. Nash, Gerald J. O'Donnell, John R. Halpin, Alexander S. Merrick, W. S. Huggard, William J. Norman, G. A. Overend, John P. Carrigan, James R. Quirke, Daniel O'Donnell, N. S. Gaffney, D. R. Counahan, Seán Ó hUadhaigh, John J. Bolger, L. E. O'Deaghaidh, Patrick F. O'Reilly.

The following was among the business transacted:

Applications under Sections 16 and 18

AN application by a law clerk for liberty to be bound for three years only, under Section 16, was granted. The Council also considered an application from the same clerk under Section 18, to the Chief Justice, for exemption from the Preliminary Examination, and decided not to oppose it.

Solicitors to local authorities

THE Council considered a report from the Legislation and Privileges Committee on the salary offered for the whole time position of law agent to a local authority. A deputation was appointed to seek an interview with the Minister for Local Government on the subject, with particular reference to the recently advertised position of law agent to the Cork County Council.

DECEMBER 2, 1949. The President in the chair. Also present:

The following was among the business transacted:—

Extraordinary members of the Council

THE Secretary read a letter from the Incorporated Law Society of Northern Ireland appointing Messrs. Alexander S. Merrick, Ralph Neilson, George Murnaghan, Charles MacLaughlin, James C. Taylor, as the extraordinary members of the Council from the Incorporated Law Society of Northern Ireland. The nomination was adopted.

Land Bill, 1949

THE Secretary read correspondence from the country members of the Council to whom the Bill had been circulated. It was ordered that a memorandum should be submitted to the Department of Lands on the lines of the suggestions made in this correspondence.

Salaries of Solicitors in the State service

THE Secretary reported that a memorandum had been prepared for submission to the Minister for Finance dealing with the salaries and conditions of service of solicitors employed in the State legal offices. It was ordered that the memorandum, when approved by the President, should be submitted forthwith to the Minister.

LAND REGISTRY COSTS.

BY THE Land Registration Rules, 1949 (Solicitors' Costs) all solicitors' costs for land registry business done after 1st January, 1950 will be increased by 33 $\frac{1}{3}$ % on the amount of such costs immediately before 31st March, 1947. The Land Registration Rules, 1947 (Solicitors' Costs) are rescinded from 1st January next. The effect of the new rules will be to increase the present scale of costs by 6 $\frac{2}{3}$ %.

EXAMINATION, 1950

<i>Examination</i>	<i>Date</i>	<i>Last date for lodging notice</i>
First Irish	February 3rd.	January 13th
Second Irish	February 3rd and 4th	January 13th
Final	April 12th, 13th and 14th.	March 22nd
Preliminary	April 12th and 13th	March 23rd
Intermediate	June 1st and 2nd	May 11th
First Irish	June 30th	June 9th
Second Irish	June 30th and July 1st	June 9th
First Irish	September 29th	Sept. 8th
Second Irish	September 29th and 30th.	September 8th.
Final	October 2nd, 3rd, and 4th.	September 11th.
Intermediate	October 2nd and 3rd	Sept. 11th
Preliminary	October 3rd and 4th	Sept. 12th.

LECTURES, HILARY SITTINGS

COURSE A lectures will commence on Thursday, 12th January, at 2.15 p.m.

COURSE B will commence on Friday, 13th January, at 2.15 p.m.

COURSE C will commence on Wednesday, 11th January, at 3.30 p.m.

COIMISIUN NA STAT-SHEIRBHISE

RECRUITMENT of Third Secretaries for the Department of External Affairs.

AN Open Competitive examination will be held about January, 1950, for posts as Third Secretary in the Department of External Affairs. *Approximate Salary Scales*: Married Man, £430-£960; *Woman or Single Man*: £430-£800. *Age limits*: 21-28 years with extensions of the upper limit in certain cases. *Essential*: A good general knowledge of Irish History and of modern social conditions in Ireland. Candidates not already established Civil Servants must possess an Honours University Degree or equivalent. *Desirable*: (i) a general knowledge of world political affairs from and including the period of the French Revolution; (ii) a general knowledge of modern economic affairs; (iii) a knowledge of not more than two of the following languages: French, German, Italian, Spanish, Portuguese and Swedish. The examination will consist of (i) written Irish (qualifying) (the paper will be about Leaving Certificate (Pass) standard); (ii) oral Irish and Interview (competitive).

Application forms may be obtained from the Civil Service Commissioners, 45 Upper O'Connell Street, Dublin, and the latest date for receipt of applications will be 13th January, 1950. A pass in the Solicitors' Final Examination with not less than 60% will be accepted as equivalent to a University honours degree.

REGISTRY

Section C.

COPIES of McMahon's *Revised Scales of Costs and Fees* (1947) are available (price 7s. 6d.) from John McMahon, Solicitor, Ardee, Co. Louth.

Wanted Volumes of Irish Statutes 1922-1946, complete set or part set, in good condition. Box No. C.126.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

Last year over £1,300 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

The active co-operation of the Profession in the Association's good work is asked for and all who are not members are urged to join without delay.

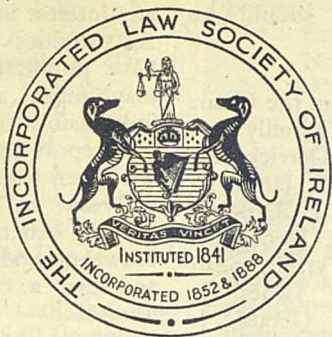
Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

Address:

THE SECRETARY,

SOLICITORS' BENEVOLENT ASSOCIATION,

12 NASSAU STREET, DUBLIN.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

WILLIAM J. NORMAN

Vice-Presidents

THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

IMPORTANT

MEMBERS are reminded that certificates for the year to end 5th January, 1951, should be taken out and duty paid thereon not later than 5th February, 1950. A "late" certificate, i.e., stamped after 5th February, 1950, must be produced to the Society within one month after date of stamping.

MEMBERS are reminded that failure to comply with the requirements in regard to stamping, and, where necessary, producing stamped certificates to the Society, will disentitle them to charge costs.

MEETINGS OF THE COUNCIL

DECEMBER 1ST, 1949. Mr. Boyd, and subsequently Mr. Norman, in the Chair. Also present: Messrs. Daniel O'Connell, Francis J. Gearty, James J. O'Connor, George A. Overend, Seán Ó hUadhaigh, Thomas A. O'Reilly, James R. Quirke, Joseph Barrett, Joseph P. Tyrrell, Henry St. J. Blake, John J. Bolger, John J. Nash, Desmond Mayne, Dermot P. Shaw, John R. Halpin, John Carrigan, Arthur Cox, Patrick F. O'Reilly, Reginald J. Nolan.

The following was among the business transacted :

Extraordinary Members of the Council

THE Secretary read a letter from the Incorporated Law Society of Northern Ireland appointing Messrs. Alexander S. Merrick, Ralph Neilson, George Murnaghan, Charles MacLaughlin, and James C. Taylor, as the extraordinary members on the Council from the Incorporated Law Society of Northern Ireland. The nominations were adopted.

Land Bill, 1949

THE Secretary read correspondence from the country members of the Council to whom the Bill had been circulated. It was ordered that a memorandum should be submitted to the Department of Lands on the lines of the suggestions made in this correspondence.

Salaries of Solicitors in the State service

THE Secretary reported that a memorandum had been prepared for submission to the Minister for Finance dealing with the salaries and conditions of service of solicitors employed in the State legal

offices. It was ordered that the memorandum, when approved by the President, should be submitted forthwith to the Minister.

DECEMBER 15TH, 1949. The President in the Chair. Also present: Messrs. Thomas A. O'Reilly and Dermot P. Shaw, Vice-Presidents; Derrick M. Martin, W. S. Hayes, Daniel O'Connell, James R. Quirke, John Carrigan, Joseph Barrett, P. R. Boyd, Desmond Mayne, Reginald J. Nolan, Henry St. J. Blake, G. A. Overend, Joseph Tyrrell, Seán Ó hUadhaigh, Patrick F. O'Reilly, James J. O'Connor, Desmond R. Counahan, Gerald J. O'Donnell.

Salaries of solicitors to local authorities

THE Council considered and approved the draft memorandum to be submitted to the Minister for Local Government. A copy of the memorandum is printed on page 43.

Land Registration Rules Committee

THE Council nominated Mr. Gerald O'Donnell, of Ennis, as the Society's representative on the Committee in place of Mr. H. P. Mayne, who has resigned from the Council. A vote of thanks was unanimously passed to Mr. Mayne for his services to the profession while a member of the Committee and also to Mr. Gerald O'Donnell, who attended before the Committee in connection with the recent application for an increase in Land Registry Costs.

District Court Rules Committee

MR. Dermot P. Shaw, of Mullingar, was appointed as the Society's representative in place of Mr. John P. Carrigan, who recently resigned from the Council. A vote of thanks was unanimously passed to Mr. Carrigan for his services on the Council and on the Committee.

Incorporated Council of Law Reporting

MR. P. R. Boyd, of Dublin, was appointed as the Society's representative on the above Council, in place of Mr. H. P. Mayne who has resigned.

Solicitors' Bill

THE President made a report to the Council in connection with the conference with officials of the Department which was attended by the President, Mr. Boyd and the Secretary, on behalf of the Council.

Land Bill, 1949

THE Council considered a report in connection with the above Bill which had been circulated to the country members of the Council. Section 23

of the Bill enables the Land Commission to purchase any interest in land in the open market and Section 24 provides that, where the Land Commission have purchased the land under Section 23, they may make a transfer order vesting the land indefeasibly in fee simple in the Commission. The report stated that the transfer order procedure was open to serious objection both from the point of view of incumbancers and the profession. It was ordered that a memorandum should be drawn up and submitted to the Minister for Lands, and that a copy thereof should be sent to the Taoiseach.

INCORPORATED LAW SOCIETY OF NORTHERN IRELAND

MR. Ralph S. Neilson, Belfast, has been elected President for the year 1949-50. The following are the extraordinary members of the Council of this Society: Messrs. Alexander S. Merrick, George Murnaghan, Charles MacLaughlin, James C. Taylor.

SOUTHERN LAW ASSOCIATION

MR. Patrick J. Kavanagh has been elected President of the Association for the year 1949-50. The following are the extraordinary members of the Council of this Society: Messrs. John L. Coakley, Timothy A. Buckley, John J. Horgan, Edward Emerson, Patrick J. Kavanagh.

STATUTORY COMMITTEE

THE following members of the Council have been appointed by the Chief Justice to constitute the Statutory Committee for the year to end 23rd November, 1950: Messrs. Patrick R. Boyd, Henry St. J. Blake, William S. Huggard, William J. Norman, Daniel O'Connell, John S. O'Connor, Seán Ó hUadhaigh.

COURT OF EXAMINERS

THE President, William J. Norman, the Vice-Presidents, Thomas A. O'Reilly, Dermot P. Shaw, the last President, Patrick R. Boyd, Arthur Cox, William S. Huggard, Patrick F. O'Reilly, George A. Overend, James R. Quirke.

STANDING COMMITTEES

Legal Education Committee: The Court of Examiners with Messrs. Barrett, Cox, Greene and Quirke.

Legislation and Privileges Committee: Desmond R. Counahan, Arthur Cox, Francis J. Gearty, Roger Greene, William S. Hayes, John S. O'Connor, Louis E. O'Dea, Gerald J. O'Donnell, Patrick F. O'Reilly.

Court and Offices Committee: Joseph Barrett, Niall S. Gaffney, Desmond Mayne, John J. Nash, Daniel O'Connell, James J. O'Connor, Seán Ó hUadhaigh, James R. Quirke, Joseph P. Tyrrell.

Finance Committee: Henry St. J. Blake, John J. Bolger, John Carrigan, William L. Duggan, Roger Greene, William S. Huggard, Louis E. O'Dea, Patrick F. O'Reilly, George A. Overend.

Gazette Committee: Joseph Barrett, John Carrigan, Niall S. Gaffney, Francis J. Gearty, John R. Halpin, Desmond Mayne, John J. Nash, John D. O'Connell, J. Travers Wolfe.

The President, last President, and the Vice-Presidents are members ex-officio of all Committees.

COUNTY SOLICITORS

MEMORANDUM FROM THE INCORPORATED LAW SOCIETY OF IRELAND TO THE MINISTER FOR LOCAL GOVERNMENT ON THE INADEQUACY OF THE SALARY OFFERED FOR THE POSITION OF WHOLETIME LAW AGENT TO A LOCAL AUTHORITY.

1. A number of local authorities with the sanction of the Department have recently decided to appoint wholtime law agents on a salary basis, instead of part-time solicitors remunerated by taxed costs as heretofore. The salary offered is on the scale, £1,000—£25—£1,150, with a temporary allowance of 7½ per cent. The solicitor is obliged to pay a contribution of 5 per cent. of his salary to a superannuation fund.

2. The Council feel it incumbent on them to inform the Department that they consider that the salary scale of £1,000—£25—£1,150 is entirely inadequate for the wholtime position of law agent to a local authority having regard to the qualifications required of the holder of the office, and the exacting and responsible nature of the duties, which he is required to discharge. The salary offered is a uniform scale of £1,000—£25—£1,150, irrespective of the population, area, and volume of work, which varies in different counties. This alone, in the submission of the Council, shows that in fixing the scale insufficient consideration has been given to the nature of the duties of the county solicitors and the proper scale of remuneration for the office. As an illustration of the inadequacy of the salary offered the Council have particularly in mind the position of law agent to the Cork County Council. A solicitor accepting the office on the terms offered will be required to undertake the duties which, prior to 1942, were performed by separate part-

time solicitors who acted for each of the following bodies:—

Cork County Council,
North Cork Board of Health and Assistance,
West Cork Board of Health and Assistance,
South Cork Board of Health,
South Cork Board of Assistance.

From information before the Council it appears that the taxed costs appropriate to the work done by these solicitors over a period of years could average out at not less than £4,000 per annum. Assuming that overhead office expenses would absorb 10/- in the £, these five solicitors between them earned at least £2,000 per annum *net*, in addition to carrying on private practice. The Department now ask for the *exclusive* services of a solicitor to act as law agent for all the local government work of the county at a salary of approximately half the *net profit* taxed costs value of the work to be done.

3. The figure of £4,000 given above as the estimated gross yearly taxed costs appropriate to the five offices mentioned in paragraph 2 will almost certainly be greatly exceeded in future years having regard to the probable increase in local government work. This is due, firstly, to the initiation and development of housing schemes throughout the country and the great expansion of work under the Small Dwellings Acquisition Acts. Secondly, it is obvious that the duties of a wholtime law agent are inevitably heavier than the sum of the duties of the part-time solicitors whom he replaces, for the reason that the payment of taxed costs is a restraining influence, and no official except the highest was free to consult the solicitor without a specific authorisation. This restraint is removed where there is a whole-time salaried solicitor, and as there is little in local government which cannot be related to law the field of responsibility of the solicitor is correspondingly widened. The Council do not object to this; they merely point to it as calling for the payment of adequate remuneration.

4. The Council further wish to point out that, certainly in Dublin, and probably in other areas, the salary offered for the office of law agent is less than that of the County Medical Officer or County Engineer. The Council would deprecate, and in the interest of the profession as a whole, would feel obliged to use their influence against a policy which would result in the payment of solicitors, either generally or in any particular case, less favourably than other professional men in the local government service. The Council

do not accept the suggestion that the duties of the law agent to a large local authority are less exacting or less responsible than those of either the County Medical Officer or the County Engineer or Surveyor. Such a view has never been advanced in the past, and in the submission of the Council nothing could be said in its favour in the present except so called reasons of pure expediency. The adoption of such a viewpoint as a basis of action will, in the long run, lead to the position in which the local authorities will not find the type of candidates for the position of law agent who will have the requisite degree of legal knowledge and ability to deal with what is admittedly one of the most difficult branches of a solicitor's practice.

5. The Council submit to the Minister that the position in regard to the recently advertised offices should be reconsidered and that before the salary scales are finally fixed the Council should be given an opportunity of submitting proposals thereon.

STATUTORY INSTRUMENTS

S.I. No. 334 of 1949.

Land Registration Rules, 1949 (Solicitors' Costs).

THE Registration of Title Rules Committee, in exercise of the power in Section 94 (1) of the Registration of Title Act, 1891, as amended by Section 74 of the Courts of Justice Act, 1936, and of every other power in this behalf, with the concurrence of the Minister for Justice, hereby makes the Rules annexed hereto for carrying into effect the object of the said Act.

Dated this 21st day of July, 1949.

MARTIN C. MAGUIRE,
Judge of the High Court.

I. J. KELLY,
HENRY P. MAYNE,
JOSEPH O'BYRNE.

I concur in the making of the Rules annexed hereto.

SEAN MAC EOIN,
Minister for Justice.

13th December, 1949.

1. The Land Registration Rules, 1947 (Solicitors' Costs) are hereby rescinded as from the 1st January, 1950.

2. All solicitors' costs and fees (as distinct from outlay) prescribed or regulated by the Land Registration Rules, 1937 to 1946, shall be increased in respect of business done after the date mentioned in Rule 5 hereof by thirty-three and one third per cent., calculated on the amount of such fees immediately prior to the 31st March, 1947.

3. Rule 2 shall not apply in respect of business transacted prior to the date mentioned in Rule 5 hereof or in respect of business, the particulars of the costs of which have been prior to such date furnished to the client or the person chargeable therewith or have been taxed or certified.

4. These Rules shall be read with the Land Registration Rules, 1937 to 1949, and shall be deemed to be incorporated therewith, and shall, so far as inconsistent therewith, alter or amend the same.

5. These Rules shall come into operation on the 1st day of January, 1950.

OBITUARY

MR. GERALD J. MOLONEY, Solicitor, of 70 South Mall, Cork, died on the 22nd December, 1949.

Mr. Moloney served his apprenticeship with the late Mr. John Moloney, Midleton, was admitted in Hilary Sittings, 1913, and practised at 70 South Mall, Cork, under the style of Messrs. McCarthy, Hanrahan & Moloney.

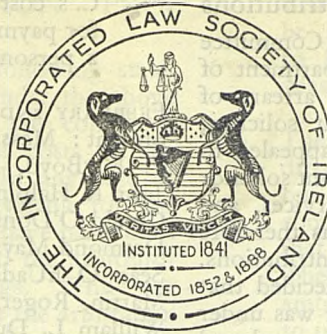
MR. ARTHUR B. WATSON, Solicitor, of "Donard," Killiney, Co. Dublin, died on the 5th January, 1950.

Mr. Watson served his apprenticeship with Mr. Robert Hayes, of 24 Nassau Street, Dublin, was admitted in Michaelmas Sittings, 1908, and practised as partner in the firm of Messrs. Hayes & Sons, of 41/42 Nassau Street, Dublin, until his retirement a few years ago.

THE REGISTER

Section C.

WANTED: Osborne; Irish County Court Practice, O'Connor; Justice of the Peace, Madden; Registration of Deeds, Cherry & Wakely; Irish Land Law. Please state edition and price. Hon. Secretary, Southern Law Association, 95 South Mall, Cork.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

WILLIAM J. NORMAN

Vice-Presidents

THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

JANUARY 12TH, 1950. The President in the Chair. Also present: Messrs. T. A. O'Reilly and Dermot P. Shaw, Vice-Presidents, John R. Halpin, F. J. Gearty, Desmond Mayne; John Carrigan, Roger Greene, Henry St. J. Blake, James J. O'Connor, John J. Nash, Reginald J. Nolan, J. D. O'Connell, James R. Quirke, P. R. Boyd, W. S. Hayes, Daniel O'Connell, G. A. Overend, Sean O'hUadhaigh, Patrick F. O'Reilly, William L. Duggan, Arthur Cox.

The following was among the business transacted:—

Costs of arbitrations

THE Council considered a report from a Committee on the subject of the costs allowed by the arbitrator on assessing the value of land compulsorily acquired by local authorities under the Acquisition of Land (Assessment of Compensation) Act, 1919. A note showing the basis upon which such costs will be allowed, as agreed between the Society and the official arbitrator is printed below, at page 47.

Costs of a lease and mortgage of registered land

A member of the Society acted for the owner in fee-simple of registered land, the equities having been discharged. The client made eight leases of plots carved out of the folio at a fine of £675, and a rent of £6 15s., for each lease. No "L" folio was opened, each lease being registered as a burden on the freehold folio. Each lessee raised a sum of £500 by a mortgage of a leasehold interest to a building Society for whom the same solicitor acted. The Council expressed the opinion that the costs of preparing, settling and completing each lease should be drawn on the Land Registry Scale, but that the costs of each mortgage should be drawn under the Solicitors' Remuneration General Orders 1884-1947. The Council also expressed the view that rules 3 and 6 of Schedule 1, Part 1, S.R.G.O. 1884, applied and that if the same solicitor acted for the mortgagees and the lessor only half the fee for investigating title and preparing the mortgage deed could be charged.

Assistant Solicitors—Unemployment Insurance and National Health contributions

THE Council considered a report from a Committee in connection with a claim by the Department of Social Welfare against a solicitor for arrears of contributions in respect of an assistant solicitor, employed in his office. The solicitor appealed to the Minister on the ground that the assistant solicitor was employed under a contract for services, and not under a contract of service, and was therefore exempt from the obligation to make contributions. On 13th October, 1949, the Minister decided that the employment of the assistant solicitor was under a contract for service and that he was an employed person within the meaning of the Act. The employer instituted proceedings against the Minister for Social Welfare by way of originating summary summons for a declaration that the assistant solicitor is not an employed person. The summons is returnable for 1st November, 1950. The Council decided to postpone further consideration of the matter pending further information as to the position under the recent White Paper on Social Security.

Solicitor's Undertaking

THE Council considered a report from a Committee on agreed facts. Mr. A., Solicitor, was instructed by Mr. B. to take up the latter's papers from Mr. C., Solicitor. Mr. C. had acted for Mr. B. in connection with the release of a mortgage. The release had been lodged in the Land Registry, but registration had not been completed.

Mr. A. wrote Mr. C. as follows:—

“I understand that you recently acted for Mr. B. in connection with having a burden on the folio cancelled. He is about to offer the lands for sale, and he has instructed me to act for him. In the circumstances, I would be obliged if you will please let me have particulars of any costs due to you in connection with the work which you did, and I will arrange for payment. You might also let me know if the release has been registered.”

Mr. C. replied stating that the release had been lodged in the Land Registry. A question arose as to whether Mr. A.'s letter constituted a personal undertaking to pay Mr. C.'s costs. The Council express the following opinion:—

1. There was no consideration which would support a personal undertaking by Mr. A.
2. Mr. C.'s position was not altered by Mr. A.'s letter.

3. Mr. A.'s letter meant that on receipt of Mr. C.'s costs he would submit them to Mr. B. for payment, but the letter did not constitute a personal undertaking.

FEBRUARY 2ND. The President in the Chair. Also present: Messrs. T. A. O'Reilly, Vice-President; P. R. Boyd, Reginald J. Nolan, John J. Nash, John R. Halpin, James J. O'Connor, Joseph Barrett, Gerald O'Donnell, W. S. Hayes, Daniel O'Connell, Desmond Mayne, James R. Quirke, John Carrigan, Sean O hUadhaigh, Patrick F. O'Reilly, Derrick Martin, Roger Greene, D. R. Counahan, A. Cox, William L. Duggan.

The following was among the business transacted:—

Solicitors to Local Authorities

THE Council considered a letter from the Department of Local Government referring to the memorandum submitted by the Council on the subject of the salary attaching to the position of whole-time solicitor to a Local Authority, and the Secretary was directed to reply. A copy of the correspondence is printed below at page 47.

Costs Query

CERTAIN land was vested by vesting order in the name of the tenant, but he was not registered as owner and no folio was opened in the Land Registry. The holding was sold for £2,920 and the redemption value of the lands equivalent to the standard purchase annuity was £306. The land was conveyed by an ordinary conveyance, and not by Land Registry transfer. By direction of the Land Commission the conveyance was sent to the Land Registry, with Form No. 17, and the usual Land Registry fees, and the scheduled number under which the matter was being dealt with in the Land Registry, was quoted. The Council was asked whether, in their opinion, the costs of the sale should be charged under the Land Registry scale, or under the Solicitors' Remuneration General Order, 1884-1947, and whether the costs should be calculated on the purchase price, £2,920 plus £306. The Council expressed the following opinion:—

1. Having regard to Section 17 (4) of the Land Act, 1927, the land became registered land on the appointed day, although on that day no folio had been opened in the Land Registry.
2. The costs should be charged under the Land Registration Rules calculated upon the amount of the consideration plus the redemption value of the land purchase annuity.

ACQUISITION OF LAND—OWNER'S COSTS OF ARBITRATION PROCEEDINGS

THE Council have submitted the following statement to the arbitrator appointed under the above mentioned Act. Solicitors who are concerned in arbitrations should prepare their costs on the lines indicated in the statement. In any case of unusual difficulty it would be advisable for the solicitor appearing for the owner to have particulars of his costs ready for submission to the arbitrator at the conclusion of the proceedings. While the costs of showing title do not arise at the arbitration stage, and are not a matter for the arbitrator, nevertheless, in appropriate cases, the costs of examining leases, rentals and other documents necessary to ascertain the interest being acquired are properly allowable as part of the costs of preparing the case for compensation.

1. When land, or house property, is acquired compulsorily by a local authority, the compensation being assessed under the Acquisition of Land (Assessment of Compensation Act), 1919, it is proper that the owner should be fully indemnified by the local authority in respect of the costs which he is liable to pay to his own solicitor in connection with the assessment of compensation. These costs comprise the preparation of the case for the arbitration and the presentation of the case at the arbitration. It seems clear from Section 5, of the Act, particularly subsection (1) that the arbitrator has power to order that the acquiring authority shall pay all the owner's costs.
2. In accordance with the terms of Section 5, owners whose property is being acquired should be paid the amount of their costs of preparing the case for the arbitration and all proper disbursements made by the solicitor.
3. In addition to the costs mentioned in paragraph 2, the solicitor for the owner, appearing at the arbitration, should be allowed a fee of four guineas as a minimum fee for the actual appearance where he is required to travel outside his own town, and three guineas in any other case.
4. The Council of this Society agree that in normal cases which do not present any exceptional difficulty in provincial towns, it is a matter for the arbitrator to say whether or not counsel's fee should be allowed, if counsel is briefed.

5. If any dispute arises between the acquiring authority and the owner as to the costs to be allowed, the owner should be entitled to have the costs referred to the Taxing Master.
6. The question of valuers' fees is not one which directly concerns the solicitors' profession, but it would seem that the services of a competent valuer are usually necessary, and that the valuer's fee should be allowed. The fee to be allowed should be whatever amount the owner would be legally obliged to pay to the valuer for his services.

COUNTY SOLICITORS

COPY of letter dated 18th January, 1950, from the Department of Local Government to the Society :—

I am directed by the Minister for Local Government to acknowledge receipt of your letter of the 7th instant, about the salary scale offered for the position of whole-time Law Agent to local authorities. The memorandum enclosed with your letter reiterates the points made by the deputation from the Society received in the Department on 2nd, ultimo. A full report of the representations of the deputation was placed before the Minister who carefully considered it before directing the issue of the Department's letter of the 15th, ultimo. The views expressed to the Society in that letter accordingly represent the Minister's policy on current appointments. The Minister will be prepared to consider any further representations which the Society may seem fit to make in connection with any further appointments of this kind which may be proposed in the future.

Reply to above dated 4th February, 1950 :—

I received your letter dated 18th January and brought it before the Council of this Society. I am to say that the Council take note of the last sentence of your letter, which states that the Minister will consider further representations from the Society in connection with future appointments, and that it is assumed that before the terms of such appointments are advertised, the Department will invite the views of the Council regarding them. With regard to the appointments recently advertised, the Council adhere to the view expressed in the memorandum submitted to the Department on 7th January and they hope that their submissions

will influence the Minister, particularly in regard to the position of law agent to the Cork County Council, which is one of the principal and most responsible legal offices in the local government service.

The Council cannot see the force of the Minister's undertaking to consider the Council's representations in regard to future appointments unless he is prepared to consider them in regard to the position of law agent to the Cork County Council.

STATUTES, 1949.

1. Defence Forces (Temporary Provisions).
2. Imposition of Duties (Confirmation of Orders).
3. Local Loans Fund (Amendment).
4. Housing (Gaeltacht) (Amendment).
5. Central Fund.
6. Children (Amendment).
7. Defence Forces (Pensions) (Amendment).
8. Courts of Justice (District Court).
9. Trade Loans (Guarantee) (Amendment).
10. Diseases of Animals.
11. Trade Union.
12. Electricity (Supply) (Amendment).
13. Finance.
14. Seeds and Fertilisers Supply.
15. Continuation of Compensation Schemes Act, 1946 (Amendment).
16. Infanticide.
17. Local Authorities (Works).
18. Fisheries (Amendment).
19. Army Pensions.
20. Imposition of Duties (Confirmation of Orders) (No. 2).
21. Ministerial and Parliamentary Offices (Amendment).
22. Alginat Industries (Ireland) Limited (Acquisition of Shares).
23. Housing (Amendment).
24. Rent Restrictions (Amendment).
25. Land Reclamation.
26. Appropriation.
27. Fisheries (Statute Law Revision).
28. Army Pensions (Increase).
29. Military Service Pensions (Amendment).
30. Expiring Laws.
31. Supplies and Services (Temporary Provisions) Act, 1946 (Continuance Act, 1949).
32. Industrial and Commercial Property (Protection) (Amendment).
33. Irish News Agency.

LIBRARY ACQUISITIONS

- Acts of the Oireachtas, 1946 and 1947.
 Acts regulating sale of Poisons and Practice of Pharmacy with Statutory Regulations, 1938.
 All England Law Reports. Index and Noter-up, 1936-1948.
 Beal—Legal Interpretation (Not yet received).
 Beattie—Income Tax, 1947.
 Belfast and Ulster Directory, 1949.
 Brewer—Free-of-Tax Annuities.
 Bullen and Leake—Pleadings, 10th Edition, 1949 (Not yet received).
 Burke—Peerage, 1949.
 Carver—Carriage by Sea, 9th edition (Not yet received).
 Chitty—Contracts, 20th edition, 1948.
 Clerk and Lindsell—Torts, 10th edition, 1948, and Second (Cumulative) Supplement to 31st March, 1949.
 Copinger—Copyright, 8th edition, 1948.
 Cripps—Compensation, 9th edition, 1949 (Not yet received).
 Dublin University Calendar, 1949-50.
 English and Empire Digest—Second Cumulative Supplement, 1948.
 Garda Directory, 1949.
 Gibb—Collisions on Land, 5th edition, 1947.
 Gibb—Trial of Motor Car Accident Cases, 3rd edition, 1947.
 Halsburys Statutes of England—Cumulative Supplement No. 18, 1949.
 Index to the Statutes of the Oireachtas, 1922-1948.
 Institute of Chartered Accountants in Ireland. List of Members as at 31. 5. 49.
 International Law List, 1950.
 Kennedy—Civil Salvage, 3rd edition, 1936.
 Law List, 1949.
 Lawrence—Deeds of Arrangement, 10th edition, 1931.
 Macgillivray—Insurance, 3rd edition, 1947.
 McFarlane—Death Duties, 1948.
 Malone—Notes on Procedure in the House of the Oireachtas.
 Medical Directory, 1949.
 Murray—Local Government Finance, 1946.
 National University of Ireland Calendar, 1948.
 New South Wales. Law Almanac, 1949.
 Northern Ireland Public General Acts, 1948.
 Palmer—Private Companies, 1949.
 Public General Acts, 1948.
 Russell—Arbitration, 14th edition, 1949 (Not yet received).
 Scottish Law List, 1949.
 Scrutton—Charterparties, 15th edition, 1948.

Skare—Hire Purchase, 1947.
 Smith—County Court Pleader, 2nd edition, 1949
 (Not yet received).
 Stroud—Judicial Dictionary. Supplement, 1930-
 1946.
 University College, Dublin. Calendar, 1949-50.
 Wharton—Law Lexicon, 14th edition, 1949.
 Whitakers' Almanack, 1949.
 Wurtzburg—Building Societies, 9th edition, 1946.

Forestry Act, 1946 (Appeal Tribunal)—214/1949.
 Forestry Act, 1946 (Part III) Lay Commissioners—215/1949.
 Fowl Pest—15/1950, 18/1950.
 Milk and Dairy Regulation Order, 1949—274/1949.
 Poultry, poultry carcasses and poultry eggs (Restriction on
 importation)—293/1949.
 Poultry Hatcheries Regulations, 1949—275/1949.
 Shannon Fisheries (Closing of Free Gap)—336/1949.
 Slaughtered Animals (Compensation)—Not numbered.
 Tobacco Areas for 1950—21/1950.
 Tobacco rehandlers (Charges)—339/1949.
 Wheat—239/1949, 241/1949, 342/1949.

SOLICITORS' BENEVOLENT ASSOCIATION

John McCrossan Annuity of £73 10s. 6d.

An Election will be held in March for this annuity. Intending candidates who must be sixty years, or over, should write to the undersigned for Application form without delay.

PATRICK GLYNN,
 Secretary,
 22 Nassau Street, Dublin.

KILKENNY BAR ASSOCIATION

By an error it was stated in the report of the President's speech, at the November General Meeting, that there was no Bar Association, *inter alia*, in County Kilkenny. We regret the error and are glad to state that the Kilkenny Bar Association was formed in 1947, the officers are as follows:—

President: James Harte, Solicitor, Kilkenny.
Hon. Secretary: Thomas G. Lanigan, Solicitor, Kilkenny:

INDEX OF STATUTORY INSTRUMENTS

received by the Society pursuant to the Statutory Instruments Act, 1947. The last list was printed in the Society's GAZETTE for August, 1949.

AGRICULTURE LANDS AND FISHERIES

SUBJECT MATTER AND REFERENCE NUMBER

Committees of Agriculture (Salaries of Officers)—232/1949.
 Diseases of Animals Act, 1894 (Poultry)—16/1950, 17/1950.
 Fisheries (Amendment) Act, 1949 (Commencement) Order
 —251/1949.

COMMODITIES, GOODS AND SERVICES

SUBJECT MATTER AND REFERENCE NUMBER

Acid Calcium—253/1949.
 Bacon—238/1949.
 Bicarbonate of Soda—337/1949.
 Bread—234/1949, 248/1949, 298/1949, 299/1949.
 Butter—298/1949.
 Candles—248/1949.
 Coffee and Coffee preparations—338/1949.
 Currants—302/1949.
 Flour (*see* Bread).
 Horse-shoe nails—116/1949.
 Intoxicating liquor—263/1949, 284/1949, 301/1949.
 Kerosene—303/1949.
 Margarine—301/1949.
 Milling Offals—283/1949.
 Motor Spirit—262/1949, 304/1949, 12/1950.
 Raisins—264/1949.
 Rice—250/1949.
 Shotgun cartridges—278/1949.
 Soap—31/1950.
 Standard Specification Orders: Coarse and fine aggregates from natural sources for concrete, 354/1949; Concrete building blocks, 288/1949; Concrete cylindrical pipes, 153/1949; Cotton bed sheets and sheeting, 156/1949; Extenders for paints, 287/1949; Gold Size, 160/1949; Hydrated Lime, 286/1949; Ready Mixed Oil paints, 154/1949; Water paints and distempers, 355/1949; White pigments for paints, 155/1949.
 Sugar—300/1949.
 Sultanas—302/1949.
 Tallows and Greases—33/1950.
 Tea—28/1950.
 Tyres and Tubes—4/1950.
 Wearing apparel—254/1949.
 Wines, spirits—263/1949.
 Wool—254/1949.

CONTROL OF IMPORTS AND EXPORTS

SUBJECT MATTER AND REFERENCE NUMBER

Books and periodicals—9/1950.
 Brushes, Brooms and Mops for domestic or household use
 —314/1949.
 Brushes for human use—315/1949.
 Brushes, brooms and mops—316/1949.
 Cocoa—9/1950.
 Coffee and chicory—9/1950.
 Electric filament lamps—225/1949, 279/1949.
 Footwear—308/1949, 347/1949, 350/1949.
 Forest trees—292/1949.

Headwear—317/1949.
 Hose—226/1949, 26/1950.
 Laminated springs and component parts of laminated springs
 —242/1949.
 Marble chippings—9/1950.
 Margarine—9/1950.
 Mechanically propelled bicycles—356/1949.
 Metal screws—318/1949.
 Motor cars, motor car chassis and body parts—310/1949,
 311/1949, 312/1949, 313/1949.
 Oils and fats—277/1949.
 Perambulators—356/1949.
 Pidgeons—10/1949.
 Plaster Boards—9/1950.
 Plaster of Paris—9/1950.
 Rubber footwear—347/1949, 350/1949.
 Rubber proofed clothing—309/1949.
 Soap—9/1950.
 Sparking plugs and component parts—255/1949.
 Sunshades—9/1950.
 Superphosphates—356/1949.
 Timber—233/1949, 249/1949.
 Tyres and tubes for bicycles and motor vehicles—345/1949,
 346/1949, 348/1949, 349/1949.
 Waste paper—9/1949.
 Wool, or worsted, woven tissues—27/1950.
 Woven piece goods—328/1949, 329/1949, 330/1949, 357/1949.

COUNTY AND TOWN MANAGEMENT

SUBJECT MATTER AND REFERENCE NUMBERS

Agricultural Committees, Salaries—232/1949.
 Cork, County Borough, extension of planning district—
 7/1950.
 Lee, River, Hydro-electric schemes—321/1949.
 Local Government, Dublin, Temporary Act, 1949 (Continu-
 ance No. 2)—353/1949.
 Rate Inspectors—143/1949.
 Storekeepers—143/1949.
 Street Trading, Henry Street—319/1949.

CUSTOMS AND EXCISE—EMERGENCY AND OTHER DUTIES

SUBJECT MATTER AND REFERENCE NUMBERS

Bed Sheets—327/1949.
 Buckets, cans, pails and component parts—273/1949, 14/1950.
 Coal—258/1949.
 Elastic—305/1949.
 Iron or steel blades or files—266/1949, 5/1950.
 Electric filament lamps—259/1949, 297/1949.
 Miscellaneous goods—243/1949, 259/1949.
 Union piece goods—326/1949.
 Wearing apparel, woollen—294/1949.
 Wearing apparel—295/1949.
 Wireless apparatus, component parts and accessories—22/1950.
 Woven piece goods—296/1949.

EDUCATION

SUBJECT MATTER AND REFERENCE NUMBER

Irish Legal Terms—2/1950, 3/1950.
 St. Anne's Reformatory School, Kilmacud—231/1949.
 School Attendance (Dun Laoghaire Borough School Atten-
 dance Committees)—50/1949.
 Secondary Teachers', Superannuation—322/1949.
 Vocational Education Act, 1930 (Grants under Section 53)
 —95/1949.

ELECTIONS

SUBJECT MATTER AND REFERENCE NUMBER

Limerick County District Electoral Divisions, 1950—1/1950.

EMPLOYMENT REGULATIONS AND CONDITIONS OF EMPLOYMENT

SUBJECT MATTER AND REFERENCE NUMBER

C.I.E. Superannuation—115/1949.
 Creameries—271/1949, 333/1949.
 E.S.B. (Appointment of Members of Tribunal)—261/1949.
 Furniture Trade, Apprenticeship Committee—237/1949.
 Guild of Irish Journalists, deposit under Trade Union Act,
 1941—6/1950.
 Hairdressing Shops—240/1949.
 Shirt-making—332/1949.

FINANCE AND CENTRAL GOVERNMENT

SUBJECT MATTER AND REFERENCE NUMBER

Agricultural Committees, Salaries—232/1949.
 Air Raid Precautions (Compensation for personal injuries)
 —43/1949.
 Civilians (Compensation for personal injuries)—222/1949.
 Defence Forces (Pensions)—291/1949.
 Exchange Control—268/1949.
 Garda Síochana Allowances—344/1949.
 Health Department (Transfer of Departmental administration
 and Ministerial functions)—256/1949.
 Land Bond Order, 1949—352/1949.
 Local Defence Force (Compensation for personal injuries)
 272/1949.
 Local Security Force (Compensation for personal injuries)
 —270/1949.
 Minister for Agriculture, Agency—324/1949.
 Minister for External Affairs, Agency—280/1949, 341/1949.
 Minister for Justice, Agency—257/1949.
 R.I.C. Pensions—285/1949.
 Slaughtered animals, compensation—Not numbered.
 Statistics, Census of Production—25/1950.
 Unemployment Insurance, Appropriations in Aid—82/1949.
 Vocational Education Act, 1930 (Grants under Sec. 53)—
 95/1949.

HARBOURS

SUBJECT MATTER AND REFERENCE NUMBER

Dublin Port and Docks Board (Rates for Watching dangerous
 or combustible goods)—343/1949.
 Cranage Rates—252/1949.
 New Ross Harbour Rates—230/1949.
 Wexford (Maintenance of Roads)—289/1949, 200/1949.

HEALTH

SUBJECT MATTER AND REFERENCE NUMBER

Health Department (Transfer of departmental, administration
 and ministerial functions)—256/1949.
 Health (Duties of Officers)—128/1949.
 Infectious Diseases (Amendment)—351/1949.
 Louth and Meath (Shell fish layings) Regulations—246/1949.
 Local Government (Sanitary Services) Act, 1948 (Sec. 34),
 Wicklow—8/1950.

JUSTICE AND EXTERNAL AFFAIRS

SUBJECT MATTER AND REFERENCE NUMBER

Aliens Order, 1949—276/1949.
Censorship of Films (Fees)—340/1949.
District Court (New Areas), Variation Orders—229/1949,
306/1949, 323/1949, 11/1950, 20/1950.
Forestry Act, 1946, Appeal Tribunal—214/1949.
Forestry Act, 1946 (Part III), Lay Commissioners—215/1949.
Garda Síochána Allowances—344/1949.
Land Registration Rules (Solicitors' Costs)—334/1949.
R.I.C. Pensions—285/1949.
Workmen's Compensation (Certifying Surgeons and Medical
Referees)—13/1950.

MISCELLANEOUS

SUBJECT MATTER AND REFERENCE NUMBER

Gas Meter (Stamps) Regulations, 1949—307/1949.
Gas Undertakers dividends—247/1949.
Statistics (Census of Population)—245/1949.
Waterford Gas Order—80/1949.
Wild Birds (County Roscommon)—235/1949.

POSTS AND TELEGRAPHS

SUBJECT MATTER AND REFERENCE NUMBER

Foreign Post Warrant—267/1949.
Wireless Telegraphy, Business radio licences—320/1949.
Wireless transmitting and receiving licences—282/1949.

SHIPPING

SUBJECT MATTER AND REFERENCE NUMBER

Merchant Shipping (Certification of Ships' Cooks)—281/1949.
Merchant Shipping (Fees) Order, 1940 (Amendment)—
236/1949.

SOCIAL SERVICES

SUBJECT MATTER AND REFERENCE NUMBER

Great Britain Reciprocal Arrangements—73/1949.
Old Age Pensions, Means Test—335/1949.
Unemployment Insurance, Appropriations in Aid—82/1949.
Widows' and Orphans' Pensions—325/1949.

TRANSPORT AND TRAFFIC

SUBJECT MATTER AND REFERENCE NUMBER

C.I.E. (Superannuation Scheme of regular wages staff)
—115/1949.
Milk, Carriage of—260/1949.
Wheat, Carriage of—244/1949.

STAMP DUTY—CONVEYANCE TO TRUSTEES FOR A TRADE UNION

A MEMBER has forwarded a copy of the following communication received from the Revenue Commissioners, dated 21st January, 1950 (Ref. I.R. 10402-1058-48).

With reference to your letter of the 12th instant regarding the question of the rate of stamp duty payable in the case of the purchase of leasehold property in Dublin as an investment of the funds belonging to an Irish registered Trade Union, I am directed by the Revenue Commissioners to state that the instruments of assignment of the property to the Trustees of the Union would be chargeable at the £5 per cent. rate, provided a certificate in accordance with subsection (4) (b) of Section 13 of the Finance (No. 2) Act, 1947, would be included therein and signed by the Trustees.

I am to add that for the purposes of the Section a "person" includes an unincorporated body. Accordingly, if the Union regarded as an entity is for the time being ordinarily resident and was ordinarily resident continuously for three years immediately preceding 15th October, 1947, the certificate could apparently be included in the instruments.

OBITUARY

MR. RICHARD W. MAXWELL, Solicitor, died at a private nursing home on the 18th January, 1950.

Mr. Maxwell was admitted in Michaelmas Sittings, 1893, and practised at 15 Eden Quay, Dublin, as partner in the firm of Maxwell Weldon & Company.

MR. J. CORNELIUS RUTLEDGE, Solicitor, died at his residence, "Speranza" 75 Upper Leeson Street, Dublin, on the 29th January, 1950.

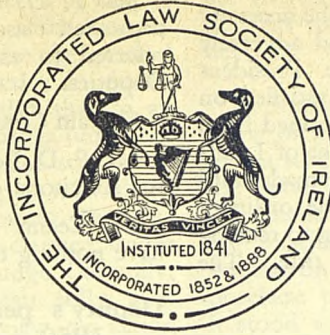
Mr. Rutledge served his apprenticeship with Mr. David H. Charles, Solicitor, 4 Clare Street, Dublin and practised at 50 Lr. O'Connell Street, Dublin, as senior partner in the firm of Rutledge, Doyle & Co.

MR. JOHN J. STANTON, Solicitor, died at his residence, "Woodlands," Glanmire, Cork, on the 12th February, 1950.

Mr. Stanton served his apprenticeship with the late Mr. John Stanton, 45 South Mall, Cork, was admitted in Easter Sittings, 1913, and practised at 47 South Mall, Cork, under the style of John Stanton & Son.

REGISTER B.

Experienced Solicitor anxious to hear of Office in Counties Cork or Kerry which would consider forming partnership. Reply in confidence to Box No. B.145.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

WILLIAM J. NORMAN

Vice-Presidents

THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

FEBRUARY 23RD. The President in the Chair. Also present: Messrs. Thomas A. O'Reilly and Dermot P. Shaw, Vice-Presidents; Messrs. Seán Ó hUadh-aigh, Joseph P. Tyrrell, John P. Carrigan, Francis J. Gearty, Roger Greene, Reginald J. Nolan, James J. O'Connor, William L. Duggan, John D. O'Connell, John R. Halpin, John S. O'Connor, Henry St. J. Blake, Patrick R. Boyd, Desmond R. Counahan, Gerald J. O'Donnell, Derrick M. Martin, George A. Overend, John J. Nash, Desmond J. Mayne, Louis E. O'Dea, Joseph Barrett, Daniel O'Connell, Arthur Cox.

The following was among the business transacted:

Examination Results

THE Council considered and adopted a report from the Court of Examiners on the results of the First and Second Irish Examinations held in February. The Examination results are printed below.

Land Bill, 1949

THE President reported that he had attended to interview the Assistant Secretary of the Department of Lands, accompanied by Mr. Boyd and the Secretary, on the subject of section 23 of the Land Bill, 1949. This section, as drafted, enables the Land Commission to purchase any interest in land in the open market, and section 24 provides that where the Land Commission have purchased land under section 23 they may make a transfer order vesting the lands indefeasibly in fee-simple in the Land Commission. Objection had been taken to the transfer order procedure in the Bill, both from the point of view of incumbrancers and from the point of view of the profession. The objection from the point of view of incumbrancers was that it seemed to be open to doubt whether an incumbrancer whose interest was overlooked would be entitled to compensation for the land acquired by the Land Commission under the transfer order procedure. The objection from the point of view of

the profession was that the section apparently enabled the Land Commission to acquire the land by the transfer order procedure without the necessity of any formal conveyance, which would adversely affect solicitors' remuneration. The President reported that the deputation had been satisfied on both points. An assurance had been obtained from the Assistant Secretary of the Department of Lands that in no case would a transfer order be made until after the sale has been completed in the ordinary way, the object of the transfer order being to remedy any possible defect in the purchaser's title. The report was adopted.

Society v. Philpag

The Secretary reported that he had received a letter from Mr. J. J. O'Connor, who instituted proceedings on behalf of the Society under section 53 against the firm of Philpag & Co. for pretending to be qualified to act as solicitors, stating that the defendants had offered to indemnify the Society against their costs if the prosecution was withdrawn and undertook not to repeat the offence. It was ordered that Mr. O'Connor should agree to have the proceedings struck out on these terms.

Salaries of Solicitors in Government Legal Offices.

THE Secretary read a letter received from the Department of Finance in reply to the memorandum submitted by the Society to the Minister on the salaries and conditions of service of solicitors in the legal offices. Further consideration in the matter was adjourned.

PARLIAMENTARY DEBATES

Dail Eireann, 2nd March, 1950

MR. P. LEHANE: I would suggest to the city Deputies, including Deputy Captain Cowan, that they have plenty of problems to which to apply themselves in the city. When they have solved those problems they can then come out and speak to the country. Reference was made here to the agricultural workers as being the depressed class. In my experience—I speak for Cork, about which I know something, but I am sure the same applies in Dublin—the depressed classes are the unfortunate typists who work for solicitors for 15/- and 20/- a week and are expected to pay their bus fares and buy their lunches out of it.

An Ceann Comhairle: That has nothing to do with this.

Mr. Sweetman: And it is entirely untrue.

Mr. P. D. Lehane: Mention was made of the depressed classes and the agricultural worker was referred to as a depressed class by certain city Deputies.

Captain Cowan: He is treated like a slave.

Mr. P. D. Lehane: But nothing like the slaves in the solicitors' offices in Cork.

An Ceann Comhairle: The wages of typists have nothing to do with this Bill.

Deputy's personal explanation, 9th March, 1950

MR. P. D. LEHANE: With your permission, Sir, there is a matter I should like to mention very briefly. When speaking on the Agricultural Workers (Holidays) Bill last Thursday—

An Ceann Comhairle: Is this a personal explanation?

Mr. P. D. Lehane: Yes. Speaking on what I regarded as reliable information, I said that typists who work for solicitors were asked to work for 15/- and 20/- per week and were expected to pay their bus fares and for their lunches out of that. Since then I have received letters from the Dublin Bar Solicitors' Association, and from the Southern Law Association, Cork, taking exception to my remarks. I was not aware until it was pointed out to me by the Southern Law Association that the Labour Court had fixed a wage of 25/- a week for solicitors' typists, and I want to apologise to solicitors and the associations.

A Deputy: They will not be long making a fortune with that.

NOTE.—Comment on this "explanation" would be superfluous, but steps have been taken to draw the Deputy's attention to its inaccuracy. Mr. P. D. Lehane is a Deputy for South Cork, and should not be confused with Mr. Conor Lehane, T.D., solicitor.

PROFESSIONAL ITEMS

Judgment for untaxed Bill of Costs

AN important point of Circuit Court practice and one of particular interest to solicitors was decided by Judge Connolly sitting at Chancery Place on the 12th January last. A solicitor had sued his client for the amount of an untaxed bill of costs. There was no appearance for the defendant and

the plaintiff applied in the office to have judgment entered under the provisions of Order XV, rule 3, of the Rules of the Circuit Court. The County Registrar refused to enter judgment on the ground apparently that it was not the practice to do so in such cases, and for the reason also that in an action of the kind involved interlocutory judgment only could be obtained, i.e., judgment subject to taxation. The plaintiff, accordingly, moved *ex parte* for an order directing the County Registrar to enter judgment for the amount claimed under the order and rule referred to. Judge Connolly, who, in his reserved judgment dealt fully with the authorities, stated that, in his view, an action by a solicitor against his client on foot of a bill of costs, properly delivered, was, in essence, no different from any ordinary liquidated claim brought in respect of moneys due for services rendered and work and labour done. The amount of a bill of costs was not pecuniary damages but a measured and ascertained sum. It thus fulfilled the definition of a liquidated demand and fell within the provisions of Order XV, rule 3. The learned judge said that he could discover no principle by which could be supported the practice apparently prevailing in the Circuit Court office, of refusing to enter judgment in an action by a solicitor for his untaxed costs in cases of default of appearance. He would, accordingly, accede to the motion and direct the County Registrar to enter judgment for the amount claimed without reference to taxation.

(*Irish Law Times & Solicitors' Journal*).

Negligence of a solicitor

IN *Lake v. Bushby & Anor.* (1949, 2. All E.R., 964) the plaintiff was the purchaser of certain property under a contract for sale with the first named defendant. The second defendant was the solicitor who acted for both vendor and purchaser. The property included a bungalow which had been erected during requisition by the Air Ministry, and the purchaser proposed to convert it into a dwelling house. He wrote to the solicitor defendant as follows:—

“I have negotiated the purchase of a property at ——— belonging to your client B. through S., Estate Agent, and I would greatly appreciate it if you would act on my behalf in connection with the conveyance and registration of the property and the arranging of the mortgage loan with the present owner B.”

The solicitors, in reply, wrote:—

“We are obliged for your instructions to act for you in the purchase of this property, and shall be glad to prepare the conveyance and mortgage herein.”

At the time of this correspondence the solicitors knew of the proposed conversion of the bungalow into a dwelling house. Without the knowledge of the solicitors the sale had been induced by the fraudulent misrepresentations of the vendor, and the purchaser was awarded damages against the vendor on the basis of the difference between the purchase price and the value of the property as it stood without amenities, the existence of which the vendor had represented. In reply to a requisition for the official search in respect of the property, the solicitors received a letter from the clerk to the local council stating that “no plans had been approved by the Council for the bungalow referred to in your requisition.” The solicitors informed the vendor who stated that he, personally, would obtain the necessary approval “and make it right for” the purchaser, but they did not inform the purchaser, and he completed the purchase without the knowledge that no plans had been approved for the original erection of the bungalow, and that therefore, the local council might require it to be pulled down. In an action for damages for negligence against the solicitors it was held:—

1. That it was the solicitors duty to communicate the information to the prospective purchaser, and not merely to see that he obtained a good title and having failed to do so, they were liable for damages.
2. The measure of the damages was the difference between the value of the property as it stood with a secure building and its value as diminished by the possibility that the local council might require the building to be pulled down.

One of the matters on which this case throws light is the extension of duties imposed on solicitors in conveyancing matters by the social changes of the present century. At one time it was considered that a solicitor's only duty in a conveyancing transaction was to ensure, if acting for a purchaser, that his client obtained a good title to the property in accordance with the terms of the contract. As recently as 1944 it was held in *Yager v. Fishman & Anor.* that a solicitor who acted generally for a client was not negligent in forgetting to notify the client of the approaching expiration of the time for exercising an option to purchase premises.

Notwithstanding this case, however, it would seem that a solicitor may be liable for negligence if he omits to safe-guard his client in regard to various matters which may arise after he has received instructions but before the contract has been signed, and not necessarily connected with the title.

Town planning and other legislation has imposed so many restrictions on the development of property that it is difficult to say where the solicitor's duty ends, and the client's duty to safeguard himself begins.

Solicitors' privilege

IN *Bostock v. Bostock* (1950 I. All E.R., 25), there were cross petitions for divorce on the ground of alleged desertion. At a certain stage of the proceedings, the parties and their solicitors met at a conference at which a reconciliation was discussed. Counsel for the husband, at a subsequent stage of the proceedings, tendered evidence of events which took place at the meeting, but counsel for the wife objected to the evidence being called on the ground that the conversations at the meeting were privileged. There had been no agreement between the parties before the conference that the proceedings would be conducted without prejudice. It was held that what took place at the meeting was not to be taken as without prejudice and, consequently, privileged, in the absence of a specific declaration to that effect, and the evidence tendered was admissible.

DECISIONS AFFECTING THE PROFESSION

BEESTON & STAPLEFORD U.D.C. *v.* SMITH

LOCAL AUTHORITY. UNQUALIFIED CLERK
DRAWING MORTGAGE

MORTGAGOR'S LIABILITY FOR COSTS

BEFORE the Lord Chief Justice, Mr. Justice Humphreys, and Mr. Justice Finnemore.

A Divisional Court, on an appeal by way of case stated, affirmed on different grounds, the decision of Nottingham justices convicting Beeston and Stapleford Urban District Council and Mr. Charles Harold Wragg, the clerk of the council, of an offence against section 47 of the Solicitors Act, 1932.

At a Court of summary jurisdiction sitting at Nottingham informations were preferred by the

respondent, Mr. Robert James Tull Smith, a solicitor acting on behalf of the Law Society under section 47 of the Solicitors Act, 1932, as amended by section 23 of the Solicitors Act, 1941, against the appellant urban district council and the appellant, Mr. Wragg, their clerk. The Council were charged on each of four informations with having, although not a barrister or duly certificated solicitor, law agent, writer to the signet, notary public, conveyancer, special pleader, or draftsman in equity, either directly or indirectly prepared a mortgage deed relating to a mortgage by a named person. The clerk was on the same facts charged on four informations with drawing a mortgage deed, also contrary to section 47 of the Act of 1932 as amended by section 23 of the Act of 1941.

At the hearing of the informations the following facts, *inter alia*, were proved or admitted:—

The clerk received a salary from the council. The council had passed a resolution undertaking to act under the Small Dwellings Acquisition Act, 1899. By section 2 of that Act the council had to be satisfied that the title to property on which they proposed to make an advance was one which an ordinary mortgagee would be willing to accept, and that the repayment of the advance was secured by an instrument vesting the property in the council, subject to the right of redemption.

In December, 1946, the council resolved to undertake investigation of title and preparation of mortgages themselves, and decided that it should be done by their clerk. In 1947 four advances were made to residents, and the mortgages were prepared by the clerk, for which work a bill was in each case rendered. Sums thus paid to the council by mortgagors were credited to the council's general rate fund.

For the clerk and the council it was contended, *inter alia*, that they had not acted for fee, gain, or reward, and so were within the proviso to section 47 of the Act of 1932; and that the clerk was a public officer drawing or preparing instruments in the course of his duty within the meaning of section 47 (3) so that section 47 (1) did not apply to him.

The justices held that the clerk and the council were acting *ultra vires*, and they accordingly convicted them and fined them 10s. each on each of the informations. They further held that the clerk was a public officer and that, had he not been acting *ultra vires*, they would therefore have dismissed the informations.

The council and their clerk appealed.

The Lord Chief Justice giving judgment, said

that the justices' decision that the charge made to the mortgagors was *ultra vires* was clearly wrong, and Mr. Paull, for the prosecutor, had not sought to support it. It was argued for the council and their clerk that they had not acted for fee, gain or reward because what the mortgagors paid went into the general rate fund.

The Court could not accept that contention. The council were "a person" within the meaning of section 47 (1) of the Act of 1932, and could only act by their officer. They had acted for a fee because they had made a charge which the mortgagors had had to pay.

The only real point in the case was whether or not the clerk was a "public officer." Different meanings could be given to those words according to the statutes in which they occurred. The question was whether "public officer" in section 47 (3) of the Act of 1932 referred to any clerk of a local authority or must be interpreted more narrowly as referring to an officer in a public department. The object of the Act of 1932 was to ensure that conveyancing matters were carried out by qualified persons, and the Court ought accordingly not to give the words "public officer" a very wide interpretation since that would open the door to preparation of mortgage instruments and so forth by a large number of unqualified persons. The officers meant by the words "public officer" in the Act of 1932 were officers in a department of State or a public department set up by statute, officers whose salary was chargeable to national as distinct from local funds. The justices had been wrong on both points, though they had arrived at the right results.

The appeal would be dismissed.

Mr. Justice Humphreys and Mr. Justice Finemore agreed.

(65 T.L.R. 154)

PACEY v. ATKINSON

DEBT COLLECTING. UNQUALIFIED PERSON ACTING IN EXPECTATION OF FEE OR REWARD

Before the Lord Chief Justice, Mr. Justice Lynskey and Mr. Justice Sellers.

The Court allowed the appeal, by case stated, of Mr. Frederick William Beston Pacey, acting on behalf of the Law Society, from the decision of Darlington justices dismissing six informations preferred against the respondent. Mr. Victor Cecil Atkinson, charging him with offences under section

47 (1) of the Solicitors Act, 1932, as amended by the Solicitors Act, 1941.

The information preferred against the respondent charged that contrary to the section, he,

"not being a barrister or a duly certificated solicitor, solicitor in Scotland, writer to the signet, notary public, conveyancer, special pleader, or draftsman in equity, drew, or, alternatively, prepared, an instrument in relation to a legal proceeding for or in expectation of a fee, gain or reward."

The respondent, who was not qualified under the section, was a rent and debt collector. He carried on business in Darlington, and was employed by creditors and landlords to collect sums due to them, and had authority from his principals to institute and carry through proceedings in the Darlington County Court for the recovery of sums due. He was remunerated by a payment of 2½% on the sums which he collected.

In the case referred to in the informations he had drafted particulars of claim in county court proceedings, and received or expected to receive 2½ per cent. of the sums recovered whether the proceedings were heard in Court or not. Apart from his agreed remuneration he neither received nor expected to receive any reward for drawing or preparing particulars of claim, or for any work in connection with the proceedings or for attendance in Court. No objection had ever been taken to the procedure which he followed.

The justices were of opinion that the respondent had drawn the instruments relating to a legal proceeding specified in the informations, but a majority were satisfied that he did not do it directly or indirectly for or in expectation of any fee, gain or reward. They accordingly dismissed all the informations.

The Lord Chief Justice, in delivering the judgment of the Court, said that the evidence to the effect that no objection had been taken by the county court judge or the registrar to the practice followed by the respondent was quite irrelevant. Whatever practice might have existed the only question was whatever the respondent's action was prohibited by the statute. At the same time it was well known that the practice had existed in all parts of the country and the question was one, therefore, of considerable importance, not only to rent and debt collectors, but to the owners of property who employed them and who, if the statute prohibited collectors from taking proceedings in the county court on behalf of their principals, would have either to do the

work themselves or employ solicitors, with the result that costs in many cases would be incurred, which the debtors would have to pay.

The Court were not concerned either with the policy or the result of the Act, but only with whether the section prohibited what the respondent did. The only change which was effected in the material section by the Act of 1941 was to cast the onus of proving that he did not act for or in expectation of any fee, gain, or reward on the respondent. No point as to onus arose in the present case.

In the opinion of the Court it was clear that the respondent must be held to have prepared the county court documents in expectation of reward because if judgment was recovered and money paid thereunder, he would receive remuneration in the shape of commission on the sum recovered. True, he received no fee, nor did he expect to receive one, but that he expected to gain thereby and obtain a reward seemed to be beyond question.

Mr. Hogg argued that there must be some contractual right to receive a fee or other remuneration and that unless there was some such contractual right no offence was committed. The short answer was that the section provided that the act must not be done for in expectation of any fee, gain, or reward, and the word "expectation" clearly indicated that there need be no legal right to recover but a mere expectation or hope that some reward would be forthcoming as a result of the action taken.

The Court were of opinion that the offences were proved and the case must go back to the justices with an intimation that convictions must be recorded in all the cases.

(66 T.L.R. 276)

EXAMINATION RESULTS

At examinations held on the 3rd and 4th days of February under the Legal Practitioners' (Qualification) Act, 1929, the following passed the examinations:—

First Examination in Irish

Ignatius F. Branigan, Mary Catherine Brennan, Ann M. A. Burke, Gerald Bernard Coulter, Esmond Davies, Edward Joseph Dillon, Charles W. R. Fay, Patrick C. Kelly, Sean Kelly, Daniel Joseph MacMahon, John Laurence Moore, Gerard Hugh Murphy, Mary Margaret Murray, Donal Brendan O'Connell, John Michael O'Connor, Patrick Joseph O'Connor, Aidan O'Donnell, John A. O'Gorman, Elizabeth Wright.

Twenty-five candidates entered: nineteen passed; five failed; one did not attend.

Second Examination in Irish

Stanley A. E. Belford, Denis J. Bergin, William E. T. Bradshaw, Mary P. Gallagher, Joseph J. Grace, Mary B. P. Hickey, James McE. Kerr, Thelma King, Michael D. Lambe, William S. O'Brien, Edward O'Carroll, Ronald H. C. O'Doherty, Michael K. O'Driscoll, John C. Reedy, John N. Ross, Richard Ryan, John Patrick Sheehy, Philip Sheil, Daniel G. Shields, Brendan J. Wallace, James P. Woods.

Twenty-eight candidates entered: Twenty-one passed; six failed; one did not attend.

The remaining candidates are postponed.

CALENDAR

It is hoped that the Calendar will be received from the printers by the end of March. Members who have already ordered and paid for the Calendar for delivery by post will receive it as soon as possible. A limited number of copies will be available after satisfying orders already received, and solicitors wishing to obtain copies should order same without delay.

OBITUARY

MR. CHARLES B. W. BOYLE, Solicitor, died at a private nursing home on the 16th February, 1950.

Mr. Boyle served his apprenticeship with Mr. John Blood-Smith, 29 Lower Gardiner Street, Dublin, was admitted in Hilary Sittings, 1911, and practised at 68 Middle Abbey Street.

MR. SYDNEY MATTHEWS, Solicitor, died at a private nursing home on the 2nd March, 1950.

Mr. Matthews served his apprenticeship with Mr. James C. Taylor, 44 Royal Avenue, Belfast, was admitted in Hilary Sittings, 1915, and practised at 1 and 2 College Street under the style of Messrs. Hoey & Denning up to his retirement in December last.

MR. JAMES KEARNS, Solicitor, died at his residence, Portumna, Co. Galway, on the 2nd March, 1950.

Mr. Kearns served his apprenticeship with the

late Mr. Michael A. Hayden, Ballinasloe, was admitted in Easter Sittings, 1904 and practised at Portumna as senior partner in the firm of Messrs. James J. Kearns & Son.

MR. ROBERT N. MATHESON, Solicitor, died at his residence, Beaumont, Blackrock, Co. Dublin, on 18th March, 1950.

Mr. Matheson served his apprenticeship with the late Mr. Henry Francis Stephens, was admitted in Hilary Sittings, 1903 and practised as senior partner in the firm of Messrs Matheson, Ormsby & Prentice, 16 Lr. O'Connell Street, Dublin, up to his retirement on 31st December, 1946.

MR. JOHN J. EARLY, Solicitor, died at his residence, "Belvidere," Howth Road, Dublin, on 23rd March, 1950.

Mr. Early served his apprenticeship with Mr. Thomas Early, 63 Upper O'Connell Street, Dublin, was admitted in Hilary Sittings, 1919 and practised at 16 Henry Street, Dublin under the style of Messrs. John J. Early & Co.

MR. JUSTIN C. MCKENNA, Solicitor, died at his residence, Newmarket Street, Kells, Co. Meath, on 23rd March, 1950.

Mr. McKenna served his apprenticeship with the late Mr. Francis McBreen, Solicitor, Bailieborough, was admitted in Hilary Sittings, 1919, and practised at Kells, Co. Meath.

MR. CHARLES T. KENNEDY, Solicitor, died at his residence, "Marsh Banks," Skibbereen, Co. Cork, on 23rd March, 1950.

Mr. Kennedy served his apprenticeship with the late Mr. John J. Kennedy, Solicitor, Birr, was admitted in Hilary Sittings, 1905, and practised as senior partner in the firm of Messrs. Collins & Kennedy, Solicitors, Skibbereen. He was Under-Sheriff for Co. Cork.

REGISTRATION OF TITLE ACTS, 1891 and 1942

NOTICE.

Folio 632.

COUNTY WEXFORD.

Registered Owner: JAMES FOLEY.

An application has been made by the registered owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 24th day of March, 1950.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of James Foley to 46a. 2r. 4p. of the lands of Nook situate in the Barony of Shelbourne and County of Wexford, being the lands comprised in said Folio.

THE REGISTER

Section B.

EXPERIENCED SOLICITOR anxious to hear of practice for sale or would consider partnership. Reply in confidence to Box. No. B. 146.

Well-known and long established Dublin firm of solicitors (two partners) with high class practice wish to purchase practice of retiring solicitor or would consider amalgamation with suitable firm. Replies will be treated in strictest confidence. Box No. B. 147.

Section 11. The Registrar shall have power to...

The Registrar shall have power to... The Registrar shall have power to...

The Registrar shall have power to... The Registrar shall have power to...

THE REGISTER Section 11

The Registrar shall have power to... The Registrar shall have power to...

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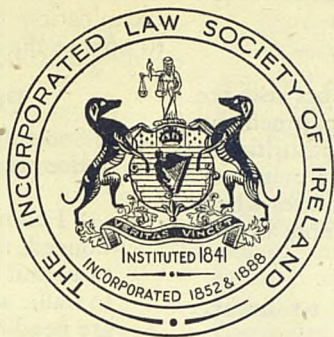
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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

WILLIAM J. NORMAN

Vice-Presidents

THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF COUNCIL

23RD MARCH: The President in the Chair. Also present: Messrs. T. A. O'Reilly, Vice-President, Dermot P. Shaw, Vice-President, William S. Hayes, Francis J. Gearty, John Dundon, James J. O'Connor, Desmond R. Counahan, J. Travers Wolfe, Henry St. J. Blake, Derrick M. Martin, John Carrigan, Niall S. Gaffney, John R. Halpin, Seán Ó hUadhaigh, Louis E. O'Dea, Daniel O'Connell, G. A. Overend, G. J. O'Donnell, Wm. S. Huggard, Reginald J. Nolan, John J. Nash, Joseph P. Tyrrell.

The following was among the business transacted:

Costs of debt collecting letters

THE opinion of the Council was sought as to whether a solicitor acting for a creditor should apply for payment by the debtor of the costs of the application for the debt. The creditor was the employee of an institution and made a claim for holiday money alleged to be due under the holidays (Employees) Act, 1939. The claim was based on one day's pay

in lieu of holidays for each month since July 1949, together with three days' pay for the Christmas holidays, making nine days' pay, which, at the rate of £130 per annum amounted to £3 4s. 1d. The Secretary to the institution disputed the basis of calculation on the claim, and subsequently the claim was reduced to five days' pay. The solicitor for the creditor in agreeing to reduce the claim requested payment of the amount due, together with one guinea costs. In the Society's Gazette for 1945, the Council published the following opinion:—

“The Council has recently considered the practice of including demands for costs in solicitor's letters applying for payment of debts before the institution of proceedings. The Council expressed the opinion that the practice, in so far as it now exists, should be discontinued. The opinion of the Council is limited to applications for immediate payment of liquidated debts, within the meaning of the term in *Allen v. O'Callaghan* (10 I.L.T.R. 131).”
The Council expressed the opinion that on the

facts submitted the application was a liquidated demand, and that accordingly the application for the costs of the letter should not be made.

Police reports

THE Council considered correspondence between the Society and the Attorney General's Department on the subject of the refusal by the Garda authorities to furnish abstracts of the statements of witnesses whose names appear on police reports in cases where criminal proceedings are pending. A note on the subject is printed below.

Leases and mortgages—Covenants to insure against fire

THE Council considered a report from a committee on the position which arises from the practice of lessors of requiring lessees to insure against fire with a named company, and the similar practice of mortgagees advancing money on the security of the property, of requiring the mortgager to insure with a company nominated in the mortgage deed. It was pointed out that in many cases lessees borrow money for the purpose of purchasing residential property, and where different insurance companies are named in the lease and in the mortgage the lessee may find himself in the position of having to insure twice over. The committee reported that it frequently happens that neither the mortgagee nor the lessor will agree to any alteration in the covenant. The Committee reported that the attention of the Minister for Justice should be drawn to the position, and that he should be asked to consider whether it would be advisable to deal with the matter by legislation on the lines of Section 56 of the Landlord & Tenant Act, 1931. The report of the Committee was adopted.

Library acquisitions

ON a report from the Library Committee it was decided to purchase a number of legal text books costing approximately £85.

Solicitors' Indemnity insurance

THE following resolution was proposed, seconded and adopted:—

“That the Council should consider the advisability of setting up a defence union for the purpose of insuring solicitors against claims for negligence on the lines of the scheme operated by the Medical Defence Union.”

The matter was referred to a committee for consideration and report.

Applications under Section 16 and 18

An application by a law clerk for liberty to be bound for three years only pursuant to Section 16, considered and granted.

An application from an intending apprentice to the Chief Justice for exemption from the Preliminary Examination was considered. It was decided not to oppose the application.

POLICE REPORTS

IN the Society's Gazette for March 1948, the following notice was published:—

“Following representations made by the Council, the Commissioner of Police has agreed to permit the names and addresses of witnesses to traffic accidents in which criminal proceedings are pending, to be supplied to members of the legal profession. Heretofore, this information has been withheld until the termination of the criminal proceedings.”

IN the Society's Gazette for April, 1949, following a communication received from the Department of Justice, the following statement was published:—

“Notification has been received from the Department of Justice that the procedure in the case of road accidents, whereby an abstract from the report of the Garda Siochana on the accident may be supplied to interested parties, has recently been revised. In future, interested parties will, on request, be supplied with copies of written statements made by witnesses, including members of the Garda. These documents may be made available even where criminal proceedings are pending, provided that the Gardai are satisfied that this will not affect the course of justice.”

THE Council has recently been informed by the Attorney General's Department that the facilities mentioned in the notice of April, 1949, are being withdrawn, and that abstracts of witnesses statements will not be furnished in any case where criminal proceedings are pending. The letter makes no reference to the notice from the Commissioner, Garda Siochana, dated March, 1948, and the Council understand that the position whereby a solicitor acting for a party to civil proceedings will be supplied with a copy of the police report, containing the name and address of witnesses, will not be affected. The Council request members to notify the Society of any case in which the last mentioned facilities are not provided.

EXAMINATIONS, JUNE, 1950

THE Intermediate Examination will be held on June 1st and 2nd, 1950. The latest date for receiving notice of attention to attend the examination will be May 11th.

THE CALENDAR AND LAW DIRECTORY, 1950

THE Calendar for 1950 has been on sale since April 1st, and may be obtained from the Society's offices, Price 7/6, post free, 8/2.

The Council regret that owing to difficulties in the printing trade it was not possible to have the Calendar published earlier. After satisfying orders already received, there is a limited number of copies available, and any member who has not ordered a copy of the Calendar should do so immediately.

PROFESSIONAL ITEMS

Ethics of Cross-examination

In a case recently reported in the Times newspaper, the Lord Chief Justice of England, in delivering judgement, dismissing the appeal of a man against his conviction at Liverpool Assizes, said that the importance of the case was that it appeared that the appellant, through his counsel, had alleged that a statement had been extorted from him by the police. The police had denied that in cross-examination. The allegation was a serious one, and a thing which was too often said without foundation. The Court desired to call attention to the fact that having suggested that to the police in cross-examination, and having made that allegation before the Jury, counsel did not call upon his client to substantiate what he had told him to say. It was one thing to examine a witness as to credit, but quite another thing to cross-examine him with no material to support allegations against him. It was entirely wrong to make suggestions, as in the present case, that the police threatened to beat a man up unless he made a confession, and then not to substantiate them. The Court hoped that counsel would refrain from making such charges if they have no evidence with which to substantiate them.

Time : pleading delivered after 5 p.m.

In *Kaye v. Levinson* (66 T.L.R. 613). The plaintiff in an action applied for extension of time for delivering his statement of claim, and an order was made that the action should stand dismissed unless the statement of claim was delivered on or before 28th November, 1949. The English Order, 64, Rule 11 (which is identical in terms with R.S.C. Order 64, Rule 13, except that the time named therein is 4 p.m., instead of 5 p.m. as in this country) is as follows :

"Service of pleadings, notices, summonses, orders, rules and other proceedings, shall be effected before the hour of 4 in the afternoon, except on Saturdays when it shall be effected before the hour of 12 noon. Service effected after 4 in the afternoon of any week day except Saturday, for for the purpose of measuring any period of time subsequent to such service, shall be deemed to have been effected on the following day."

The plaintiff's solicitor, having obtained the extension of time mentioned above, delivered a statement of claim at the office of the defendant's solicitors at 5.45 p.m. on 28th November, 1949. The defendant contended that the statement of claim was delivered out of time and, accordingly, that the action stood dismissed under the order of the Court. The argument for this proposition was that when the judge said "delivery on November 28th," he meant "delivery at such a time on that day as the rules provide." The plaintiff, on the other hand, contended that the dismissal of the action for want of prosecution was not one of the proceedings specified in Order 64, Rule 11, and that, accordingly, a statement of claim delivered at any time on November 28th was sufficient to safeguard the action from being dismissed for want of prosecution. The matter was tested by assuming that the action in fact stood dismissed, and by appealing. The majority of the Court of Appeal seemed to think that the action did not, in fact, stand dismissed, as the order of the High Court was not sufficiently explicit in this regard on the question of time. In the final result, the Court decided to assume that the statement of claim had been delivered out of time, and to validate it by requesting an extension of time, but without costs.

Solicitor's liability for aiding and abetting client

THE modern client is naturally anxious to avoid the multitude of controls imposed by emergency legislation, not to mention income tax, stamp duties, and other impositions which he has come to regard as being of a penal nature. The case of *Johnson v. Youden & Anor.* (66 T.L.R. 395), shows how easily a solicitor may find himself in the position of aiding and abetting an offence on the part of the client. It arose out of Section 7 (1) of the (English) Building Materials and Housing Act, 1945, which makes it an offence to offer a house for sale at a price in excess of the permitted price. The builder, who was convicted of an offence under the Act, had instructed a firm of solicitors in which there were three partners to act for him in connection with the sale.

The fact that the builder had received £250, in excess of the authorised price, which was not mentioned in the deed, was unknown to two of the partners at any stage of the proceedings, and to the remaining partner until the transaction had almost been completed. The justices dismissed an information against all three of the partners, but the complainant appealed by way of case stated. It appeared that in regard to the third partner he was as ignorant as his colleagues down to April 6th or 7th, that the builder had been insistent on obtaining £250 in excess of the permitted price. On April 6th, the purchaser's solicitors wrote to the third partner stating that they had delayed the completion as they felt obliged to report to the authorities what they considered to be a breach by his client of Section 7 of the Building Materials and Housing Act, 1945.

On receipt of this letter, the third partner communicated with his client who told him that he had received the £250, but that the sum had been placed in a deposit account, and was to be spent for payment of work proposed to be executed in the future on the house on behalf of the purchaser. He accepted this explanation, and called upon the purchaser to complete the sale. The Court of Appeal decided that as regards the first two partners the justices had properly refused to convict, but that in regard to the third partner, the explanation which he had received from his client was not one which any reasonable solicitor would accept; that he was guilty of aiding and abetting the client in committing a breach of the Act, and that the case must be sent back to the justices with an intimation that an offence had been committed.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

NOTICE

Folio 1608

COUNTY CLARE

Registered Owner: MARGARET O'LOUGHLIN

An Application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the abovenamed Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 25th day of April, 1950.

JOSEPH O'BYRNE,
Registrar of Titles,

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Margaret O'Loughlin to 92a. or 34p. of the Lands of Carrownagoul to one undivided third part of other part of the lands of Carrownagoul containing oa. 1r. 17p. and to one undivided third part of other parts of the lands of Carrownagoul containing oa. 1r. 23p. all situate in the Barony of Inchiquin and County of Clare being the lands comprised in said Folio.

NOTICE

Folio 1801

COUNTY ROSCOMMON

Registered Owner: JAMES BIRMINGHAM

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 25th day of April, 1950.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of James Birmingham to 3a. 3r. 3p. of the lands of Pollanalty East situate in the Barony of Castlereagh and County of Roscommon, being the lands comprised in said Folio.

PROCEEDINGS AGAINST SOLICITORS.

By order of the Chief Justice, dated 24th March, 1950, made on a report from the Statutory Committee, the name of John S. Mac Neice, who practised at 25 Glentworth Street, Limerick, has been struck off the roll on the ground of professional misconduct.

THE REGISTER

Section A.

WANTED—Experienced Solicitor as Assistant. Country office. Experience of Conveyancing, Land Commission Work, Land Registry, etc. Box A. 124.

Section B.

SOLICITOR with seven years' experience in busy office, seeks assistantship in City Office. Fully experienced in District, Circuit and High Court work, also Administration, Sales, etc. Highest references. Box No. B. 148

TEXT-BOOK ON EQUITY REQUIRED

MEMBERS of the Society who may have for disposal copies of *The Principles of Equity as applied in Ireland*, by T. O'Neill Kiely, Solicitor, are asked to communicate with the Secretary. This is one of the text books on the subject recommended in the syllabus for the Society's Final Examination, but the book is out of print and is, at present, difficult to procure.

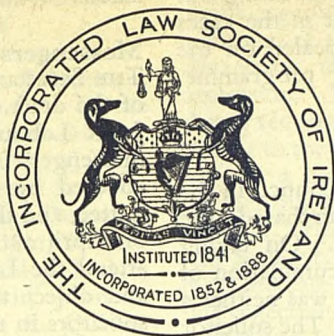
STAMP DUTIES :

THE following resolution was passed by the Council and the Secretary was directed to send a copy to the Minister for Finance: "That the Council should renew the protest against the continuance of stamp duty at the rate of 5 per cent. on the transfer of land and house property, and should urge most strongly that the former rate of duty should be restored, on the ground that the duty was originally introduced as a temporary measure, and that its continuance impedes and obstructs the legitimate sale and transfer of property, and has anti-social consequences where young people contemplating marriage are concerned; that the Council should also point out to the Minister the special hardship imposed on purchasers of the smaller type of house who are usually people of modest means, and in the case of voluntary transfers of property from husband to wife, or wife to husband, on account of the exclusion of the last mentioned transfers from the benefit of Section 13 (6) of the Finance (No. 2) Act, 1947."

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FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

APRIL 27TH. The President in the Chair. Also present: Messrs. T. A. O'Reilly and Dermot P. Shaw, Vice-Presidents; Messrs. William S. Hayes, Derrick M. Martin, Desmond J. Mayne, James R. Quirke, Niall S. Gaffney, Daniel O'Connell, Roger Greene, William S. Huggard, Ralph Neilson, Patrick F. O'Reilly, Arthur Cox, G. J. O'Donnell, Henry St. J. Blake, John D. O'Connell, William L. Duggan, Louis E. O'Dea, Joseph Barrett, John J. Nash, James J. O'Connor, Patrick R. Boyd.

The President welcomed Mr. Ralph Neilson, President of the Incorporated Law Society of Northern Ireland, who was present.

The following was among the business transacted:—

Insurance against Negligence

THE Council considered the following motion: "That the Council should consider the advisability of setting up a defence union for the purpose of

insuring solicitors against claims for negligence on the lines of the scheme operated by the Medical Defence Union." The matter was referred to a Committee for consideration and report.

Section 15 (1) of the Small Dwellings (Acquisition) Act, 1899

THE Council considered a report from a Committee on a letter from the County Clare Law Association suggesting that Section 15 (1) of the Small Dwellings (Acquisition) Act, 1899, ought to be repealed. The section prescribes that an application for first registration in the Land Registry must be made in any case where the title of the land is not already registered at the date of the advance. There have been cases in which a holding in respect of which an advance is sought was situate upon an estate which has not been vested in the tenant. In such cases the local authorities are not entitled to make any advance under the Small Dwellings (Acquisition) Act until the estate has been vested by the Land Commission, which may take years.

The Committee recommended that the Society should write to the Minister for Lands pointing out the effect of Section 15 (1) of the Act in the cases mentioned, and that it should be repealed on the ground that it impedes the housing programme. The report was adopted.

Search Fees

A MEMBER sought the opinion of the Council in the following matter:—In 1945 he purchased the practice of a solicitor now deceased. On taking over the practice he found a large accumulation of original and other documents. There was neither a deed book nor schedule of documents. The solicitor has been asked to hand over documents to various clients, and has asked for a search fee of 3 guineas. The solicitor submitted that in view of the onerous nature of the work, Opinion 90 does not apply, and that he is entitled to charge a search fee in any case where the documents or information required are not readily accessible. In the opinion of the Council, Opinion 90 applies to the facts of this case. The solicitor is in no different position than the solicitor from whom he purchased the practice, and he is under the same obligation to the vendor's clients. Valuable documents should be handed over on request without payment of any search fee.

Section 55 of the Workmens' Compensation Act, 1945

THE Council considered a letter from a member referring to Section 55 of the Workmens' Compensation Act, 1934, which empowers the County Registrar to refer agreements to the Court if he is not satisfied that the amount is adequate. He suggested that this power should be restricted to commutation agreements made under Section 50, and that the County Registrar should not have power to refer agreements under Section 51 to the Court where the workman is professionally represented. He said that the questioning of the amount which a solicitor has advised his client to accept is a reflection on the workman's solicitor, and that the profession should endeavour to have the Act amended.

The Council considered that as the procedure in regard to the registration of Workmens Compensation agreements is set out in Section 55 of the Workmens Compensation Act, 1934, it is unlikely that the Government would agree to amend the section on representations from the Society.

Costs under the Small Dwellings (Acquisition) Act, 1899

THE Secretary read three resolutions submitted by the association of solicitors to local authorities.

The matter was referred to a Committee for consideration and report.

Messengers' Joint Labour Committee

THE Secretary reported that he had received a copy of the draft establishment order of the Messengers' Joint Labour Committee which would apply to messengers in the employment of solicitors, already covered by the Law Clerks' Joint Labour Committee, and that the draft order would be considered on April 28th. Ordered that the Secretary should attend the Labour Court on behalf of the Society and object to the inclusion of any employees of solicitors in the new Establishment Order.

Erne Hydro-Electric Scheme

THE Secretary reported that he had been informed by the Attorney-General, Mr. Lavery, S.C., that the Government and the Government of Northern Ireland proposed to introduce legislation in regard to the Scheme which will contain a section enabling Northern Ireland solicitors to appear before arbitrators in Dublin, and solicitors of the Courts of Justice to appear before arbitrators in Belfast, and that the Attorney-General wished to know whether the Council had any objection to the proposed legislation in so far as it would enable a Northern Ireland solicitor, not duly qualified, to practice in the Twenty-Six Counties. It was resolved that the Secretary should inform the Attorney-General that the Council have no objection to the legislation on a mutual basis on the understanding that the rights of solicitors admitted through this Society to practice in Northern Ireland, are co-extensive with the rights of Northern Ireland solicitors to practice in the Twenty-Six Counties for the limited purpose of the Act.

Application under Section 47

AN application under Section 47 was considered and granted on payment of the current licence duty.

SPECIAL COUNCIL MEETING

9TH MAY, 1950. The President in the Chair. Also present: Messrs. Thomas A. O'Reilly, Vice-President; Joseph Barrett, James J. O'Connor, G. A. Overend, Daniel O'Connell, James R. Quirke, Desmond J. Mayne, John P. Carrigan, Arthur Cox.

Examination Results

THE Council considered and adopted a report from the Court of Examiners on the results of the Final Examination held in April. The examination results are printed below.

ORDINARY GENERAL MEETING OF THE SOCIETY

18TH MAY. The President, Mr. William J. Norman, was in the Chair. The following members of the Society signed their names as being present:—Messrs. Thomas A. O'Reilly and Dermot P. Shaw, Vice-Presidents; Messrs. Joseph Barrett, Henry St. John Blake, Patrick R. Boyd, John Carrigan, Desmond R. Counahan, Arthur Cox, John R. Halpin, William S. Hayes, Desmond J. Mayne, Reginald J. Nolan, Daniel O'Connell, James J. O'Connor, John S. O'Connor, Patrick F. O'Reilly, James R. Quirke, James J. Hickey, T. Desmond McLoughlin, Thomas J. Kenny, Patrick C. Moore.

The notice convening the meeting was, by permission of the meeting, taken as read. The minutes of the Ordinary General Meeting held on 24th November, 1949, were adopted and signed by the Chairman.

The President announced that he nominated the following members of the Society to act as scrutineers for the Ballot for the Council to be held on 16th November, 1950:—Messrs. John R. Mc.C. Blakeney, Desmond J. Collins, Thomas Jackson, Brendan P. McCormack, Roderick J. Tierney.

The Chairman, addressing the meeting, said:—

“LADIES AND GENTLEMEN,

This is the first opportunity which I have had of addressing you since my election as President of the Society, and I wish to welcome you here, and to assure you that the Council likewise welcome the opportunity which this meeting affords of learning the views and opinions of the general body of the profession at first hand.

Since our last meeting in November, death has taken its accustomed toll and it is with deep regret that I mention the deaths of the following members of the profession:—Charles B. W. Boyle, Frederick H. Croskerry, John J. Early, James J. Kearns, Charles T. Kennedy, Robert N. Matheson, Sydney Mathews, Richard W. Maxwell, Justin C. McKenna, Gerald J. Molony, J. Cornelius Rutledge, Francis Shields, James G. Skinner (who was admitted in 1892, and is thought to have been one of the oldest practising solicitors), John J. Stanton, Arthur B. Watson.

As members will have seen from the Annual Report which was adopted at the General Meeting in November, the membership of the Society, now over 80 per cent. of the number of practising solicitors, is high and is in fact a considerable improvement on the pre-war position. Possibly the regimentation and restrictions due to the Emerg-

ency, and the example of other bodies which set about organising for their own interests, convinced a number of those, who required convincing, of the advantages, indeed necessity, of organisation in our profession. The organisation is always here; all that is required to make it function with the greatest benefit to the profession is that every solicitor should become a member. There is little need to stress the fact that an increase from eighty to one hundred per cent. organisation would command an influence and authority much greater in proportion than the mere increase in numbers involved, and this therefore our objective. In addressing these remarks to you, Ladies and Gentlemen, I know very well that I am preaching to the converted; my object in making them is to stress the advantages of urging upon your apprentices, and upon your fellow practitioners who may not already be members, wherever you may practice their duty to the profession and to themselves of applying for membership of the Society.

I am sure that you all scanned your newspapers with eager anxiety on the evening of the Budget speech in the hope that the Minister for Finance would have seen his way to reducing the almost intolerable burden of the penal taxation on transfers of land and house property, whether by way of sale or voluntary conveyance. My predecessor, Mr. Boyd, commented forcibly on the subject a year ago in his speech at this meeting, and indicated that it was a subject which would continue to engage the active interest of the Council. The Council did not relax their efforts and while the Minister was preparing his proposals for the Budget a resolution was submitted to him by the Society urging that the 5 per cent. duty should be reduced, and stressing the particular hardship which it imposed in the case of persons looking for houses for residential purposes, most frequently newly-married couples. When this new tax—and I say new tax advisedly, because to my mind, an increase of 500 per cent. on an existing stamp duty is something unprecedented,—when this new tax was first imposed in November, 1947, a deputation from the Council was informed by high ranking officials that it was purely social in its objects, designed to put an end to inflation in land values, and that the Government were not interested from the viewpoint of revenue. The Council were, therefore, disappointed with the Budget statement in so far as it proposed no alteration in this tax. It is true that the Minister expressed dislike of the tax and his intention of reconsidering the matter before the Budget of 1951. The danger is that an injustice may gain a sham respectability on account of age, and that if this duty is allowed to continue long enough, subsequent protests may be regarded as mere formalities. For this reason, I

suggest that solicitors in their professional contacts with clients, and by every other means open to them in the localities where they practice, should avail of every opportunity of bringing home to their clients and neighbours the realities underlying this tax and of organising public opinion against it.

I turn from this subject to a matter which has engaged the attention of the Council for some years and in which I think there is some reason now to hope for improvement, namely the necessity of installing modern and up-to-date methods in the Court offices, with a view to speeding up business. The most obvious need is to instal photostatic machines for the reproduction of copies of wills and probates required by personal representatives in connection with the administration of estates. Representations on these lines have been made on several occasions by the Council, and recently the matter has been re-opened. It is understood that the Department of Justice is actively investigating the possibility of doing something on these lines in such offices as the Public Records Office, the Central Office, Probate Office and the Land Registry. In the Probate Office alone it would be an immense advantage as it would dispense with the tedious work both of engrossing copies of wills and grants and comparing the copies with the originals, thereby effecting a great saving of time. Furthermore, a solicitor for an executor of an estate which included a dozen or more holdings of stocks and shares, could obtain a dozen photostatic copies of the grant and register them with all the companies simultaneously, instead of sending one "hand-made copy" peregrinating round a dozen companies. I think, however, the system might have even wider uses. I do not see, although there may be good reasons, why all the copying work in the Probate Office, the Central Office and the Land Registry could not be done with immeasurably greater speed and satisfaction, and with the certainty of eliminating errors by means of photostatic machines. I should think that the work of these various offices would fully engage the services of at least one machine with its operator, and that the capital and running cost could be recovered by fees which would not be excessive.

The continued delays in the Land Registry are a matter of serious concern to the Council. I doubt if the responsible Government Departments really appreciate how serious the position has become. The Society for the past four or five years has been voicing the complaints of the profession concerning these delays, and we have from time to time received assurances that steps were being taken to deal with the position. Any action that has been taken up to the present has been a mere

palliative, and we have always found that after the lapse of a month or two the situation became as bad as ever. It seems to me that the whole system of Registration of Title, which was designed in 1891 to deal with a volume of work about one-third of its present dimensions, has broken down. The object of the Local Registration of Title Act, 1891 was to introduce "a cheap and speedy system of Registration of Title." From cases which reach the Society, it is clear that the registration of even a simple dealing may take many months, and there is a long and growing arrear of work in the Registry.

The office fees in the Land Registry were increased in 1944 by amounts ranging from 100 per cent. to 700 per cent. on the scale then in existence and instead of the cheap and expeditious system proposed by the Act, we have now a costly, slow and complicated system. Solicitors who have to explain these matters to their clients find it almost impossible to make laymen understand the cause of these delays. I greatly fear that with the increase of work flowing into the Land Registry through the Small Dwellings' Acquisition Act, 1899, and the programme of vesting under the Land Acts, the situation in the Land Registry will deteriorate rather than improve.

The Council has already suggested that S. 15 (1) of the Small Dwellings' Acquisition Act, 1899, which requires the title to all property purchased through that Act to be registered under the Local Registration Act, should be repealed. If this were done it would save the Land Registry from being flooded under a further avalanche of work which would overwhelm it, but much more radical treatment will be required if the present deficiencies in the system of registration of title are to be remedied.

There is one other topic which has been mentioned by Presidents from this platform in years past and to which I should like to recur, namely advice to parents whose sons and daughters are on the threshold of life and are on the point of making a vital decision as to the choice of a career. The career of a solicitor may seem agreeable and interesting, and no doubt for those who are properly adapted and circumstanced, it offers work of variety and interest, as well as opportunities of service to our fellow men in trying to solve their manifold difficulties. But I would offer this word of caution—the profession is overcrowded, without the compensatory factor in the case of other professions of an outlet for practice in England and abroad. The opportunities for remunerative private practice have been further curtailed by the tremendous increase in office rents, wages, and general overhead

expenses since 1939, and these increases in overhead expenses have been offset neither by an increase in the volume of business nor in the level of solicitors' remuneration.

Apart from private practice, a young solicitor has the alternative of seeking employment as a solicitor in the Government service or as a qualified assistant to another solicitor. I have no hesitation in saying that either alternative gives a very poor return for the time and money spent in becoming qualified. Present standards of pay in the non-legal ranks in the Civil Service (which is a risk-free occupation) are far more rewarding than the prospects of remuneration of a young solicitor of equivalent intelligence and ability. If a young man has an equal chance of getting a Junior Administrative position in the Civil Service on the Solicitors' Final, I would advise him, on grounds of remuneration—"go for the Civil Service."

The checking of the Solicitors' Bill in the various departments of the State is, I understand, almost complete and it is hoped that by the end of this session it will be in the hands of the Government with a view to its introduction in the Dail.

I will conclude this address, I am sure to your relief, with a brief summary of some of the principal matters which are or have been engaging the Council's attention since November last. Certain difficulties arose in connection with the procedure on completing sales, where an advance was made by the Dublin Corporation under the Small Dwellings' Act. I am glad to say that after discussions between my predecessor, Mr. Boyd and Mr. Walsh, the Law Agent to the Corporation, the difficulties were largely overcome.

A detailed case for improved salaries for solicitors in the legal offices in the State Service was submitted to the Minister for Finance. I cannot say that the reply received was entirely satisfactory, but the matter is still under consideration by the Council.

Negotiations have also taken place with the Department of Local Government concerning the salaries and conditions of service offered for the position of wholtime solicitors to local authorities.

In the Land Registry the continual delay has been the subject of many representations by the Council and members may rest assured that the Council will make every effort to have the position remedied.

The Council have also under consideration the question of a uniform scale of mortgagee's costs where loans are granted under the Small Dwellings' Act.

It has been suggested by a local Law Society that a scheme should be established and operated by the profession itself for insuring members against

liability for professional negligence and this proposal is being examined. I mention these as examples of the kind of problem with which the Council has to deal, apart from the day-to-day work of the Society. In this way, the members of the Council endeavour to justify the confidence which you have reposed in them by electing them to represent you.

Ladies and gentlemen, I thank you for coming here to-day and for the patience with which you have listened to me."

The following resolutions were then proposed by Mr. Cox and seconded by Mr. J. J. Hickey and, having been put to the meeting, were carried unanimously:—

That the following new bye-law be adopted:

"29A. The Council shall in each year appoint a final date (in either October or November) for receipt of nominations of candidates for election to the Council, and the date (in the month of November) of the poll or election. Notice of such dates shall be sent by post to each member not later than ten days before the final date for receipt of nominations. Each nomination paper must be received by the Secretary, by post or otherwise, at his office not later than four o'clock p.m. on the date first mentioned."

That the last sentence in bye-law 30 be deleted.

That bye-laws 33 and 34 be amended by deleting the words "on or before the 14th day of November" where they appear in each bye-law and by substituting the words "at least one week before the date of the poll or election."

That bye-law 36 be amended by deleting the words "on the 21st of November in each year" in lines 1 and 2 and substituting "in each year on the date appointed by the Council under bye-law 29A", and by deleting the words "21st of November" in line 18 and substituting the word "date."

Mr. T. Desmond McLoughlin, speaking on behalf of the solicitors in the State service, thanked the Council and the Secretary for the work they had done on behalf of these solicitors.

Mr. Hayes proposed, and Mr. Henry St. J. Blake seconded a vote of thanks to the Chairman for his address, and his conduct of the meeting, which was carried with acclamation. The President replied and the proceedings terminated.

EXAMINATION RESULTS

Preliminary Examination

AT the Preliminary Examination for intending apprentices to Solicitors held on the 12th and 13th days of April, the following passed the examination and their names are arranged in order of merit:—

1. Paul Callan. 2. Sean Kelly. 3. Walter Beatty. 4. James Daniel Donegan. 5. Matthew Anthony Cunningham (modified). 6. John Niall O'Sullivan (modified).

The remaining candidates are postponed.
8 candidates entered; 6 passed; 2 failed.

The Council has awarded a Gold Medal to Paul Callan and a Silver Medal to Sean Kelly.

Final Examination

AT the Final Examination for Apprentices to Solicitors held on the 12th, 13th and 14th days of April, 1950, the following passed the examination, and their names are arranged in order of merit.

1. Augustine A. Mooney. 2. Michael M. M. Smyth. 3. Dermot M. O. Gleeson. 4. Dermott Curran. 5. Andrew P. Curneen. 6. William Leo Carroll. 7. Richard F. Gallagher. 8. James Tuohy. 9. Norman Arthur Peilow. 10. John Anthony Dillon. 11. Philip T. Meagher. 12. Timothy J. Casey. 13. Bridget Hynes. 14. Sean J. Magee. 15. Joseph D. Simon. 16. Philip Patrick Reilly. 17. Christopher J. R. Beatty. 18. Herbert E. St. G. McClenaghan. 19. James P. Sweeney. 20. Mary Matthews and Brendan O. M. O'Reilly, (equal). 22. Robert Brown.

The remaining candidates are postponed.

27 candidates entered; 22 passed; 3 failed; 2 did not attend.

LAND REGISTRY

A NUMBER of complaints have reached the Council of serious delay in the Land Registry, and the Council have under consideration the best method of influencing the authorities to take the necessary action to remedy this serious position. To enable the Council to deal with the matter, members are invited to submit to the Secretary particulars of cases in which serious delay has occurred in connection with their clients' business. The following particulars are necessary:—

1. The Folio number, County and registered owner.
2. A description of the transaction, and particulars of the date on which the business was initiated in the Land Registry with any requests for expedition and the replies thereto.

3. Satisfactory evidence that any delay which occurred was not the fault of the solicitor or due to any defect in the documents submitted by him for registration or delay on his part in answering queries.

When the necessary information is available the Council propose to take energetic action in the matter.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

NOTICE.

Folio 6526.

COUNTY MAYO.

Registered Owner: ELLEN O'MALLEY.

An Application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 28th day of May, 1950.

JOSEPH O'BYRNE,

Land Registry, Registrar of Titles.

Central Office,

Chancery Street, Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of Ellen O'Malley to 6a. 3r. 37p. of the lands of Cahernagollum situate in the Barony of Kilmaine and County of Mayo being the lands comprised in said Folio.

THE REGISTER

Section A.

YOUNG and energetic Assistant Solicitor required by established Dublin Firm. Good prospects for the right applicant. State experience and send copy references. Box A.125.

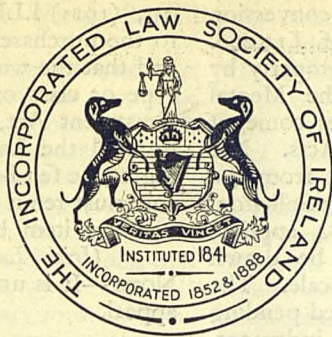
Section C.

WILL the Solicitor who drew a Will in the year 1929 at Jervis Street Hospital for Patrick Butler, of Ballymullallen, Brideswell, Athlone, County Roscommon, Farmer, please communicate with William A. Tormey, Solicitor, Athlone.

FOR SALE

A WELL-ESTABLISHED fully equipped practice, situated in Ballaghaderreen, County Roscommon.

Further particulars may be had by any interested parties from
FARRELL & CONROY,
Solicitors,
Ballaghaderreen.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

WILLIAM J. NORMAN

Vice-Presidents

THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

MAY 18TH, 1950. The President in the Chair. Also present: Messrs. T. A. O'Reilly, Vice-President; Dermot P. Shaw, Vice-President; Arthur Cox, James R. Quirke, Desmond J. Mayne, John R. Halpin, W. S. Hayes, D. R. Counahan, Daniel O'Connell, P. R. Boyd, James J. O'Connor, Reginald J. Nolan, John S. O'Connor, Henry St. J. Blake, Joseph Barrett, John Carrigan, Patrick F. O'Reilly.

The following was among the business transacted:

Small Dwellings Acquisition Act, 1899— Costs:

THE Council considered a report from a Committee on the subject of objections raised by local authorities to the scale of costs charged by the solicitors acting for the authorities on the making of advances secured by mortgage under the Act. The following were appointed as a deputation to seek an interview

with the Minister for Local Government:—The President, the two Vice-Presidents, Messrs. Patrick F. O'Reilly, J. Barrett and G. J. O'Donnell.

Dublin Corporation—Delays in sealing documents:

THE Council considered a letter from a member stating that when acting for a mortgagor paying off a mortgage and obtaining release of the property from the Dublin Corporation, he had been informed that it would be impossible to have the Corporation seal affixed until one month after the payment of the balance due. It was ordered that the Secretary should write to the Law Agent, Dublin Corporation to ascertain his views on the subject, with a view to having these matters expedited.

Costs of purchase of property on behalf of a local authority:

THE Council considered the position in the case of Lanigan v. The Carlow County Council in which the solicitor acting for the County Council attended

a public auction on the instructions of the County Manager and purchased the property for conversion into a mental hospital for the sum of £13,000. The authority for the purchase of the property by the local authority is contained in the Mental Treatment Act, 1945 which incorporates some of the provisions of the Land Clauses Acts. Mr. Justice Kingsmill Moore, on an appeal from the Taxing Master, decided that Rule 11 of the Solicitors Remuneration and General Order 1884 applied, and that the solicitors' costs should be drawn under Schedule 2 and not under the scale. The consideration of the matter was adjourned pending the receipt of the transcript of the judgment. (See below.)

PURCHASE BY LOCAL AUTHORITY AT PUBLIC AUCTION

JUDGMENT was delivered recently by Kingsmill Moore, J., in the case of the Carlow Mental Hospital Board *v.* Lanigan. This was a review of taxation of the bill of costs of the solicitor who acted for the Mental Hospital Board in the purchase of certain lands for the erection of a mental hospital. The purchase price was in or about £13,000 and the Board's solicitor drew his bill on the basis of the scale fee under Schedule 1, part 1 of the General Order of 1884, as amended. The Board objected to this, on the ground that Rule 11 of the Rules contained in the General Order applied, this being a "sale under the Lands Clauses Consolidation Act or any other private or public Act under which the vendor's charges are paid by the purchaser," and that the bill should have been drawn on an "item by item" basis. The facts were somewhat unusual, inasmuch as the lands in question were advertised for auction and the Board, before obtaining any official sanction of the Minister, as required by s. 51 of the Mental Treatment Act, 1945 (No. 19 of 1945), but after receiving an unofficial communication to the effect that sanction would be forthcoming for the purchase at not more than a specified figure, authorised a solicitor to bid for the property. In fact, the solicitor bought the property immediately after the auction (which was abortive), at a price within the permitted figure, and signed a contract in his own name in trust. The vendor's costs were not paid by the Board and no claim for any such payment was made by the vendor. The Taxing Master held that this transaction did not fall within Rule 11 and disallowed the Board's objection. Kingsmill Moore, J., however, after hearing arguments by counsel, upheld the objection. He was bound, he said, by the decision in *In re Burdekin* (1895) 2 Ch. 136 and *In re Pembroke*

U.D. Council and D. & T. Fitzgerald 50 I.L.T.R. 65; (1915) I.I.R. 185, to hold that the rule applied to the purchasers' costs as well as to the vendors', and that the words of the rule merely indicated the type or class of Statutes referred to. The Mental Treatment Act, 1945, by part VII thereof, incorporated the Lands Clauses Acts, and, with some regret, he felt bound to over-rule the Taxing Master and must remit the bill to him for re-taxation on an item by item basis.

(*Irish Law Times and Solicitors' Journal.*)

NOTE.—It is understood that the decision is under appeal.

WORDING OF ATTESTATION CLAUSE IN WILL

IN the English Probate, Divorce, and Admiralty Division, Mr. Justice Hodson gave judgment on the hearing of this summons, wherein the executors and trustees named in the will and codicil of the deceased, Mrs. Joan Selby-Bigge, formerly of Hunstanton, Norfolk, applied for an order "that a decision of the registrar on November 30, 1949, deciding that the attestation clause of the codicil is insufficient, and requiring under Principal Probate Registry, rule 4, an affidavit of due execution of the said codicil may be reversed, and that the said will and codicil may be directed to be admitted to probate without the necessity of filing an affidavit of due execution in respect of either the will or the codicil."

The attestation clause which had been questioned, and which was used in both the will and codicil was as follows: "Signed by the testator in our presence and attested by us in the presence of him and of each other." In an affidavit sworn by the solicitors for the applicant, Mr. Hugh Frederick Francis Farrer and Sir Walter Leslie Farrer, it was stated that the form of attestation clause in question had to their own knowledge been used by their firm for nearly 30 years, and that from a search of the firm's records it appeared that it had been in continuous use since 1892. They could find no record that the attestation clause had ever been rejected by the Probate Registry as insufficient until the summer of 1949, when the ruling that it was inadequate was accepted under protest. They said that the firm had custody of some 800 wills of persons still living, and that there was a large number of other wills deposited elsewhere in which the same clause appeared.

In January, 1950, the matter came before the President, who directed that the summons be served on the Attorney-General so that he might assist the Court in argument, and the question be argued in open Court.

Sir Walter Monckton, K.C., and Mr. Ifor Lloyd appeared for the applicants; Mr. Victor Russell for the Attorney-General.

Mr. Justice Hodson, giving judgment, said that it was common knowledge that in the matter of the execution of wills and other documents reliance could be placed on the maxim "omnia praesumuntur rite esse acta," but in cases of common form grants a safeguard was provided by the rules, and the official had taken the point that there was no reference to the subscription in the attestation clause, and that it was not sufficient to rely on the word "attest."

It was clear that it was unnecessary in the attestation clause to cover every word in section 9. of the Wills Act, 1837, and it was to be observed that established books of precedent did not do so.

The applicants had contended that the word "attest" in the attestation clause was sufficient without the word "subscribe." The history of the words had been considered, and he had been referred to Blackstone's Commentaries (4th ed., vol. 2, p. 260).

"Attestation" in its primary meaning involved witnessing, and witnessing only, but when it was applied to documents it was now a reasonable construction of the word to say that it involved the act of writing. That was borne out by the language used in certain authorities which clearly showed that the Judges used the word attestation in that sense.

In his opinion the word "attest" was wide enough to cover "subscribe," and for that reason the wording of the clause which had been questioned was sufficient. He would make a declaration accordingly.

LEGAL AID

COSTS OF CRIMINAL APPEALS

In the case of the *People v. Daly*, the President of the High Court gave judgment on 21st April, 1950, on an appeal to the High Court from the Taxing Master on an objection taken by the Attorney General to part of the taxed costs of the appeal of the accused against a conviction of murder. In the Central Criminal Court, counsel and solicitors had been assigned to the accused on the usual terms. The accused was convicted, and counsel and solicitors received the token costs and fees on the scale prescribed by the Department of Finance in such cases. There is no statutory or other authority for this scale of costs, and the State, in fact, appear to be under no liability to make any payment to counsel or solicitors assigned for the defence.

On the appeal from the Central Criminal Court the

accused successfully applied for the assignment of the same counsel and solicitors for the purpose of the appeal. The position in regard to the costs of the appeal where counsel and solicitors are assigned is governed by Section 34 of the Courts of Justice Act 1924, and Section 5(1) of the Courts of Justice Act 1928, which oblige the Court, on making an order for a retrial, to order that the costs of the appeal and the new trial shall be paid by the State. The same provision applies in the case of an appeal from the Court of Criminal Appeal to the Supreme Court on a point of law of exceptional public importance. In this case, the bill of costs included:

1. The costs of an appeal to the Court of Criminal Appeal after a first trial and conviction.
2. The costs of a subsequent successful appeal to the Supreme Court on a point of law of exceptional public importance.
3. The costs of a new trial directed by the Supreme Court and resulting in the conviction of the appellant.

The costs of these proceedings (excluding the first trial in the Central Criminal Court) were ordered to be paid by the State under Section 5 of the Courts of Justice Act 1928. The total bill, as taxed reached what the President described as the alarming figure of £1,087, taxed by analogy to the High Court scale, in the absence of a prescribed scale of costs in criminal cases. The Attorney General objected to the Taxing Master's certificate on the ground that the Taxing Master was bound by the scale prescribed by the Department of Finance in respect of the original assignment. Among other arguments, it was submitted for the State that when counsel and solicitor accepted the assignment on the appeal there was no retainer by the client, and no right of recovery by the solicitor against the client for the costs of the appeal—the sole remedy being against the State. The President of the High Court rejected this argument and held that the ordinary relationship of solicitor and client existed, notwithstanding the assignment, and, furthermore, that the scale of fees laid down by the Department of Finance had no relevance to the taxation of the costs of the appeal and subsequent proceedings under the Order of the Court. He commented upon the inadequacy of the token fees paid by the Dept. of Finance to counsel and solicitors for the defence of persons charged with murder who are unable to provide the funds for their own defence, and refused to accept this scale as binding on the Court, and directed that the appeal against the Order of the Taxing Masters be dismissed.

NOTE.—Since the above note was printed the Supreme Court has reversed the decision of the President of the High Court.

FINANCE BILL, 1950

17.—(1) Whenever and so often as the rent for the time being payable in respect of any lease first executed on or after the 3rd day of May, 1950, is reduced on or after that date in consideration of any money, stock or security moving either to the lessor or to any other person, the instrument (in the subsequent subsections of this section referred to as the said instrument) on or after that date acknowledging the receipt of the consideration for the reduction (or, where the consideration is payable by instalments, of the instalment after payment of which the reduction becomes effective) or recording directly or indirectly that the rent has been reduced shall, notwithstanding anything in any other Act, be charged with the same stamp duty, and be subject to the provisions of the Stamp Act, 1891 (as amended by subsequent enactments), as if, instead of being such instrument, it were—

- (a) a lease of lands, tenements or hereditaments which had been made in consideration of the rent reduced as aforesaid and the consideration for the reduction, and for an indefinite term, and under which the person beneficially entitled at the date of the taking effect of the reduction of the rent to the lessee's interest in the property out of which the rent so reduced issues was the lessee, or
- (b) in the case specified in subsection (2) of this section, a lease such as is referred to in the foregoing paragraph and containing such a statement as is referred to in subsection (4) of section 24 of the Finance Act, 1949 (No. 13 of 1949).
- (2) The case referred to in paragraph (b) of subsection (1) of this section is that in which the said instrument contains a statement, by the person entitled at the date of the taking effect of the reduction of the rent to the beneficial interest in the lessee's interest in the property out of which the rent so reduced issues, that he is within one of the classes specified in paragraphs (a) to (f) of subsection (4) of section 24 of the Finance Act, 1949, or, where two or more persons were so entitled, contains a statement by each of them such as aforesaid.
- (3) (a) The said instrument, if executed before the passing of this Act, shall be deemed for the purposes of this Act to have been first executed on the passing of this Act, and shall be charged with the stamp duty specified in subsection (1) of this section accordingly.
- (b) The provisions of paragraph (a) of this subsection shall have effect in relation to the said instrument, if executed before

the passing of this Act, notwithstanding that, before such passing, it may have been stamped with a particular stamp denoting either that it is not chargeable with any duty or is duly stamped.

- (c) Notwithstanding any of the foregoing provisions of this subsection, the total stamp duty chargeable on the said instrument, if executed before the passing of this Act, shall not exceed the amount with which it would have been charged if it had in fact been executed after the passing of this Act.
- (d) Where, at the expiration of thirty days after the passing of this Act, the said instrument, if executed before such passing, is not stamped with the stamp duty charged thereon by virtue of this Act, a sum equal to twice the unpaid stamp duty shall thereupon be a debt due to the Minister for Finance for the benefit of the Central Fund by the person beneficially entitled at the date of the taking effect of the reduction of the rent to the lessee's interest in the property out of which the rent so reduced issues or, where two or more persons were so entitled, by those persons jointly and severally, and the said sum shall be recoverable at the suit of the Attorney General in any court of competent jurisdiction.
- (e) The Revenue Commissioners may, if they think fit, mitigate or remit any sum recoverable under the provisions of paragraph (d) of this subsection.

THE INTERNATIONAL CONGRESS OF PRIVATE LAW

THE Society has been requested by the Department of External Affairs to bring to the notice of members the fact that an International Congress of Private Law will be held in Rome, in the International Institute for the Unification of Private Law, from the 8th to 16th July, 1950. Persons interested will be asked to participate in the Congress for the purpose of examining problems of interest in private law and, in particular, the problems of unifying some parts of such law.

SECURITY FOR COSTS

IN *Gibson & Anor v. Coleman*, (84 I.L.T.R.) 91 the question arose, on an appeal from an Order of the Master of the High Court, as to whether a sum of

£75 fixed as security by the Master was adequate. It appears from the judgment that before the Judicature Act, the Court of Chancery followed an arbitrary practice of fixing £120 in every case where security for costs was ordered. This sum was clearly intended to be a real security to the defendant for the costs which he would properly incur in a successful defence of the action, having regard to the value of money and other relevant circumstances at that time. On the hearing of the appeal in the present case the defendant filed an affidavit in which it was suggested that the Master of the High Court had adopted the practice of fixing the amount of security for costs at a figure within the limits of £50 and £150. It was contended that these limits were inappropriate to the fixing of a real security in the present case. Mr. Justice Dixon, in giving judgment said that in his opinion the amount to be paid by way of security should be sufficient as to constitute what it purports to be—a security for the costs of the defendant if successful—and not merely an earnest of good faith, or even security for part of these costs. However, against this view it might be said that a defendant is not entitled under an Order for security for costs to be indemnified against his full costs. While agreeing with this view in the sense that the practice is not to give him an unlimited indemnity, his Lordship said he could find no support for the view that the amount to be fixed should be less than a fair and reasonable computation for the costs to which he would reasonably be put in defending the action. His Lordship accordingly discharged the Order of the Master and referred the matter back to him to determine the security on the evidence now submitted, including certain evidence which was not before the Master on the original hearing.

EMPLOYMENT BY SOLICITORS OF AUCTIONEERS

THE Council have had under consideration the question whether it is in accordance with professional practice and etiquette for a solicitor to employ as a clerk a person holding an auctioneer's licence. It has been stated that there are a few cases in which clerks have taken out such licences. The Council disapprove of this practice as it may lead attraction of business by unfair means to the office of the solicitor who employs a licensed auctioneer as his clerk. The Council wish to bring this matter to the notice of the profession through the Gazette, so as to leave no doubt as to the proper professional practice in the matter.

AN TAISCE—THE NATIONAL TRUST FOR IRELAND

THE attention of Solicitors is drawn to An Taisce—the National Trust. AN TAISCE was incorporated in June, 1948. Its aims are similar to those of kindred organisations—to conserve for the Nation stretches of natural scenery of mountains and valley, field and riverside and forest, and to preserve for future generations monuments of the past and buildings of distinction. It hopes to do for Ireland work similar to that accomplished in the United Kingdom by the National Trust.

Membership is of four kinds :

- (a) Ordinary subscribing members who subscribe at least 10/- annually.
- (b) Life members (one payment of £20).
- (c) Donor members who have made presentations of property, etc.
- (d) Local corresponding members, who shall without pecuniary contribution undertake to further the objects of the Trust in any parish or place.

During the coming year a network of local corresponding members will be established over the whole country. It is hoped that, in this way, the Council of the Trust will receive early intimation of new projects in any area in relation to which action should be taken, and representations can be made to Government Departments or Public Authorities under whose aegis the spoliations of the countryside, or the destruction of historic or beautiful structures, has been proposed. By thus endeavouring to exercise direct persuasion on public bodies it may achieve some of its objectives indirectly, before it has progressed so far as to acquire the ownership of buildings or places. It will also be an important function of AN TAISCE to co-operate with advisory bodies set up under the National Monuments Act, 1930, which gave extended powers to the Commissioners of Public Works. This Act established a National Monuments Advisory Council in regard to local Archaeological or historic structures.

AN TAISCE hopes that it may receive help in achieving its objects from the Members of the Incorporated Law Society. Solicitors could help its work in many ways. Opportunities may arise in the making of wills ; in the winding up of estates ; in advising as to housing schemes ; in sales to the Irish Land Commission, etc.

Support from the Members of the Incorporated Law Society would not only aid AN TAISCE financially, but generally strengthen its influence.

Communications should be addressed to the Secretary at 16 Dawson Street, Dublin.

UNITED STATES AUTHENTICATION FEES

FEES for the authentication of documents should be made payable to the American Embassy, *not* the American Consul General, as heretofore.

Joseph P. Tyrrell of Bray has been elected Captain for the ensuing year.

JOSEPH BARRETT,
15 Eustace Street,
Dublin.
Acting Hon. Secretary.

SOLICITORS' GOLFING SOCIETY

THE Summer Meeting of the Society will be held at Baltray Golf Club (by kind permission of the Captain and Committee), on Saturday the 8th of July, 1950. The Society's Challenge Cup, The Veteran's Challenge Cup, and The St. Patrick's Plate will be competed for. The Captain's Dinner will be held in the Club House after play—all members of the profession are welcome to attend this function.

Full particulars of the Competitions and arrangements for the day will in due time be circularized to members—others wishing to join the Society and to take part in its future activities should communicate at an early date with the undersigned.

OBITUARY

MR. PATRICK F. MCCORMACK, Solicitor died at the County Hospital, Roscommon, on the 7th June, 1950

Mr. McCormack served his apprenticeship with the late Mr. Thomas J. Furlong, Solicitor, 11, Eustace Street, Dublin, was admitted in Hilary Sittings 1919, and practised at Strokestown, Co Roscommon.

THE REGISTER Section C.

WILL the Solicitor who drew a Will prior to January, 1941, for Edward Kirk (or Kirke), c/o. 27 St. Columbas Road, Drumcondra, Dublin, and formerly of Ednagreena, Co. Louth, Waggon Builder, please communicate with Brendan Breathnach, Solicitor, Dundalk.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

Last year over £1,300 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

The active co-operation of the Profession in the Association's good work is asked for and all who are not members are urged to join without delay.

Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

Address:

THE SECRETARY,

SOLICITORS' BENEVOLENT ASSOCIATION,

12 NASSAU STREET, DUBLIN.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

WILLIAM J. NORMAN

Vice-Presidents

THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

15TH JUNE, 1950. The President in the Chair. Also present: Messrs. T. A. O'Reilly and Dermot P. Shaw, Vice-Presidents; William S. Hayes, J. P. Tyrrell, Niall S. Gaffney, James R. Quirke, Desmond J. Mayne, John Carrigan, Daniel O'Connell, James J. O'Connor, Derrick M. Martin, Patrick F. O'Reilly, Henry St. J. Blake, Patrick R. Boyd, G. A. Overend, John R. Halpin, John J. Bolger, Arthur Cox, Reginald J. Nolan.

The following was among the business transacted:

Newly admitted solicitors

On a report from the Court of Examiners it was decided to hold a formal ceremony each year for the presentation of certificates to newly admitted solicitors. The ceremony will be held twice yearly at the ordinary general meetings. The relatives of those being admitted may attend the ceremony, and the certificates will be presented by the President.

Standard for awards at the Preliminary Examination]

It was resolved that the following standards should be adopted for awards of medals and certificates at the Preliminary Examination from April, 1951:

Gold Medal . . .	Over 85%
Silver Medal . . .	Over 75%
Special Certificate . . .	Over 70%

Liability of solicitor for agent's charges

On a report from a Committee, the Council considered a query as to whether an Irish solicitor who instructs an English solicitor to transact business in England on behalf of a client, whose name is disclosed, is liable for the agent's charges. In the particular case, the facts were that the Irish solicitor instructed the English solicitor to defend the proceedings in the English Courts on behalf of an Irish client, and sent them a cheque of £5 on account of costs. At a certain stage of the proceedings the English solicitors requested a further payment of

£10 on account, and the Irish solicitor, in reply, guaranteed payment of this amount. After the termination of the proceedings, the English solicitor sent to the Irish solicitor particulars of his costs amounting to £59 8s. 3d. on which he allowed him agency of £14 9s. 9d. The Irish solicitor admitted liability for the sum of ten guineas only. The Council decided that in the absence of a stipulation, express or implied, negating or limiting the personal liability of the Irish solicitor, the latter solicitor is personally liable for the costs of the English agent, less the usual agency commission, and that on the facts submitted, the Irish solicitor was so liable.

Lien for costs. Charging order

A member acted for the plaintiff in an action for personal injuries, who refused, against his solicitor's advice, to accept less than £1,000 damages. The sum of £450 was lodged in Court with the defence. The action went to trial, and the jury awarded £450. The defendant's costs were deducted from the money lodged in Court. A cheque for the balance of the damages, made payable to the plaintiff, was sent to the plaintiff's solicitor. The solicitor handed the cheque to the plaintiff and was unable to recover his costs. It was decided to draw the attention of the solicitor to the fact that in a matter of this kind he had a general retaining lien over the cheque until his costs had been paid, and furthermore that he could have applied to the Court under Section 3 of the Legal Practitioners (Ireland) Act, 1876, for a charge on the amount of damages received, being property recovered or preserved through his instrumentality, for his taxed costs in reference to the proceedings.

Purchase of property by public body. Costs.

THE Secretary reported that in the case of Lanigan against the Carlow Mental Hospital Board, the Taxing Master had decided that Rule 11 of the Solicitor's Remuneration General Order, 1884, did not apply to the costs of the purchase by public auction of property for use as a mental hospital under the authority of the Mental Treatment Act, 1945, which incorporates the provisions of the Lands Clauses Acts. An appeal had been taken on behalf of the Hospital Board against the decision of the Taxing Master, and Mr. Justice Kingsmill Moore had allowed the appeal, and directed the costs should be taxed under Schedule 2. It was ordered that the Society should support an appeal to the Supreme Court against the decision of Mr. Justice Kingsmill Moore.

Nominations for Council and date of ballot

WEDNESDAY, 1st November, 1950, was appointed as

the final date for receiving nominations for the Council, and Thursday 16th November, 1950, was appointed as the date of the ballot for the Council for the year 1950-51 pursuant to byelaw 29A.

Landlord and Tenant Acts—costs

THE Secretary reported that at the request of the Circuit Court Rules Committee, the President had appointed a special committee of the Council to draw up a scale of costs as between party and party under the Landlord and Tenants Acts, to be included in the Circuit Court Rules. The Committee had met and prepared the draft scales of costs. The Council approved of the scale subject to certain alterations, and the Secretary was directed to forward them to the Secretary of the Circuit Court Rules Committee.

LIBRARIAN

The Council invite applications from solicitors and others for the position of librarian. Applications should reach the Society before 7th September, 1950. Particulars of the salary and conditions of appointment may be obtained on application to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

EXAMINATION RESULTS

At the Intermediate Examination for apprentices to Solicitors held on the 1st and 2nd days of June, 1950, the following passed the examination:—

Passed with Merit

1. Edwin Russell McCloughan. 2. John Brendan O'Flynn. 3. Edward Patrick King. 4. John A. Greene. 5. Cecil Arthur Lavery. 6. John Anthony O'Meara. 7. Henry Kelly. 8. Timothy Ryan. 9. Enda C. Gearty. 10. Thomas P. Kelly. 11. David Punch.

Passed

Bernard M. Brennan, Bernard Thomas Burke, Henry W. Burleigh, Finbar F. Callanan, Patrick J. Cody, Simon D. J. Comer, Patrick J. Cusack, Francis B. Geary, William F. Harpur, Francis G. Keane, Ivan William Peter Kelly, John Vincent Kelly, James H. Mackey, Felim H. Meade, Mary Moore, Nora Mary Murphy, Mary Noone, John A. Phelan, William Reginald White.

The remaining candidates are postponed.

Thirty-eight candidates entered; 30 passed; 7 were postponed; one did not attend.

PROGRAMME OF LECTURES 1950—1951

COURSE A.

Common Law (including Personal Property, Contracts and Torts), 42 lectures to be delivered as follows:—

Michaelmas Sittings, 12; Hilary Sittings, 21; Easter Sittings, 9. Minimum attendance for credit is: Michaelmas, 9; Hilary, 16; Easter, 7; Lectures each Monday and Thursday at 2.15 o'clock, save where otherwise notified.

COURSE B.

Equity and Real Property, 42 lectures to be delivered as follows: Michaelmas Sittings, 12; Hilary Sittings, 21; Easter Sittings, 9. Minimum attendance for credit is: Michaelmas, 9; Hilary, 16; Easter, 7. Lectures each Tuesday and Friday at 2.15 o'clock, save where otherwise notified.

COURSE C.

Conveyancing (18 lectures, of which at least 14 must be attended); General practice of a solicitor's office (20 lectures, of which at least 15 must be attended) and the rights, duties and responsibilities of solicitors (four lectures, of which at least three must be attended).

Lectures will be delivered as follows:—
Michaelmas Sittings, 12; Hilary Sittings, 21; Easter Sittings, 9. Lectures on Monday and Wednesday at 3.30 o'clock, save where otherwise notified.

For a selection of recommended reading, see the published syllabus for the Intermediate and Final Examinations. The lecturer will not necessarily undertake to cover the entire field in each subject, or lecture out of any particular text book. He will advise the class as to its reading and will assume that each student will read on the lines advised, in advance of each lecture, on the subject matter of the lecture. The aim of lectures will be to guide students in their work and to illustrate, explain and supplement their reading.

A written examination will be held at the end of each term's lectures.

Courses B and C may be attended in the same year, but Course A must be completed before either Course B or C is commenced. An apprentice who had on the 1st October, 1948, already attended and obtained credit for the Society's Junior and Senior Lectures is eligible for Course C lectures, but is not obliged to attend them. Every other apprentice is obliged to take Courses A, B, and C, but will be allowed credit for lectures already attended.

SOLICITOR'S GOLFING SOCIETY

THE Summer Meeting of the Society was held at Baltray, Co. Louth, on Saturday the 8th inst. More than 30 members took out cards and competed for the various trophies.

After an enjoyable day's golf, an informal dinner was held in the clubhouse at which the Captain took the Chair in the unavoidable absence of the President of the Incorporated Law Society of Ireland.

The toasts of Ireland, the County Louth Golf Club, the Incorporated Law Society of Ireland, and the Captain, were duly honoured; the speakers thereto including the Captain, Mr. T. A. O'Reilly, Mr. J. R. Downes, Mr. J. J. O'Connor, Mr. Joseph Barrett, and Supt. Quinlan.

The following are the results of the various competitions:

Society's Challenge Cup—Joseph P. Tyrrell, 69.

Captain's Prize—John Bolton, 73 (on second 9).

Runner-up—Malachy S. Matthews, 73.

St. Patrick's Plate and Society's Prize—William A. Menton, 76.

Veterans' Cup—Joseph R. Downes, 79.

* The winner of the Society's Challenge Cup was entitled to take the Captain's Prize, but in the happy circumstance of Mr. Tyrrell's success, he had to disclaim the latter.

ERNE DRAINAGE DEVELOPMENT ACT, 1950

Right of audience of Northern Ireland Solicitors.

Section 10 of the above Act, which enables the Electricity Supply Board to enter into an agreement with the Ministry of Finance for Northern Ireland in connection with the development of the River Erne Hydro-electric Scheme, constitutes an arbitration tribunal to determine any dispute or difference between the Board and the Ministry arising out of the agreement. Subsection 5 provides that Counsel of the Bar of Northern Ireland, or any solicitor entitled to practice in Northern Ireland may, notwithstanding any other enactment, practice in connection with any hearing in the State of any Arbitration Tribunal constituted as aforesaid, and may appear and represent the Ministry at such hearing. Section 18 of the Erne Drainage and Development Act (Northern Ireland), 1950, contains a similar provision which will enable Counsel of the Bar of Ireland, or any solicitor entitled to practice in the Twenty-six Counties to practice in Northern Ireland for the limited purposes of the Act.

INQUIRIES UNDER THE LABOURERS' ACTS—COSTS

Inspectors appointed by the Local Government Department who hold inquiries relating to the compulsory acquisition of land for labourers' plots have been accustomed to order payment of the costs of successful objectors limited to 10/6 in respect of each plot. This Society regards this payment as inadequate, and representations were made some years ago to the Department pointing out that by virtue of Section 91 of the Local Government Act, 1946, the power to award costs was not limited to the sum of 10/6. The Society has been informed that in several cases recently, the inspector has directed a contribution of three guineas towards the objector's costs to be paid by the local authority. As this may not be generally known, it is thought desirable to draw the attention of the profession to the matter so that the precedent established may be followed in other cases. In the particular case concerned, the objections were successful, but the power of the Minister to order payment in such cases seems to exist equally where the objection is unsuccessful.

PROFESSIONAL ITEMS

Solicitors lien over monies lodged to clients account

A solicitor whose costs have not been paid has two remedies open to him in addition to the usual remedy of suing for the debt. One is the general retaining lien over property of the client in his possession until the costs due have been paid. This is a common law right which is independent of statute. The other is the statutory right under section 3 of the Legal Practitioners (Ireland) Act, 1876, enabling the solicitor to apply to the Court for an order charging his costs in an action on property which has been recovered through his exertions in such proceedings. In *Loescher v. Dean* (1950, 2 All E.R. 124), the plaintiff obtained a decree for specific performance of a contract for the sale of certain property subject to payment by him to the defendant of a sum of £268 4s. 9d. The plaintiff was awarded the costs of the action. On April 17th the sum of £268 4s. 9d., mentioned in the Order, was paid to the defendant's solicitors in exchange for a conveyance of the property to the plaintiff. On the same day, the plaintiff successfully garnished all debts due from the defendant's solicitor to the defendant in respect of costs which had been taxed at £268 16s. 5d. On April 19th after service of the garnishee order upon them, the defendant's

solicitors applied for a charging order in respect of their own costs under the Solicitors Act, 1932, Section 59 which is similar in terms to Section 3 of the Legal Practitioners (Ireland) Act, 1876. The sum of £268 4s. 9d. had been lodged by the defendant's solicitors, as they were bound to do, in the client account opened by them. They also claimed a retaining lien in respect of money in the client account belonging to the defendant. The retaining lien would give them merely a passive right to retain the money until their costs had been paid. It was submitted by the plaintiff that the lien could not exist in respect of trust monies in the client account. Harmon, J., said that he could see no reason why a solicitor, if he had money in his possession, had not an ordinary lien over it—the fact that he put it in a client account would not mean that it was any the less his account, although it was earmarked in that way, and it seemed that the client could not come and ask for the handing over of the money. It would be an answer to say, "You have not paid my bill and I shall not pay you your money until you have." Consequently, the money not being money which the debtor could obtain from the solicitor without paying his bill, the creditor's rights under the garnishee order are subject to the solicitors' retaining lien, and the garnishee order against it must be discharged to the extent of the solicitors' right to their lien. The Court also held, although it was not necessary to decide the point, that the sum of £268 4s. 9d. which was payable under the Order of the Court as a condition precedent to the order for specific performance by the defendant was not property recovered or preserved through the instrumentality of the defendant's solicitor. Accordingly, there was no right to a charge thereon for the defendant's solicitors' costs, and the solicitor was limited to the passive remedy of his retaining lien over the money in the client bank account in his name.

Sale by trustees—better offer received

In *Buttle & Anor. v. Saunders & Anor.* (66 T.L.R. 1026), litigation arose out of a situation which occurs sometimes in a solicitor's practice. The defendants were the trustees of certain premises held on statutory trusts for sale under the English Law of Property Act, 1925. The plaintiffs were some of the beneficiaries interested under the trust, and they sought an injunction to prevent the trustees from selling the property for the sum of £6,142. The sum of £6,000 had been offered by a Mrs. Simpson for the trustees' interest in the property. A draft contract had been prepared and submitted to Mrs. Simpson's solicitors who agreed to all terms in

it, except a clause that the purchaser should pay the vendors' costs. On October 7th the trustees' solicitor wrote to the beneficiaries informing them of the proposed sale to Mrs. Simpson. On October 19th one of the beneficiaries called on the trustees' solicitor and informed him that he was interested, in purchasing the property on behalf of a charity. On October 20th, Mrs. Simpson's solicitors agreed to pay the vendors' costs, making a total of £6,142 and the vendors' solicitors thereupon wrote to the plaintiff informing him of the trustees' final decision to sell the property to Mrs. Simpson. At the last moment, when all the negotiations had been completed, but before the contract had been signed, the plaintiff came in with an offer of £6,500. The trustees' solicitors refused to accept the offer on the ground that having regard to the position of the negotiations with Mrs. Simpson, they felt it would not be proper to cancel the negotiations. On hearing of the plaintiff's application, Wynn-Parry, J. decided that it is the duty of trustees selling property to obtain the best price possible in the interest of the beneficiaries. It was true that persons who are not in the position of trustees are entitled, if they so desire, to accept a lesser price than that which they might obtain on the sale of property, and not infrequently a vendor who had gone some lengths in negotiating with a prospective purchaser, decided to close the deal with purchaser notwithstanding that he was presented with a higher offer, which redounded to his credit. Trustees, however, were not vested with such complete freedom. They had an overriding duty to obtain the best price they could for their beneficiaries. In the case before him, his view was that the trustees and their solicitors acted on an incorrect principle in not fully probing the genuineness of the plaintiff's offer of £6,500 before deciding to close the sale with Mrs. Simpson. In the result, he made an order for the payment of the costs of all parties out of the proceedings of the sale of the property, and as Mrs. Simpson came in with a final offer of £6,600 gave the trustees liberty to sell to her at that figure.

Drawing of Agreements by Accountants

At Bradford City Magistrates' Court, on 13th June, an accountant, James Edward Hartley, was fined £44 5s. with £26 5s. costs for drawing an agreement under seal for the purpose of converting a partnership into a limited company. He had charged £24 5s. for the work. For the defence and in mitigation on a plea of guilty, it was pointed out that if a seal had not been attached no prosecution could have been brought, that it was a "trivial

technicality," and that the defendant had not charged more than a solicitor would have done. Prosecuting for the Law Society, Mr. J. Stanley Snowden pointed out that as a result of the defendant having drawn the agreement, the parties might be put to the expense of High Court litigation. The stipendiary magistrate, Dr. Coddington, said that the defendant was an accountant of good reputation in Bradford and had practised for many years. There could be no suggestion that he had done an illegal thing through any kind of sheer stupidity or inadvertence. We feel that it is necessary to state that it is a complete error to describe either the rule or any offence against it as either trivial or a technicality. Whether more or less than a solicitor's fee is charged is quite irrelevant. The fact remains that for others to charge for this class of work is an illegal encroachment on work which, for the best of reasons, was allocated to solicitors exclusively.

—(*Solicitor's Journal*, 24th June, 1950.)

Taxation of Costs—Discretion of the Taxing Master

Coon v. Diamond Tread Company (1938), Limited,
(Wynn-Parry, J.—June 6th)

On an inquiry as to damages, an official referee awarded the plaintiff a sum of £10,541, together with costs, which he directed should be taxed. The inquiry at which the plaintiff was represented by leading counsel and junior counsel, lasted for four and a half days. A bill of costs brought in by the plaintiff was reduced by the taxing master in respect of the figure included in the bill on the item "Instructions for brief," the fees and refreshers to leading counsel and junior counsel, and the fees of the accountants whose services had been retained and used at the inquiry. The plaintiff objected to the reductions on the ground that the fees allowed were inadequate, and asked for the decision of the taxing master to be reviewed.

Held—The Court had no jurisdiction to interfere with the decision of the taxing master since the complaint went to quantum only, and it had not been shown that the taxing master had erred on a question of principle. In *re Ogilvie* (103, L.T.Rep. 154; (1910) P. 243) and *White v. Altrincham Urban District Council* (154 L.T.Rep. 656; (1936) (2 K.B. 138) followed. In *re Lindsay's Estate* (1915) W.N. 246) explained.

—(*The Law Times*, 23rd June, 1950.)

Appeal out of time—Error of Counsel

In *re Macadam* (1951, All E.R. 659), the English Court of Appeal had to decide on an application for an extension of the time for an appeal from the High Court in a bankruptcy matter. The relevant rule provided that subject to the power of the Court of Appeal to extend the time under special circumstances, no appeal lay to the Court of Appeal after the expiration of 21 days. The applicants, therefore, had to justify their application for an extension of the time for appealing by showing the existence of special circumstances. The facts were that on January 23rd the Divisional Court dismissed an appeal from the order of the County Court Judge, giving leave to appeal to the Court of Appeal. During a casual conversation after the hearing, the solicitors for the applicants raised the question of the time allowed for an appeal, and counsel, in error, suggested the period was six weeks. On February 22nd the solicitors attempted to lodge notice of appeal which was refused, having regard to the terms of the rules. On the hearing of the application for an extension, the Court of Appeal referred to in *Re Coles & Ravenshear* (1907 1 K.B. 1), in which it had been decided that a mistake on the part of legal advisers of the would be appellants should not be regarded as special circumstances for the purpose of an extension of time. In view, however, of the fact that the applicants were the trustees of a settlement, and that there might be persons other than the bankrupt interested under the settlement, the fact that the property remained vested in the trustees so that nobody was the worse off for the mistake, coupled with the fact that counsel for the trustee and bankrupt did not press very strongly for the rejection of the application, the Court decided to find that there were special circumstances which would justify them in granting the application sought, on the terms that the applicants should pay the costs.

THE REGISTRY

Register A

Experienced court clerk required next September. Applications, in writing, stating experience and salary expected to Messrs. D. & T. Fitzgerald, 30 Anglesea Street, Dublin.

Old established lucrative practice for sale in thriving town in South of Ireland with surrounding populous farming district. Premises, goodwill, office equipment, etc. Box No. A126.

REGISTRATION OF TITLE ACTS, 1891 and 1942

NOTICE

Folio 19603

COUNTY TIPPERARY

REGISTERED OWNER : MICHAEL HEFFERNAN

An Application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

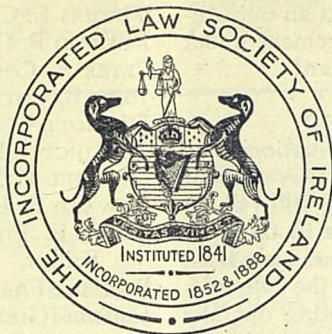
Dated this 29th day of July, 1950.

JOSEPH O'BYRNE,
Registry of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Michael Heffernan to 4a. 1r. op. of the lands of Deerpark (E. D. Shronell) situate in the Barony of Castlewilliam and County of Tipperary being the lands No. 1 comprised in said Folio.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

WILLIAM J. NORMAN

Vice-Presidents

THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

JULY 27TH. The President in the Chair. Also present: Messrs. Thomas A. O'Reilly, Dermot P. Shaw, Francis J. Gearty, John J. Bolger, Henry St. J. Blake, John R. Halpin, Derrick M. Martin, William S. Hayes, George A. Overend, James R. Quirke, Daniel O'Connell, Louis E. O'Dea, Sean O hUadhaigh, Reginald J. Nolan, Gerald J. O'Donnell, Patrick R. Boyd, James J. O'Connor, Desmond R. Counahan, John Carrigan, John J. Nash, Desmond Mayne, Arthur Cox, Joseph P. Tyrrell, Patrick F. O'Reilly, Roger Greene, J. Travers Wolfe.

The following was among the business transacted:—

Applications under Sections 16 and 18

ON reports from the Court of Examiners on an application by a law clerk for leave to be bound for three years only, under Section 16 and for exemption

from the Preliminary Examination under Section 18, it was decided to grant the application under Section 16 and not to oppose the application to the chief Justice under Section 18.

Another application by an intending apprentice under Section 18 was considered. It was decided to oppose the application.

Assistant in the Chief State Solicitor's Office

THE Council considered a report from a Committee on the terms of an advertisement inviting applications from solicitors for the position of Assistant Solicitor in the office of the Chief State Solicitor. The Secretary was directed to write to the Minister for Finance referring to the memorandum submitted by the Society on 10th January last and to the reply from the Department dated February 10th, and to say that the matter was still under consideration by the Council and that further representations would be submitted, and that the Council consider the salary now offered for the position now vacant inadequate.

Unqualified Person

ON a report from a Committee, the Secretary was directed to institute proceedings against an unqualified person for drawing a letting agreement under seal for or in expectation of fee or reward.

Housing (Amendment) Bill, 1950

The Secretary reported that representations had been made to the Department of Local Government in connection with Section 6(6) of the Bill (which provides that instruments giving effect to the purchase of houses in respect of which grants have been made will be liable for stamp duty at the rate of 1 per cent. or 10/- per cent. only) pointing out the difficulties which may arise in the investigation of title in future sales unless provision is made in the section for the endorsement of a certificate which will be evidence that the deed had been duly stamped. The matter was under consideration by the Department.

HOUSING (AMENDMENT) BILL, 1950

Section 6 (6) :

- (a) Subsections (1) and (3) of section 13 of the Finance (No. 2) Act, 1947 (No. 33 of 1947), and subsections (1) and (3) of Section 24 of the Finance Act, 1949 (No. 13 of 1949), shall not apply to any instrument giving effect to the purchase of a house in respect of which a grant under this section may be made to the purchaser when the house is occupied by him and in lieu thereof such stamp duties shall be chargeable as would have been chargeable if those sections had not been enacted.
- (b) Paragraph (a) of this subsection shall have effect if, but only if, the instrument contains a statement such as is referred to in subsection (4) of section 13 of the Finance (No. 2) Act, 1947, or subsection (4) of section 24 of the Finance Act, 1949, whichever is appropriate, and there is endorsed on the instrument a certificate under the seal of the Minister for Local Government that a grant under this section will be made to the purchaser when the house is occupied by him.

NEW MEMBERS

The following have joined the Society :—

THOMAS H. BACON, 9 Clase Street, Dublin.
ROBERT J. BAYLOR, Fermoy, Co. Cork.
ELLEN F. M. BEATTY, 62/3 Dame Street, Dublin.
THOMAS J. BERNARDI, 23 Marlboro' Street, Cork.
ROBERT E. J. BRADY, 11 Molesworth Street, Dublin.
JAMES J. BREEN, 96 Upr. George's Street, Du
Laoghaire.

ROBERT BROWN, 26 Sth. Mall, Cork.
FRANCES MARY CALLAN, Boyle, Co. Roscommon.
THOMAS L. CALLAN, Boyle, Co. Roscommon.
EDMUND P. CONDON, Ballyshannon, Co. Donegal.
PETER A. CONNELLAN, Drumshambo, Co. Leitrim.
JOHN B. COTTRELL, 74 South Mall, Cork.
DERMOTT CURRAN, 12 Dame Street, Dublin.
BENEDICT J. DALY, Naas, Co. Kildare.
MICHAEL P. DINNEEN, 4 Upr. Fownes St., Dublin.
EDWARD E. EMERSON, Galway.
JAMES F. FITZPATRICK, 1 College Square North
Belfast.
RICHARD FRANCIS GALLAGHER, 14 Ely Place, Dublin.
EUGENE GILLAN, Drogheda.
MARGARET E. HAYES, 50 O'Connell Street, Limerick.
PATRICK A. HEALY, Kilkenny.
SAMUEL F. HOGAN, 12 Lr. Ormond Quay, Dublin.
JAMES HOULIHAN, Middleton, Co. Cork.
WILLIAM H. KEANEY, 7 Pearse Street, Dublin.
DONAL T. KEARNEY, Oldcastle, Co. Meath.
PAUL DESMOND KEARNS, Chief State Solicitor's
Office, Dublin Castle.
JOHN E. KEENAN, Monaghan.
MICHAEL KIERNAN, 13 Westmoreland St., Dublin.
WILLIAM LEAHY, Limerick.
HENRY LYNCH, 1 Clare Street, Dublin.
JOSEPH M. V. M. McCABE, 17 South Mall, Cork.
DONAL T. MCCARTHY, 19 South Mall, Cork.
RICHARD H. McDONNELL, 34 Upr. O'Connell Street,
Dublin.
JAMES MICHAEL MACGRATH, Nenagh.
GEORGE C. McGRATH, 9-11 Nassau Street, Dublin.
LIAM O. McMENAMIN, Ballybofey, Co. Donegal.
OLIVER P. MORAHAN, Louisburgh, Co. Mayo.
THOMAS A. MORROW, Raphoe, Co. Donegal.
HAROLD J. MURPHY, Bray.
MARTIN J. NEILAN, Roscommon.
PATRICK F. O'CONNOR, Roscrea.
EDWARD O'DRISCOLL, Bandon, Co. Cork.
KATHLEEN M. O'KANE, 18 Lr. Baggot St., Dublin.
FERGUS B. O'MEARA, Thurles, Co. Tipperary.
JAMES J. O'MEARA, Tuam.
REDMOND O'REGAN, Skibbereen, Co. Cork.
NORMAN A. PEILOW, 19 Upr. Ormond Quay, Dublin.
JOHN J. B. QUIGLEY, Borrisokane, Co. Tipperary.
HENRY N. ROBINSON, 3 Lr. O'Connell Street, Dublin.
JOHN G. RONAN, 94 South Mall, Cork.
REGINALD G. H. ROPER, 51 Merrion Square, Dublin.
WILLIAM P. ROPER, 51 Merrion Square, Dublin.
JAMES J. SEXTON, Limerick.
JAMES P. SWEENEY, 5 Upr. Leeson Street, Dublin.
MARTIN C. TYNAN, Limerick.
RICHARD F. BLAIR WHITE, 13 Upr. Ormond Quay,
Dublin.
DANIEL F. WILLIAMS, 26 South Mall, Cork.

We regret to announce the death of Mr. William S. Hayes, which occurred on Sunday, 20th August, 1950. A full notice and biography

together with a report of the special council meeting will appear in the November issue of the Gazette.

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APPOINTMENTS.

MR. EDWARD MONAHAN, Solicitor, Ennis, has been appointed County Registrar for County Clare.

MR. JAMES J. O'HANRAHAN, Solicitor, Kilkenny, has been appointed Law Agent to Kilkenny Corporation.

MR. ALEXANDER J. McDONALD of the firm of John J. McDonald & Co., 116 Grafton Street, Dublin, has been appointed solicitor to the Attorney General.

ADMISSIONS AS SOLICITORS

From 1st August, 1949 to 31st July, 1950

<i>Name</i>	<i>Served Apprenticeship to</i>		
JEREMIAH AHERN, 4 Fernside Villas, Summerhill Sth. Cork.	DONAL McCLEMENT, Cork.		ANDREW P. CURNEEN, Kilmactigue, Aclare, Co. Sligo.
CHRISTOPHER J. R. BEATTY, Ardrigh, Temple Road, Dublin.	The late WALTER BEATTY and MISS ELLEN F. M. BEATTY, both of 62/63 Dame St., Dublin.		DERMOTT CURRAN, 19 Farney Park, Sandymount, Dublin.
ELLEN F. M. BEATTY, Ardrigh, Temple Road, Dublin.	The late WALTER BEATTY, 62/63 Dame Street, Dublin.		JOHN A. DILLON, 15 Mespil Road, Dublin.
STANLEY A. E. BELFORD, 89 Bushy Park Road, Rathgar, Dublin.	GORDON M. GREENE, 18 Lower Baggot Street, Dublin.		JOHN B. FITZGERALD, Ballinrobe, Co. Mayo.
DENIS J. BERGIN, 28 Villiers Road, Rathgar, Dublin.	JOHN P. J. SMYTH, 39 Lr. Ormond Quay, Dub- lin, and PATRICK J. BERGIN, 28 Bachelor's Walk, Dublin.		RICHARD F. GALLAGHER, 28 Vavasseur Square, Sandymount, Dublin.
JOHN FRANCIS BOWERS, The Haven, Stillorgan, Blackrock, Co. Dublin.	The late MICHAEL J. BOWERS, and RODERICK B. McCONNELL, both of 24 Dame St., Dublin,		DERMOT M. O. GLEESON, Carnelly, Clarecastle, Co. Clare.
ROBERT BROWN, 3 Wynneville, Evergreen Road, Cork.	DANIEL F. WILLIAMS, 26 South Mall, Cork.		MARGARET E. HAYES, Sruthlan, Sth. Circular Rd., Limerick.
DONAL E. BROWNE, San Antoine, Cross Ave., Blackrock, Co. Dublin.	FRANCIS DEVINE, 12 Dame Street, Dublin.		JAMES HOULIHAN, Midleton, Co. Cork.
THOMAS L. CALLAN, Boyle, Co. Roscommon.	CHRISTOPHER E. CALLAN, Boyle, Co. Roscommon.		MARY C. HUGHES, 23 Ailesbury Road, Ballsbridge, Dublin.
WILLIAM LEO CARROLL, Clones, Co. Monaghan.	JOSEPH P. BLACK, Clones, Co. Monaghan.		KENNETH C. P. KENNEDY, Tullamore, Offaly.
PETER A. CONNELLAN, Church Street, Strokestown, Co. Roscommon.	PATRICK J. FLYNN, Strokestown, Co. Roscommon.		JOHN KIRWAN, 15 Primrose Avenue, Dublin.
			HENRY V. LYNAM, 6 Wolseley Street, St. Circular Rd., Dublin.
			SHEILA B. McCRANN, Elphin St., Strokestown, Co. Roscommon.
			STEPHEN J. McDONAGH, Tuam, Co. Galway.
			JOSEPH M. MACGRATH, 31 Pearse Street, Nenagh.
			LIAM O. McMENAMIN, Ballybofey, Co. Donegal.
			SEAN J. MAGEE, Greystones.
			WALTER P. MAGUIRE, "Lonsdale," Temple Rd., Rathmines.
			MARY MATTHEWS, Falcarragh.
			PHILIP T. MEAGHER, Castletown, Mountrath, Co. Leix.
			AUGUSTINE A. MOONEY, 51 O'Connell Gardens, Sandymount, Dublin.
			JEREMIAH J. O'CONNOR, Killeanleigh, Kanturk, Co. Cork.
			ALFRED A. ROCHFORD, and PHILIP A. E. GALLAGHER both of Tubbercurry.
			JAMES O'DOHERTY, Sligo.
			JOHN S. MORRIS, 10 Clare Street, Dublin.
			EDWARD FITZGERALD, Ballinrobe, Co. Mayo.
			MICHAEL J. DUNNE, 14 Ely Place, Dublin.
			LEWY P. GLEESON, Nenagh, Co. Tipperary.
			ROGER O'SULLIVAN, Limerick.
			JOSEPH F. ST. J. O'NEILL, Midleton, Co. Cork.
			L. J. O'NEILL, 21 Molesworth Street, Dublin.
			KENNETH A. KENNEDY, Tullamore, Offaly.
			JAMES L. BYRNE, 21 Bachelor's Walk, Dublin.
			DINNEN B. GILMORE, Bank of Ireland, College Green, Dublin.
			JAMES CONNELLAN, Elphin, Co. Roscommon.
			The late FREDERICK B. McDONAGH, Tuam, and M. J. NEILAN, Roscommon.
			PATRICK MACGRATH, Nenagh.
			WILLIAM T. McMENAMIN, Ballybofey, Co. Donegal.
			The late JAMES M. MAGEE, Bray, and GEORGE A. RUSSELL, 11 Sth. Frederick Street, Dublin.
			THOMAS J. FITZPATRICK, Cavan.
			P. O'DONNELL, Dungloe.
			The late ALURED ROLLESTON, Portlaoighise, and R. G. H. CARTER, 11 Molesworth Street, Dublin.
			MAURICE E. VEALE, 6 Lower Baggot Street, Dublin.
			WILLIAM J. LENEHAN, Kanturk, Co. Cork.

NORMAN A. PELOW,
5 Ashbrook Terrace,
Leeson Park, Dublin.

HENRY N. ROBINSON,
"Rosney," Glenageary,
Co. Dublin.

JAMES P. SWEENEY,
5 Upper Leeson Street,
Dublin.

JAMES TUOHY,
33 Jones' Road, Dublin.

VINCENT WALSH,
16 Crescent Villas,
Glasnevin, Dublin.

KEVIN J. WALSH,
"St. Anne's,"
Whitehall Gardens,
Terenure.

JOHN P. WARD,
Raphoe, Co. Donegal.

RICHARD WOULFE,
Abbeyfeale,
Co. Limerick.

JOHN W. GENTLEMAN,
15 Molesworth Street,
Dublin.

THOMAS P. ROBINSON,
3 Lt. O'Connell Street,
Dublin.

Admitted under Section 29
of the Solicitors' (Ireland)
Act, 1898.

ROGER GREENE,
11 Wellington Quay, Dublin.

DERMOT GUINAN,
39 Westmoreland Street,
Dublin.

RICHARD K. C. PILKINGTON,
Bank of Ireland,
College Green,
Dublin.

JOHN B. MCNULTY,
Raphoe, Co. Donegal.

MAURICE J. WOULFE,
Abbeyfeale,
Co. Limerick.

Edward MacCurtain, Alan Joseph McGonagle,
Timothy Murphy, Cornelius Riordan, Louis J.
Woolfson.

Twenty-two candidates entered; seventeen
passed; five were postponed.

Second Examination in Irish

Kevin J. Callanan, Timothy J. Casey, Kenneth F.
Clear, Augustine I. Cunningham, Edmund S. Doyle,
Joseph J. Hughes, Michael J. Leech, Catherine A.
Lenehan, Patrick J. McCormack, Liam Desmond
McGonagle, Gerald J. M. Moloney, Cornelius J.
Noonan, Louis J. Noonan, Patrick J. Noonan,
Helena B. A. O'Doherty, Edward R. Rogers,
Patrick J. Ryan, Andrew F. Ryan.

Twenty-three candidates entered; eighteen
passed; five were postponed.

EXAMINATIONS—AUTUMN, 1950

<i>Examination.</i>	<i>Date.</i>	<i>Latest date for giving notice.</i>
First and Second Irish.	29th and 30th September.	8th September
Final	2nd, 3rd and 4th October.	11th September.
Intermediate ...	2nd and 3rd Oct.	11th September.
Preliminary ...	3rd and 4th Oct.	12th September.

LECTURES—1950-51.

- COURSE A. Mondays and Thursdays, 2.15 p.m.,
commencing 12th October.
COURSE B. Tuesdays and Fridays, 2.15 p.m.,
commencing 10th October.
COURSE C. Mondays and Wednesdays, 3.30 p.m.,
commencing 11th October.

MICHAELMAS TERM, 1950

The Law Term will commence on Tuesday, 10th
October.

CIVIL SERVICE COMMISSION.

VACANCIES FOR THIRD SECRETARIES IN THE
DEPARTMENT OF EXTERNAL AFFAIRS.

Preliminary Announcement.

An open competitive examination will be held
in November or December, 1950, for situations
as Third Secretary in the Department of External
Affairs. *Age Limits.* 21 to 28 years with extensions
of the upper limit in certain cases. *Essential:* A
good knowledge of Irish and a good general know-
ledge of Irish History and of modern social
conditions in Ireland. Candidates not already

SOLICITORS' APPRENTICES' DEBATING SOCIETY

THE Solicitors' Apprentices' Debating Society
elected the following Executive Committee for
19/50'51: Auditor, Richard Ryan; Correspondence
Secretary, Miss Mary Moore; Record Secretary,
Cormac Rynne; Treasurer, Patrick J. O'Gara;
Committee, M. Joseph Leech, Dermot F. Jones,
Brendan J. Wallace, Edmund S. Doyle (Ex-Auditor)
(Ex-Officio).

The following awards were made: Oratory:
Incorporated Law Society's Gold Medal, James
Cawley; Society's Silver Medal, Mary Moore;
Special Certificate, William S. O'Brien; Legal
Debate (President's Gold Medal), Richard Ryan;
Society's Silver Medal, Donal Lambe; Impromptu
Speeches—Vice-President's Gold Medal, Mary
Moore; Vice-President's Silver Medal, James
Cawley; Irish Debate: Society's Gold Medal,
Brendan J. Wallace; Society's Silver Medal, Colm
Price; First Year Speeches: Society's Silver Medal,
James Cawley.

EXAMINATION RESULTS

At the Examinations under the Legal Practitioners
(Qualification) Act, 1929, held on 30th June and 1st
July, the following candidates were successful:—

First Examination in Irish

Walter Beatty, Paul Callan, Patrick Mark Cooney,
Matthew Anthony Cunningham, Alec Diamond,
James Daniel Donegan, Kevin J. Early, Francis A.
Fitzpatrick, Alphonsus Grogan, Nicholas S. Hughes,
Denis Henry Johnston, John Bernard Kirby, John

established Civil Servants must possess an Honours University Degree or its equivalent. *Desirable*: (i) A general knowledge of world political affairs from and including the period of the French Revolution, (ii) a general knowledge of current economic affairs. *Languages (optional)*: Credit will be given for a knowledge of any two of the following languages: French, German, Italian, Spanish, Portuguese, Swedish and Dutch. *Salary Scales*: Married Man, £435—£965; Woman or single man, £435—£800. *A further announcement will appear as soon as Regulations and Application Forms are ready.*

NOTE—Candidates ought not to make applications in response to the above notice as it is only intended to give persons who might be interested in these posts, the longest possible time to prepare for the competitive examination.

THE REGISTRY

Section A.

LAW CLERK with experience wanted immediately, Solicitor's Office, Tralee. Reply stating age, experience and salary expected to Box No. A.127.

Section B.

EXPERIENCED SOLICITOR (Woman) seeks position, Dublin or Provincial Town. Excellent references. Please indicate terms. Box No. B.149.

CORK (CITY OR COUNTY): Practice or Partnership wanted to purchase in this area by young experienced solicitor. Replies will be treated in strictest confidence if this is requested. Box. No. B. 150

INDEX OF STATUTORY INSTRUMENTS

received by the Society pursuant to the Statutory Instruments Act, 1947. The last list was printed in the Society's GAZETTE for February, 1950.

AGRICULTURE, LANDS AND FISHERIES

SUBJECT MATTER AND REFERENCE NUMBER.

Butter—129/1950, 130/1950, 131/1950.
Ducks and Geese, prohibition of storage—72/1950.
Eggs—127/1950.
Fisheries (Statute Law Revision) act, 1949 (Commencement)—132/1950.
Foot and Mouth Disease—79/1950.
Land Act, 1950 (Appointed day)—16/1950.
Land Reclamation Act Rules, 1950—187/1950.
Milk Board, Dublin District (Levy)—114/1950.
Milk and Dairies (Application for Restriction on Sale)—139/1950.
Rabbits, prohibition of storage—63/1950.
Wheat—38/1950, 118/1950.

COMMODITIES, GOODS AND SERVICES

SUBJECT MATTER AND REFERENCE NUMBERS

Acid Calcium Phosphate—178/1950.
Binder Twine—89/1950.
Bread—124/1950, 150/1950.
Butter—100/1950, 126/1950, 129/1950, 130/1950, 131/1950, 133/1950, 134/1950, 135/1950.
Cornflour—151/1950.
Eggs—127/1950.
Hollow-ware—197/1950.
Leather—120/1950.
Meat—76/1950, 160/1950.
Meat and bone meals—162/1950.
Milk—103/1950, 104/1950, 105/1950, 106/1950, 107/1950.
Standard Specification Orders—Asbestos-Cement Slates and Sheets, 44/1950; Concrete Interlocking Roofing Tiles, 29/1950; Electrical Plugs and Socket-outlets, 30/1950; Varnish, 43/1950; Woollen blankets, 109/1950.
Sugar—66/1950, 125/1950.
Sulphate of Copper—122/1950.
Tallow and Greases—196/1950.
Tea—164/1950.
Tobacco—185/1950.
Tyres and Tubes—195/1950.

CONTROL OF IMPORTS AND EXPORTS

SUBJECT MATTER AND REFERENCE NUMBERS

Brushes, brooms and mops for domestic and household use—141/1950.
Brushes, brooms and mops—143/1950.
Brushes for human use—142/1950.
Cotton piece goods—34/1950, 35/1950, 36/1950, 37/1950, 110/1950, 111/1950, 112/1950, 113/1950.
Electric filament lamps—115/1950.
Footwear—139/1950.
Headwear—144/1950.
Laminated springs—50/1950.
Peas, dried—192/1950, 193/1950.
Pheasants and Partridges—32/1950.
Poultry and Rabbits—62/1950.
Rubber-proofed clothing—140/1950.
Salmon—90/1950.
Screws—145/1950.
Sheepskin—87/1950.
Sparkling plugs—80/1950.
Sugar—102/1950.
Tea—51/1950.
Timber—59/1950.
Tyres—164/1950, 165/1950.
Tubes, pneumatic—166/1950, 167/1950.
Wool or worsted woven tissues—199/1950.

COUNTY AND TOWN MANAGEMENT

SUBJECT MATTER AND REFERENCE NUMBER

Acquisition of land for Limerick gas undertaking—58/1950.
Acquisition of limestone land, lime kilns and quarrying rights by County Councils—108/1950.
Belturbet Urban District (De-urbanisation)—74/1950.
Change of name—Townland of Scrabby, Co. Cavan—170/1950.
Cootehill Urban District (De-urbanisation)—75/1950.
Local Government (Dublin) (Temporary) Act, 1948 (Continuance)—161/1950.
Local Government (Sanitary Services) Act, 1948 (Section 34) (Urban District of Arklow)—97/1950.

Officers of local bodies, superannuation and emergency bonus—95/1950.
Street Trading (Castleblayney Urban District)—54/1950.

CUSTOMS AND EXCISE EMERGENCY AND OTHER DUTIES

SUBJECT MATTER AND REFERENCE NUMBER

Carpets—77/1950.
Coal—78/1950.
Drinking Glasses—176/1950.
Elastic Stocking socks and bands—73/1950.
Footwear—77/1950.
Hardboard—64/1950, 88/1950.
Knitting pins, aluminium—96/1950.
Mats—70/1950.
Miscellaneous goods—77/1950.
Shirts—94/1950.
Sugar confectionery—77/1950.
Tyres—77/1950.
Wearing apparel—77/1950.

EDUCATION

SUBJECT MATTER AND REFERENCE NUMBER

Vocational Education Act, 1930 (Grants under Section 53)—117/1950.

ELECTIONS

SUBJECT MATTER AND REFERENCE NUMBER

Cork District Milk Board—158/1950.
Harbours Act (Section 11, Direction) Order, 1950—156/1950.
Local Elections (Date of Elections) Order, 1950—49/1950.
Registration Expenses Order 1924 (Amendment)—91/1950.

EMPLOYMENT REGULATIONS AND CONDITIONS OF EMPLOYMENT

SUBJECT MATTER AND REFERENCE NUMBER

Coal Mines—194/1950.
Creameries—191/1950.
Factory and Workshop Act, 1901, Certifying Surgeons' fees.—65/1950.
Irish Pilots' and Marine Officers' Association—136/1950.
Jute spinning and weaving—93/1950.
Messengers (Dublin City and Dun Laoghaire)—128/1950.
Trade Union Act, 1949 (Section 2)—136/1950.

FINANCE AND CENTRAL GOVERNMENT

SUBJECT MATTER AND REFERENCE NUMBER

Aer-Rianta, Teoranta (Subsidy)—86/1950, 159/1950.
Alliance and Dublin Consumers Gas Co. dividends—177/1950
Coras Iompair Eireann (Transport Stock) Regulations—147/1950.
Diplomatic and Consular Fees—153/1950.
Exchange Control Order—184/1950.

Garda Siochána allowances and pensions—154/1950, 174/1950.
Gas Fund contribution for 1949—85/1950.
Health (Transfer of Departmental Administration and Ministerial Functions)—138/1950.
Industrial property, fees payable on grant of patents, etc.—55/1950.
Military service pensions—52/1950, 119/1950.
Officers of local bodies, superannuation and emergency bonus—95/1950.
Patent agents and Clerks, fees for registration—56/1950.
Registration Expenses Order 1924 (Amendment)—91/1950.
Vocational Education Act, 1939 (Grants under Section 53)—117/1950.

HARBOURS

SUBJECT MATTER AND REFERENCE NUMBER

Harbours Act (Section 11, Direction) Order, 1950—156/1950

HEALTH

SUBJECT MATTER AND REFERENCE NUMBER

Health (Officers Age Limit)—92/1950.
Health (Transfer of Departmental Administration and Ministerial Functions)—138/1950.
Milk and Dairies (Application for Restriction on sale)—39/1950.
National Health Council (Tenure of office)—157/1950.
St. Laurence's Hospital (Constitution of Board of Governors)—40/1950.

HOUSING

SUBJECT MATTER AND REFERENCE NUMBER

Housing (Architects and Engineers) (Revocation) Order, 1950—188/1950.

MISCELLANEOUS

SUBJECT MATTER AND REFERENCE NUMBER

Alliance and Dublin Consumers Gas Company, general meetings and dividends—177/1950.
Game Birds Protection Order, 1950—148/1950.
Game Preservation Act, 1930 (Period under Section 27)—101/1950.
Game Preservation Act, 1930 (Recognition of Coursing Clubs)—137/1950.
Pharmaceutical Society Regulations (Amendment)—60/1950, 61/1950.
Summer Time Order, 1950—41/1950.
Statistics (Census of Production) (Forms)—57/1950.
Wild Birds (North Bull Island Area)—149/1950.

JUSTICE, EXTERNAL AFFAIRS, AND DEFENCE

SUBJECT MATTER AND REFERENCE NUMBER

Acquisition of land—58/1950, 108/1950.
Diplomatic and Consular Fees—153/1950.

District Court Districts (Limerick) Order, 1950—83/1950.
 District Court (New Areas) (Variation) Orders—68/1950,
 81/1950, 82/1950.
 Garda Siochana Allowances—174/1950.
 Garda Siochana Pensions—154/1950.
 Industrial property, fees payable on grant of patents, etc.
 —55/1950.
 Irish Legal Terms—2/1950, 3/1950.
 Land Act, 1950 (Section 14) (Appointed Day)—16/1950.
 Land Reclamation Act Rules, 1950—187/1950.
 Military Service Pensions—52/1950, 119/1950.
 Patent agents and clerks, fees for registration—56/1950.
 South African Citizens, Irish citizenship rights—198/1950.

SOCIAL SERVICES

SUBJECT MATTER AND REFERENCE NUMBER

Cumann an Arachais Naisiunta ar Shlainte (Dissolution)
 —182/1950.
 Louth Public Assistance District (District Institutions)
 —46/1950.
 National Health Insurance (Administration of Benefits)
 —190/1950.
 National Health Insurance (Decisions and Appeals)—189/1950.
 National Health Insurance (Rules for Insured Persons)—
 201/1950.
 National Health Insurance (Subsidiary Employments)—
 358/1950.
 Unemployment Assistance (Employment Period)—53/1950,
 152/1950.
 Unemployment Insurance (Appropriations in Aid)—82/1949
 Unemployment Insurance (Subsidiary Employments)—
 359/1949.
 Racing Board—358/1949, 359/1949.

TRANSPORT AND TRAFFIC

SUBJECT MATTER AND REFERENCE NUMBER

Athlone Traffic (Parking and Waiting)—181/1950.
 Bray Speed Limit—69/1950.
 Dublin Traffic (Parking and Waiting)—98/1950.
 Coras Iompair Eireann (Bantry Pier Railway) Abandonment
 —48/1950.
 Mallow Traffic (Parking and Waiting)—168/1950.
 Portarlinton Traffic (Parking and Waiting)—169/1950.
 Road passenger services, continuance of suspended licences
 —186/1950.
 Road Transport Act, 1942, amendment—186/1950.
 Road Vehicles (Additional Index Mark)—121/1950.
 Turf Development Board, power to construct railways—
 202/1950, 203/1950.

In the Goods of the late ARTHUR WILLIAM PAXMAN of Ballyrafter, Lismore, in the County of Waterford, Deceased.

Will any person who may have in his possession, power or procurement or who may have any knowledge of the whereabouts or contents of

any paper or parchment writing at any time made or written by or under the direction of Arthur W. Paxman late of Ballyrafter House, Lismore, in the County of Waterford, deceased, being or purporting to be a will, codicil draft or copy of a will or codicil or of any part of a will or codicil or written instructions for a will or codicil or for any part of a will or codicil or having the form or effect of a will or codicil or of part of a will or codicil or other testamentary disposition of the said deceased other than a purported will dated the 22nd day of January, 1950, please communicate without delay with the undersigned.

A Reward will be paid to any person giving information leading to the discovery of any such document or information.

(Signed) DAVID H. CHARLES,
Solicitor,
 4 Clare Street,
 Dublin.

REGISTRATION OF TITLE ACTS, 1891 AND 1942 NOTICE

Folio 9978. COUNTY MEATH.
 Registered Owners: MARY ANNE CREGAN AND
 PATRICK CREGAN

An Application has been made to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

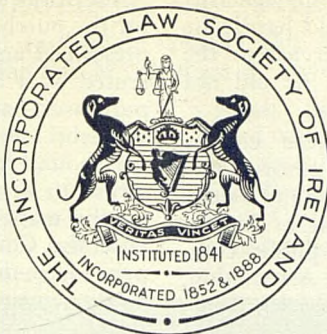
Dated this 25th day of September, 1950.

JOSEPH O'BYRNE,
 Registrar of Titles.

Land Registry,
 Central Office,
 Chancery Street,
 Dublin.

SCHEDULE ABOVE REFERRED TO :

Land Certificate of Mary Anne Cregan and Patrick Cregan to 16a. 3r. 23p. of the lands of Newtownmoynagh situate in the Barony of Moyfenrath Lower and County of Meath, being the lands No. 1 comprised in said Folio.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

WILLIAM J. NORMAN

Vice-Presidents

THOMAS A. O'REILLY
DERMOT P. SHAW

Secretary

ERIC A. PLUNKETT.

FOR CIRCULATION AMONG MEMBERS

MR. WILLIAM S. HAYES

We have to record with deep regret the death of Mr. William S. Hayes, which occurred in Parknasilla, where he was on holiday, on August 20th. William Samuel Hayes was born on 4th December, 1862. He was a son of a solicitor, Mr. William Hayes, who had been admitted in 1840, and practised at 31 Lower Ormond Quay, Dublin, and on 1st May, 1879, he was bound as an apprentice to his father. He headed the list of successful candidates at the final examinations in 1884, and was awarded a Gold Medal and the Findlater Scholarship. He was admitted in Trinity Sittings, 1884, and from that time until his death he was associated with the firm of Hayes & Sons, of which for the greater part of his life he was senior partner.

The late Mr. Hayes belonged to a generation of solicitors which has few survivors. It can safely be said that in the history of the Society since its foundation in 1841 there was no more outstanding figure. His position as a leader of the profession

is indicated by the fact that when he was first elected to the Council in November, 1892, he was under 30 years of age. He served on the Council from that time until his death in 1950, and during that long period he was re-elected annually, for many years at the head of the poll, or close to it. He served as Vice-President in 1897/98, and as President in 1906/07. In his exertions for the advantage of the profession he was untiring. The Solicitors (Ireland) Bill, 1898, was introduced when he was Vice-President, and on his shoulders fell much of the work connected with its passage into law. In 1906, when he was President, he took the lead in starting the Society's GAZETTE, a publication which, although necessarily limited in scope, served a need which had become felt with the growth in the Society's functions since 1898. He was called as a witness to give evidence as to the professional custom and usage between Irish and English solicitors in the case of Porter v. Kirtlan, which is the leading authority on that subject. At the end of his life he was closely associated as a member of the Council

with the promotion of the Solicitors Bill, which is now before the Government. It would hardly be an exaggeration to say that in his service to the profession he touched nothing which he did not improve or adorn.

His activities in wider spheres were equally notable. In professional practice his authority was unquestioned, and his advice was sought and valued by his professional colleagues as well as by his clients. He was chairman of several public companies as well as of the Automobile Association, and was a former chairman of the Royal Irish Automobile Club. He was a keen fisherman and was interested in racing, football, golf and cricket. He was a pioneer of motoring in Ireland, and had his first aeroplane flight when he was 84 years of age. Of his interests in life he could have said without presumption: "Homo sum; humani nihil a me alienum puto."

He had been so long in the profession and had become such an accepted institution, that by an error in the date, his Golden Jubilee on the Council was not celebrated until 1944. In that year the profession commissioned Mr. Leo Whelan, R.H.A., to paint his portrait, and paid him the tribute of deciding that it should be retained by the Society and placed in the Members' Hall, where it now hangs in his memory.

This short notice merely outlines the main events in the life of the late Mr. Hayes, on the Council and in the profession. After his death the President summoned a special meeting of the Council which is reported in this issue. The President's address at the meeting paid tribute to him as a personality, and expressed in fitting terms the affection and regard in which he was held by all who knew him.

MEETINGS OF THE COUNCIL

SEPTEMBER 28TH. The President in the Chair. Also present: Mr. Thomas A. O'Reilly, Vice-President; Messrs. John Carrigan, James R. Quirke, George A. Overend, Daniel O'Connell, William S. Huggard, John R. Halpin, Reginald J. Nolan, James J. O'Connor, Patrick R. Boyd, Gerald J. O'Donnell, John J. Nash, L. E. O'Dea, Henry St. J. Blake, Joseph P. Tyrrell, Arthur Cox.

The following was among the business transacted:—

Vendor of Property acting in Person

The Council considered correspondence with a local Bar Association in regard to a rule of the

Association which bound members to refuse to act for the purchaser of property, at a price exceeding a prescribed amount unless the vendor is also represented by a Solicitor. In the case in question the purchaser had instructed his solicitor to proceed with the sale and the solicitor, considering that he was bound by the rule of the Bar Association to refuse to act, sought the guidance of the Council on the matter. After considering the correspondence the Council were of the opinion that while prima facie there is no illegality in a rule of this kind binding members of an association between themselves, its application in practice may give rise to difficulties. A client instructing his solicitor is not bound by the rules of the Bar Association unless they are specially brought to his notice and incorporated in the retainer, and the solicitor may therefore find himself in a conflict between his duty to his client and his obligations under the Bar Association rules. The Council were of the opinion that normally a solicitor acting for a purchaser is not entitled to refuse to accept an abstract of title furnished by the vendor in person.

E.S.B. (Superannuation) Tribunal

The Secretary submitted correspondence with the Tribunal relating to the refusal by the Tribunal to hear parties by counsel or solicitor relying on provisions of Section 10 of the E.S.B. (Superannuation) Act, 1942. The matter was adjourned to await a reply from the Tribunal.

Apprentice Acting as Commissioner for Oaths

On an inquiry from an apprentice the Council decided that there is no objection to the appointment of a solicitor's apprentice to act as a commissioner for oaths during the period of his indentures.

Police Reports

Members wrote to the Society inquiring whether the Council have any views on the practice of the Garda authorities of requiring payment for copies of statements of witnesses mentioned in police reports. The Council were of the opinion that it is to the advantage of the profession and their clients to agree to a reasonable payment for copies of statements of witnesses taken by the police authorities.

The report of the meeting of the Council held on October 26th is held over until the next issue of the Gazette.

SPECIAL MEETING OF THE COUNCIL

A special meeting of the Council was held on Monday, 28th August, as a tribute of respect to the late Mr. William S. Hayes.

THE President addressing the meeting said:—

“I am sure that all the Members of this Council and of our Society and indeed of the legal profession in Ireland in both its branches, and on both sides of the Border, will approve of my action in convening this special meeting of the Council. Its purpose is to record in a very particular way our deep sorrow and grievous sense of loss on the occasion of the death of our much loved friend, William Samuel Hayes, which occurred on 20th August, at the great age of 88 years. It is difficult indeed for any of us to realise that we shall no longer hear his voice in this room.

Mr. Hayes was the personal friend of every member of this Council, and not only of us who are assembled here, but of our predecessors for very many years past. He was indeed the Father of our Council, and of our Solicitors' profession. Born in 1862, he was admitted as a solicitor in 1884, having gained as a student our highest distinction, the Findlater Scholarship. From 1884 till his death he practised without interruption as a member of his father's firm, to which he has added such great distinction.

In 1892 he was first elected as a member of this Council. Year after year from then till now, he was re-elected by his fellow practitioners without

a break. In 1906-7 he served as President. It is indeed worthy of remark that, although our Society was founded over a century ago, the list of its Presidents inscribed in the panel on the wall of our Council Chamber contains more names after his than before it.

In 1944, his fellow solicitors throughout Ireland presented to him by subscription, as a token of their esteem and affection, the striking portrait by Mr. Leo Whelan which now hangs upon the wall of the members' hall. There I trust it will continue to hang as an inspiration to many future generations in our profession. This presentation marked the Golden Jubilee of his service as a member of our Council.

It is not necessary for me to remind you of the distinguished part played by Mr. Hayes in our profession through his long and very active life. His worth was recognised alike by his countless clients,

and by all his fellow practitioners. Every honour was gained by him which our profession could bestow.

It is also unnecessary for me to remind you of his unceasing generosity and liberality. His many great benefactions to the Solicitors' Benevolent Association were recognised by his nomination as its Patron of the Association.



WILLIAM S. HAYES

Admitted Trinity 1884. President 1906-7. Member of the Council 1892-1950.

The universal honour, and I may well say love of our profession for him, was, however, not evoked merely by this long service and high distinction. These were without precedent. Our deep sense of loss is occasioned far more by his outstanding character and personality. No one could meet William S. Hayes without immediate recognition of his outstanding qualities. He was always kind and courteous to all. In the contests within the legal arena he was ever a redoubtable opponent, but always fair and always just. It was a proverb in our profession that his word was his bond. His knowledge of law was unequalled. He had a rare capacity of judgment. By instinct he appeared always to seize on the vital elements in every problem which came before him. We in this Council have had ample opportunity to appreciate that great gift.

Mr. Hayes was a member of this profession and of this Council before most of those now present in this Chamber were born. During that lengthy active life he never spared himself. His labours, however, left his energy, his faculties, his ever temper untouched. Indeed, he appeared to us to grow in stature year after year. He seemed to stand like a great rock in the seas, unmoved by tide or storm. To the very end he retained the same energy, the same vigour, the same joy in life. His outward appearance did not indicate his great age.

We of this Council spoke of him between ourselves as "Father William." He was, indeed, the father of the Council. He was also always its leader. A fine public speaker, he was always our spokesman. To him fell the unquestioned right and duty year after year, to speak first at all our functions such as our annual dinner. To him always fell the task of moving the vote of thanks to the outgoing President. He spoke always with wit and with sound judgment.

We who were honoured by his friendship will always remember him. We shall remember him, his great gifts, his pre-eminent personality, his unfailing generosity, his innumerable acts of kindness. We shall remember also his friendly smile and the kindly twinkle of his eye. In short, we shall always remember with gratitude and love our old friend William S. Hayes.

What I have just said, a formal tribute, is on behalf from the Council, to our dear friend. I should like, in addition, to pay my own humble tribute, although I find it very hard to give adequate expression to my personal feelings in speaking of such an outstanding personality and friend, who was beloved by us all.

When I first heard about my probable election as President I called on him for his advice and he

met me with his usual genial smile and encouraged me to allow my name to go forward. He also, by way of encouragement, decided to allow his name to go forward for re-election to the Council (from which he had contemplated resigning), so that he could give me any help and assistance I might require from him.

His vast knowledge and great experience, and above all, his wise counsel, was always placed at my disposal and his advice and assistance in all matters of importance were most helpful and greatly appreciated by us all; indeed his loss to the Council, and to the profession, is almost irreparable. His death has created a void which it will be difficult to fill. I do not think that the profession has had amongst its members one who commanded more respect or one more kindly disposed towards his fellow members. He took a very keen interest in all matters pertaining to the profession and no member had its interest more at heart.

He was proud of his profession and the profession was proud of him and this was evidenced by the fact that he was honoured by the Society when he celebrated the Golden Jubilee of his membership of the Council. In honouring him so we honoured ourselves. As has already been mentioned, he was the Patron of the Solicitors' Benevolent Association and at all times contributed most generously to its funds. In fact, it may be said of him that his kindness and generosity knew no bounds. He was in my opinion the incarnation of every good quality in man.

In passing on to his well merited reward he has left behind him the memory of a great man who was a model and example for us all, a memory which I shall always cherish.

It is now my sad duty to ask you to rise, to record in silence the deep sense of loss of us all, and to convey to his relatives our deep sorrow. I do so with a deep sense of my own personal loss, which I know that each of you share with me. Your presence at this specially convened meeting is an unspoken tribute to him."

Mr. G. A. Overend and Mr. P. R. Boyd addressing this meeting said that the President's words found an echo in the hearts of all those present.

The following resolution was then read and the members passed it standing in silence.

RESOLVED that we, the Council, assembled in special meeting on the occasion of the death of our esteemed and beloved colleague, William S. Hayes, after almost 58 years' unbroken service on the Council and on its Committees, hereby record our gratitude and appreciation for the devotion and ability which he brought to every

project for the advantage of the profession, of which he was a foremost member, and our personal sorrow at the loss of a loyal and warm-hearted friend; that the President's address be printed in the Society's Gazette as an appreciation of his work and character; and that our sympathy be conveyed by the Secretary to his family in their bereavement.

DUBLIN COUNTY COUNCIL NOTICE TO INTENDING HOUSE PURCHASERS, THEIR SOLICITORS AND TECHNICAL ADVISERS

The Dublin County Council desire to direct attention to the provisions of the Council's Building Bye Laws which stipulate that a person shall not let or occupy a new Dwelling-House until:—

- (a) The drainage thereof shall have been made and completed.
- (b) Nor until the dwelling house shall, after examination, have been certified by the Council's Surveyor to be in every respect fit for human habitation.

Further information may be obtained from the Principal Building Surveyor, County Engineer's Office, 6 Parnell Square, Dublin.

J. D. WILLIAMS, Runai Ionadach.

11 Cearnog Parnell, Baile Atha Cliath,

21 Meanfoir, 1950.

PROFESSIONAL ETIQUETTE AS BETWEEN SOLICITOR ACTING FOR A PLAINTIFF AND THE DEFENDANT

The following facts were recently submitted to the Council:—

A. a solicitor, was consulted by B., who was involved in a motor accident and instructed A. to represent him at the inquest. A. attended the inquest at which he was the only solicitor present. He subsequently received instructions from an insurance company to look after their interests and to defend any criminal proceedings arising out of the accident. C., another solicitor, was instructed by the next of kin of the deceased and wrote to B. stating that his clients would hold him liable for damages. The insurance company notified C. of their interest. C. again wrote to B. requesting him to call at his office. On A's. advice, B. ignored this communication. C. subsequently wrote to B. again in the following terms:—

"Following my letter of the 27th ultimo, there has been more than ample opportunity for you to call in the meantime and do something just. I suggest that you call and see me as soon as possible, in which event I am prepared to meet you half way, and unless I am mistaken, it would be a relief to your own mind to have the matter amicably settled."

The Council were of the opinion that even assuming that C. was not aware that B. was represented by a solicitor, the last letter was improper and should not have been written, and that C. should not have invited B. to call to his Office.

RENTS AND LEASEHOLDS COMMISSION

The above Commission has been set up by the Government with the following terms of reference:—

1. To inquire into the working of the Rent Restrictions Acts, 1946 and 1949, and to report whether, in the opinion of the Commission, those Acts should be continued in force, and, if so, whether they should be extended or restricted in their application, or amended in any way.

2. To investigate and report whether it is necessary or desirable to control the rents of furnished dwellings and, if so, what legislative provision should be made for that purpose.

3. To inquire into the working of Part V of the Landlord and Tenant Act, 1931, as amended and extended by the Landlord and Tenant (Amendment) Act, 1943, and to report whether, in the opinion of the Commission, that enactment should be amended in any way."

The Society has been invited to submit a memorandum of evidence on the matter referred to in the Tribunal. Local Bar Associations and individual members of the Society are invited to write to the Secretary setting out any matter which they think should be incorporated in the evidence to be submitted by the Society.

EXAMINATION RESULTS THE INCORPORATED LAW SOCIETY OF IRELAND

At the Preliminary Examination for intending apprentices to solicitors held on the 3rd and 4th days of October, the following passed the examination and their names are arranged in order of merit:—

1. John Edward MacCurtain; 2. Donough Brian McDonough; 3. Patrick Jeremiah Gardiner; 4. Edward Joseph Duffy; 5. Maurice Joseph Phelan; 6. James J. O'Sullivan,

The remaining candidates are postponed.

Ten candidates entered—6 passed, 4 failed.

The Council has awarded a Gold Medal to John Edward MacCurtain.

The Overend Preliminary Examination Scholarship was awarded to Paul Callan (subject to entering into Indentures before 4th April, 1952).

At examinations held on the 29th and 30th days of September, under the Legal Practitioners (Qualification) Act, 1929, the following passed the examinations :—

First Examination in Irish

Valentine P. J. Carney, John Patrick Clifford, Michael P. M. Donnelly, Gerard Joseph Dundon, Patrick Jeremiah Gardiner, John A. Gaynor, Patrick Anthony Glynn, Daphne Mabel Gordon, Gordon William Kerr Johnston, Donough Brian McDonough, Patrick Peter MacMahon, Charles R. M. Meredith, William A. P. O'Connor, Peter Aloysius O'Neill, Maurice J. Phelan.

Twenty candidates entered, 15 passed, 2 failed, 3 did not attend.

Second Examination in Irish

Mary A. B. M. E. Callery, Patrick J. Creagh, Patrick N. Downes, Michael L. Hession, Comghall U. MacGuill, Ernest James Margetson, Desmond E. M. Matthews, Matthew F. J. Moore, Brendan O. M. O'Reilly, Timothy F. O'Toole, Patrick J. Skehan.

The remaining candidates are postponed.

Twelve candidates entered, 11 passed, 1 failed.

SOLICITORS' APPRENTICES' DEBATING SOCIETY

The Inaugural Meeting of the Solicitors was held in the Members' Hall, Solicitors' Buildings, Four Courts, Dublin, on Friday, 27th October, 1950.

The President, Mr. W. J. Norman, took the Chair, and presented the following awards to members of the Society :—Oratory : Incorporated Law Society's Gold Medal, James Cawley ; Society's Silver Medal, Mary Moore ; Special Certificate : William S. O'Brien ; Legal Debate (President's Gold Medal) : Richard Ryan ; Society's Silver Medal : Donal Lambe ; Impromptu Speeches—Vice-President's Gold Medal : Mary Moore ; Vice-President's Silver Medal : James Cawley ; Irish Debate : Society's Gold Medal, Brendan J. Wallace ; Society's Silver Medal : Colm Price ; First Year Speeches : Society's Silver Medal : James Cawley.

The Auditor, Mr. Richard Ryan, delivered his Inaugural Address on the subject "The Latent Wisdom." Mr. Richard Mulcahy, Minister for

Education, proposed and Senator J. G. Lennon seconded the following motion which was carried unanimously :

"That the best thanks of the Society be given to the Auditor for his Address, and that it be printed at the expense of the Incorporated Law Society."

Mr. Seán MacEntee proposed and the Rt. Hon. Killanin seconded the following motion, which was carried unanimously :—

"That the Solicitors' Apprentices' Debating Society is worthy of the support of the Solicitors' Apprentices of Ireland, the Council of the Incorporated Law Society, and the Solicitors' Profession."

The President addressed the meeting and the proceedings terminated.

PROFESSIONAL ITEMS

Offer to act for both parties.

A solicitor acting for a purchaser forwarded to the vendor requisitions on title together with a letter containing the following paragraph :—

"If you have a solicitor acting for you will you please pass the requisitions on to him, but if you have no solicitor acting for you we will be pleased to act for you at the reduced fee applicable where the one solicitor acts for both the vendor and the purchaser. If there is no one acting for you, please advise us immediately."

The Council of the Law Institute of Victoria has ruled that such conduct constitutes a breach of the Solicitors (Professional Conduct and Practice) Rules.

The Council is also of opinion that it is contrary to both the spirit and the letter of the Solicitors (Professional Conduct and Practice) Rules for a solicitor to advertise that he has trust monies to lend even though the advertisement contains merely his name and address and does not disclose the fact that he is a solicitor (Law Institute Journal, Victoria, Australia).

Publicity

A Public Relations Committee has been established by the Queensland Law Society for the purpose of acting as a link between the profession and the public and to enable statements to be made on matters of general interest to the profession at short notice. Certain proposals for giving publicity to the work carried on by solicitors are now under consideration. It is the aim of the Society to make known to the public the advantages of seeking legal advice as an ordinary business precaution.

—(Queensland Law Society, Australia.)

Lawyers' English

The writer as a young solicitor had to peruse a hotel lease for the intending lessee and soon saw that about half of its words could be struck out without affecting its sense one jot. This is a fair sample of what he read:—"and also will allow the lessor or any person or persons appointed by the lessor with or without workmen, surveyors, architects and others at any reasonable time or times in the daytime during the said term to enter into and upon the said leased premises or any part or parts thereof and to view, inspect and examine the state and condition thereof—and of all defects, decays and wants of painting, papering, graining, varnishing, colouring, distempering, reparation or cleansing—to give notice in writing to the lessee to repair, uphold, support, maintain, paint, paper, grain, varnish, colour, distemper, cleanse and amend the said hotel and premises, fixtures, and fittings, etc." Thereupon he was seized with an ardent desire both to purify the literature of hotel leases and (by the removal of so many folios) to enable his client, the lessee, to save almost the whole of the first week's rent. In his uplifted state he interviewed the lessor's solicitor, a venerable man, who viewing him more in sorrow than in anger, remarked that he had used that form of lease for thirty-five years and never before had it been questioned, and quietly added that if the lessee objected he would not get a lease. There was nothing more to be said though the writer recalls having fought strongly but in vain a rear-guard action to strike out by way of compromise the word "distempering." In the end he retreated hurriedly fearing lest the lessor's solicitor might add to the surveyors, architects and others, that were to accompany the lessor on his inspection, bricklayers, plumbers, painters, plasterers, and a host of others too numerous to mention except in a hotel lease. It is surprising that the writer shortly after this encounter should himself have prepared a deed with the words, "convey, grant, assign, set over and transfer," and thought himself professionally humiliated when a foreign consul to whom he applied to legalise the document refused to do so until he had struck out all the words except "transfer," and otherwise trimmed the document's luxuriant verbiage. All of which goes to show that to reform oneself is harder than one imagines.

—(Law Institute Journal, Victoria).

Unincorporated Society—Right of Audience

In the Animal Defence and Anti-Vivisection Society v. Inland Revenue Commissioners (66 T.L.R. 1112), the Society appealed from the decision of the Special Commissioners for Income Tax, which held that it was not a charitable body for

income tax purposes. When the appeal was called, a member of the Society who was not a barrister or a solicitor, stated that she appeared for the Society of which she was President and founder. She had pleaded the case for the Society before the Special Commissioners of Income Tax. Counsel for the Crown raised a preliminary objection that she had no right of audience. Mr. Justice Romer said that litigants can only appear in Court by Counsel except where a litigant appears in person, but that in this case the appellants did not appear in person but sought to appear by one of their members. A resolution had been passed empowering three of the members generally to represent the Society in financial matters, but that did not touch the present point which was whether the Court can give audience to an unincorporated Society through the mouth-piece of one of its members. In his judgment this case was not an exception to the general rule that litigants, other than litigants in person, can only have their cases presented by Counsel.

The case was adjourned to enable the Society to engage Counsel and Solicitors.

LIBRARIAN OF THE SOCIETY

Mr. Thomas B. Cooley, who entered the service of the Society in 1908, and has been Librarian since 1916, signified his wish to retire. The Council accepted his resignation with regret and wish to place on record their appreciation of his long and faithful service to the Society. Mr. Colum Gavan Duffy, M.A., has been appointed Librarian in place of Mr. Cooley. Mr. Gavan Duffy was admitted in Hilary Sittings in 1938, and holds the Librarian's Diploma of University College, Dublin.

THE REGISTRY

Section C.

BUILDING LAND wanted in parcels 3 to 100 acres, in the vicinity of Dublin. All services must be available. Box No. C.127.

WANTED Irish statutes, 1922-1943 or earlier. Ryland's *Digest*, 1929-1938. Box No. C.128.

PARTNERSHIP

MR. W. S. BARRETT, Solicitor, of 15 Sth. Frederick Street, Dublin and Mr. Herbert MacNeice, Solicitor, formerly practising as R. W. McNeice & Son, of 12 Westmoreland Street, Dublin, have entered into Partnership under the style of Barrett and McNeice, at 15 Sth. Frederick Street, Dublin. Telephone: 62471/66887.

REWARD offered for the discovery of the last Will of Edward Kirk, Wagon Builder, late of 27 St. Columba's Road, Dublin, and 6 O'Connell Avenue, Berkeley Road, Dublin, and formerly of Ednagreena, Co. Louth. Said Will was made prior to January, 1941. Brendan Breathnach, Solicitor, Dundalk.

OBITUARY

MR LAURENCE J. O'NEILL, Solicitor, died at a Dublin nursing home on the 5th October, 1950. Mr. O'Neill served his apprenticeship with the late Mr. John H. McCann, Solicitor, Drogheda, and the late Valentine Kilbride, Solicitor, 4 Dame Street, was admitted in Hilary Sittings in 1905 and practised as senior partner in the firm of Messrs. L. J. O'Neill & Co., Solicitors, 21 Molesworth Street, Dublin.

MR. HUGH O'BRIEN-MORAN died at his residence, "Mantua," North Circular Road, Limerick, on the 13th October, 1950. Mr. O'Brien-Moran served his apprenticeship with the late James H. Moran, Solicitor, Limerick, was admitted in Trinity Sittings 1910, and practised at Limerick. He was appointed State Solicitor for Limerick in 1921 and subsequently became County Registrar.

MR. WILLIAM J. O'MEARA, Solicitor, died at his residence, Summerville, Mallow, Co. Cork, on the 19th October, 1950. Mr. O'Meara served his apprenticeship with Mr. Barry M. O'Meara, Solicitor, 18 South Mall, Cork, and was admitted in Trinity Sittings, 1928, and practised at Mallow under the style of David J. O'Meara & Son.

REGISTRATION OF TITLE ACTS, 1891 AND 1942 NOTICE

Folio 1385.

Registered Owner: ELLEN MULLIGAN.

COUNTY LONGFORD.
An Application has been made by Mary Teresa Mulligan, the personal representative of the registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above named Mary Teresa Mulligan. Any such notification should state the grounds on which the certificate in question is being held.

Dated this 23rd day of November, 1950.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO:

Land Certificate of Ellen Mulligan to 33a. 3r. 5p. of the lands of Legan situate in the Barony of Shruloe and County of Longford, being the lands comprised in said Folio.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

Last year over £1,300 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

The active co-operation of the Profession in the Association's good work is asked for and all who are not members are urged to join without delay.

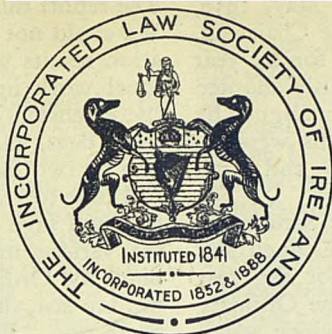
Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

Address:

THE SECRETARY,

SOLICITORS' BENEVOLENT ASSOCIATION,

12 NASSAU STREET, DUBLIN.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

ROGER GREENE

Vice-Presidents

NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary

ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT.

MEMBERS are reminded that Certificates for the year to end 5th January, 1952 should be taken out and duty paid thereon not later than 5th February, 1951. A "late" Certificate, i.e., stamped after 5th February, 1951, must be produced to this Society within one month after date of stamping.

THE PRESIDENT AND VICE-PRESIDENTS

MR. ROGER GREENE, of Dublin, has been elected President of this Society for the coming year. Mr. Niall S. Gaffney, of Limerick, and Mr. Francis J. Gearty, of Longford, have been elected Vice-Presidents.

GENERAL MEETING

A General Meeting of the Society was held in the Members' Hall, Solicitors' Buildings, Four Courts,

Dublin, on Thursday, 23rd November, 1950. The President, Mr. William J. Norman, took the Chair. The following members signed their names as being present: Messrs. Joseph Barrett, Henry St. J. Blake, John J. Bolger, Patrick R. Boyd, Laurence F. Branigan, John Carrigan, Arthur Cox, Niall S. Gaffney, Francis J. Gearty, Roger Greene, John R. Halpin, Desmond J. Mayne, John J. Nash, William J. Norman, Daniel O'Connell, James J. O'Connor, Patrick F. O'Reilly, Thomas A. O'Reilly, Seán ÓhUadhaigh, G. A. Overend, Maurice M. Power, James R. Quirke, Dermot P. Shaw, John J. Sheil, Joseph P. Tyrrell, Derrick M. Martin, Reginald J. Nolan, Alfred E. Walker, K. M. Meares, R. D. English, A. G. Ardagh, R. J. Dodd, D. D. MacDonald, A. H. S. Orpen, A. J. N. Reid, Desmond Moran, E. W. Proud, D. B. Gilmore, J. J. Hickey, P. J. Kavanagh, S. Hayes, K. Burke, D. A. O'Connor, T. J. Kenny, Maurice Kenny, D. O'Donovan, R. W. Johnston, H. E. St. G. McClenaghan, James A. Geary, B. T. Walsh, L. P. Cafferky, Joseph P. O'Connell. By permission of the meeting the notice convening

the Meeting was taken as read. The minutes of the Half-yearly Meeting held on 18th May, 1950, were read, confirmed and signed by the Chairman.

The audited Accounts of the Society for the year ended 30th April, 1950, were unanimously adopted and, with the consent of the meeting, were signed by the Chairman. Messrs. Kevans & Sons were re-appointed Auditors for the year to end 30th April, 1951.

The Secretary read the report of the Scrutineers of the Ballot for the election of the Council and Provincial Delegates on the Council for the year to end on the day before the date of the Ordinary General Meeting in November, 1951, which stated that for the office of Provincial Delegate the following had been returned unopposed:—

Ulster, Derrick M. Martin; Munster, John J. Dundon; Leinster, Reginald J. Nolan, and that for the office of Provincial Delegate for Connaught, two candidates had been duly nominated, namely, Christopher E. Callan and Gerald Maguire, and that the result of the Ballot were as follows: Christopher E. Callan, 28 votes, and Gerald Maguire, 25 votes, and that accordingly, Christopher E. Callan was elected Provincial Delegate for Connaught, and Gerald Maguire Supplemental Delegate for the same Province. The report further stated that the following had been elected as the thirty-one ordinary members of the Council, having received the number of votes placed after their respective names: Henry St. J. Blake, 474; Arthur Cox, 466; William J. Norman, 462; Thomas A. O'Reilly, 444; Dermot P. Shaw, 440; Joseph Barrett, 436; John Carrigan, 434; Patrick R. Boyd, 433; Patrick F. O'Reilly, 427; James J. O'Connor, 424; Daniel O'Connell, 418; Seán Ó hUadhaigh, 405; George A. Overend, 388; Joseph P. Tyrrell, 376; Desmond R. Counahan, 374; Gerald J. O'Donnell, 371; Louis E. O'Dea, 370; Desmond Mayne, 363; John R. Halpin, 362; John J. Nash, 358; William L. Duggan, 355; William S. Huggard, 354; John J. Bolger, 345; James R. Quirke, 330; Niall S. Gaffney, 328; Francis Gearty, 327; Roger Greene, 326; John S. O'Connor, 315; Maurice Power, 314; Laurence F. Branigan, 294; John J. Sheil, 281; with the following as the supplemental list, in case of vacancies: Ralph J. Walker, 268; Patrick J. Murphy, 266; Thomas O'Neill, 227. The President declared the result of the election in accordance with the Scrutineers' report.

The President in moving the adoption of the Report said:

LADIES AND GENTLEMEN,

You have now had in your hands for some days

the report of the Council for the year just ended. The report this year was circulated later than usual. We could not have it printed earlier as the examination results were delayed on account of the additional work imposed on the Examiners following the extension of the final examination from two to three days, and the Intermediate examination from one to two days. However, I think you have all had time to read the report before the meeting, and this will save me from the necessity of going into the various matters with which it deals in detail. Since the Ordinary General Meeting of the Society in May last, death has taken its usual toll from the profession. We have lost an old and valued member of the Council in the late William S. Hayes, who died during the long vacation. I will not here attempt to express the deep sense of personal loss experienced by each member of the Council and the loss which the profession has suffered in the death of a member who served on the Council for almost 60 years. I have elsewhere paid a tribute to the character and personality of the late William Hayes. I am sure in doing so I expressed the sentiments of the entire profession.

The following members of the profession also died since the last meeting:—Patrick F. McCormack, Laurence J. O'Neill, Hugh O'Brien Moran, William J. O'Meara, John R. Peart, and we wish to express our sympathy with their relatives.

CIRCUIT COURT RULES:

From the point of view of the practice of the Courts one of the most important events during the past 12 months has been the completion by the Circuit Court Rules Committee under the Chairmanship of Mr. Justice Shannon, of their labours, and the publication of the Circuit Court Rules. Two members of the Council served on the Committee—which met weekly over a period of years—namely, Mr. Seán Ó hUadhaigh, and Mr. Joseph Tyrrell. To these members of the Council the Society is indebted for the work which they have done on behalf of the profession. I am sure that the new rules will facilitate the business of our Clients in the Circuit Court and remove the defects which were found in the former procedure. The new rules contain complete schedules of costs, and for the first time it has been possible to draw up scales of costs as between party and party in cases under the Landlord and Tenants Acts, 1931 and 1943. This will remedy a serious defect in the old procedure whereby an unreasonable landlord or an unreasonable tenant could institute or defend proceedings without having to pay the costs of the opposite side. I am glad to say that the rules have also been greatly improved by the inclusion of an adequate Index

which ought to save a great deal of time for solicitors.

RENTS AND LEASEHOLDS COMMISSION :

In response to the invitation published by the Commission asking bodies, such as this Society, to draw up and submit evidence on the working of the Rent Acts and the Landlord and Tenant Acts, the Council appointed a Committee of three to consider the matter and to tender evidence to the Commission. Solicitors, from their daily experience in advising both landlords and tenants, ought to be in a position to make a practical contribution to the solution of the problems which come within the terms of reference of the Commission. There is no doubt that the Rent Restriction Acts in their present form have become outmoded, and completely unsuited to our present social and economic conditions. It may be that if there were complete freedom of contract between landlord and tenant, there would be a resulting increase in the supply of houses to meet the demand which would, in due course, by the effect of competition, cause rents to fall to a reasonable level. I fear, however, that a wish of this kind is Utopian and that world conditions have restricted, and will continue to restrict, building supplies to such an extent that the demand for houses will continue to exceed the supply. In these circumstances some form of restriction is necessary to prevent undue hardship to tenants, particularly of the poorer class. At the same time it is obvious that the formula of rent control which was first devised in 1914, and has continued on the same basis down to 1941, is altogether unsuited to modern conditions. In some cases rents are too low and landlords are unable to obtain any sort of reasonable return for the money which they have invested. This results in their unwillingness to spend any money on the property in order to keep it in repair, and also curtails the willingness of the public to invest in house property for letting purposes, causing an inflated demand for property for residential purposes, which, in itself, tends to increase the price of houses. On the other hand there are cases in which tenants are being grossly over-charged. This was particularly noticeable during the later years of the War and immediately afterwards when the demand for property was such that people were prepared to pay any rent for furnished dwellings. Some form of rent control is absolutely essential in the public interest. It may be that a system could be devised whereby either the landlord or tenant would have the right to apply to the Court at periodic intervals to have a fair rent fixed, on the lines of the procedure for the fixing of judicial rents of agricultural holdings under the

Land Act, 1881. The obvious drawback to this is that the number of applications might be so great as to present serious administrative difficulties, but on the other hand the mere existence of such machinery might induce both landlords and tenants to be reasonable, which, in itself, would make applications to the Court unnecessary. An illustration of the moderating effect of judicial machinery for fixing rents is provided by the Landlord and Tenant Act, 1931. Either landlord or tenant may apply to the Court to fix the terms of a new lease, but in practice the vast majority of cases are settled by negotiation and not more than 5 per cent. or 10 per cent. of them reach the stage of an application to the Court. The Commission will no doubt receive proposals from various bodies representing both landlords and tenants. It is to be hoped that they will arrive at a solution which will do justice to all parties. One thing seems clear and that is that the present position whereby some houses are controlled on the basis of the economic rents which obtained in 1914, and others on the basis of rents which obtained in 1941, does justice to neither the landlord nor the tenant. What is needed is a simple Act which will lay down the formula for the control of rents of all houses within the prescribed limits which will commend itself to the understanding and sense of justice of the public. The evidence to be tendered by this Society will be unprejudiced. We do not represent either landlords or tenants in this matter. The Committee appointed to give evidence has sought the views of members of the profession who are considered to have experience of the working of the Acts, and with these views before them they will seek to draw up a balanced memorandum for the Commission which will point out the defects in the existing system and suggest possible amendments which will give the Commission some material for formulating a new policy.

SOLICITORS' BILL :

As you will have seen from the report of the Council in your hands, the Council have been continually pressing the Government for the introduction of the Solicitors' Bill. The Bill was submitted to the Department of Justice in 1943, and was the subject of various memoranda and conferences between the Department and this Society. Part IX of the Bill makes provision for the setting up of a Compensation Fund to safeguard clients against losses incurred through solicitors' default. There is nothing in the Bill which will put a penny extra in any solicitor's pocket, but the Council are certain that if the Bill were enacted it would be to advantage of the profession as well as the public, in so far as it would increase the public confidence

and the reputation of the profession as a whole. For these reasons the Council are disappointed that the Bill is making such slow progress towards the Statute Book. Everything that the Council could do to expedite its progress has been done, and continual representations have been made to the Department. It is now seven years since the Draft was first submitted and every aspect of the Bill has been thoroughly discussed. We see no reason why there should be any further delay. It is not a controversial measure, and much of the Bill is a repetition of the provisions of the Solicitors (Ireland) Act, 1898. It is to be hoped that the authorities will take steps to see that the Bill is introduced in the near future.

LEGAL TEXT-BOOKS :

My predecessors have referred in their half-yearly addresses at this meeting to the crying need for the provision of text-books for law students, and for standard works of reference for use by practitioners. As the years go by changes in the law make the books which are published in England unsuitable for use in this country. To a large extent our law has stood still since 1923, and we rely on the standard books which were published prior to that year. These books are now out of print and the available copies are gradually disappearing. The result is that solicitors' apprentices are unable to obtain copies of the books which are prescribed on the syllabus for the Society's examinations. The Society has tried to improvise a remedy by buying up as many of these books as possible and lending them out to students studying for the final examinations, but this is not a satisfactory position, and students should be able to purchase the books for themselves. Each apprentice pays the sum of £80 to the Government in stamp duty on his Indentures of Apprenticeship. The Council has asked the Government to pay this stamp duty to the Society to be used for setting up a fund for the purpose of financing legal education, including the publication of students' text-books and works of reference. The Minister for Finance was, I think, favourably impressed with the suggestion. It would provide a fund amounting to some thousands per annum out of which it would be possible to have a number of the older works re-published, and to have new works written. Unless some steps are taken to finance the publication of new books, legal studies in this country will, in due course, come to a standstill.

DELAYS IN GOVERNMENT DEPARTMENTS :

The Society continues to receive complaints about delays in various Government Departments,

particularly in the Land Registry, where the position has become so bad as to amount almost to a breakdown in the system. Complaints received by this Society showed that in some cases the registration of dealings was not completed for over 12 months after the documents had been lodged. Representations have been made by the Society over a number of years to the appropriate Departments, but no improvement has taken place up to the present. The matter affects the profession in so far as clients whose interests are suffering through the delay fail to understand that the fault does not lie with their solicitors, and sometimes they write to this Society complaining as if the solicitor had been guilty of misconduct in not having their work carried out. It is not right that solicitors should be placed in this position and the Council are considering what further steps can be taken to deal with the matter.

SMALL DWELLINGS ACQUISITION ACTS.

The Housing Amendment Act, 1950, will probably give rise to an increased number of applications for loans from local authorities for the leasing and purchase of sites, and the erection of dwelling houses. Section 34 of the Act contains a provision which will enable the local authorities to add the cost of acquiring the site and the cost of the lease to the value of the house for the purpose of the advance. Complaints have been made about the heavy incidence of the costs. In some cases the tenant has been required to pay the costs of the lessor, as well as his own costs in connection with the leasing of the site, and in addition to this he is liable for the costs of the local authorities in connection with the mortgage. A deputation from the Council went to the Department of Local Government and made suggestions with a view to easing the position. It was suggested in the first place that section 34 of the Housing Amendment Act, 1950, should be put into operation, and that the local authorities should advance the costs and stamp duty and disbursements in connection with the acquiring of the site and the mortgage in addition to the price. The deputation informed the Minister that if this were done the Society would consider recommending a sliding scale of costs in certain cases to be adopted by solicitors acting for the local authorities in connection with the mortgages. The Department were to put forward proposals on the matter, but so far we have not received them, and until we receive them nothing further can be done.

INSURANCE AGAINST NEGLIGENCE BY SOLICITORS :

The Waterford Law Society put up a proposal to the Council that this Society should form a Company,

limited by guarantee, for the purpose of undertaking indemnity insurance of solicitors against liability by negligence. The matter was considered by a Committee of the Council with a view to seeing whether it is a practical proposition. Obviously, unless the Society could provide better facilities and cheaper insurance than Lloyds Underwriters, who undertake most of the work at present, it would hardly be worth while going to the trouble of setting up a scheme. Something would have to be known about the present claims experience in connection with solicitors' indemnity insurance in order to make an estimate of the risk involved. It would probably be necessary to form a company, limited by guarantee, and to make each insured solicitor a member of the company, and to obtain guarantees of a specified sum in the nature of un-called capital in the event of the winding up of the company. This un-called capital would be necessary to provide against the risk of heavy claims in the early years of the scheme before the fund had reached a sufficiently strong position. On reviewing the whole matter and the risks involved, it was decided to postpone it generally without rejecting it. If at any time there is widespread dissatisfaction amongst solicitors as to the existing Insurance facilities the matter can be re-considered. It should be said, however, that although there have been individual complaints there is no evidence that the profession, as a whole, is dissatisfied with the present facilities provided for insurance against liability for negligence.

SOLICITORS' BENEVOLENT ASSOCIATION :

Before ending my remarks I should like to urge all members who are not members of the Solicitors' Benevolent Association to join the Association without delay. In a profession such as ours, whose members are exposed to the various risks of ill-health and the other calamities which affect mankind, there are bound to be cases in which our less fortunate brethren are in need of our assistance. If you were only present at the monthly meetings of the Directors of the Association, you would indeed hear of sad cases in which solicitors themselves and their widows and dependants, through no fault of their own, have fallen upon necessitous days. I regret to say that only about half of the solicitors in the country subscribe the annual guinea to become members of the association. I would appeal to you all, not alone to join yourselves if you are not already members, but to ask your colleagues to join. The Association was founded in 1863, and extends to the whole 32 counties of Ireland, relieving cases which come before it from both sides of the Border. It is our only professional charity and deserves your

support, not alone your own financial support, but your influence, if ever asked by a Client to suggest a worthy object of benefaction.

Before I close I would like to thank most sincerely the Vice-Presidents and my colleagues on the Council, who have given me such loyal support during my term of Office as President. I had the advantage of two young and active Vice-Presidents who took a great deal of the work off my shoulders, and I could not ask for a better Council. I have also to thank you, Ladies and Gentlemen, for coming here to-day, and for the patience with which you listened to me. I move the adoption of the Report. Mr. James J. O'Connor seconded the motion for the adoption of the Report which was put to the meeting and unanimously adopted.

The following motion was proposed by Mr. Joseph Barrett and seconded by Mr. F. J. Gearty : " That the following persons be appointed to be members of the Nominating Committee for the Cultural and Educational Panel pursuant to Section 22 of the Seanad Electoral (Panel Members') Act, 1947, and that all necessary steps be taken to give effect thereto, and that the seal of the Society be affixed to all necessary documents : Patrick R. Boyd ; Arthur Cox ; William J. Norman ; Patrick F. O'Reilly ; Seán Ó hUadhaigh. The motion was put to the meeting and passed unanimously.

It was unanimously resolved that an Ordinary General Meeting of the Society should be held on 22nd November, 1951.

Mr. Desmond Moran then proposed the following motion : " That on the occasion of the pending retirement of the Librarian, Mr. Thomas B. Cooley, it is fitting that the Society in General Meeting should record their deep appreciation and thanks for the manner in which he has discharged the duties of his Office for so many years and the courteous and efficient way in which he has always assisted members of this Society using the Library, and their regret at losing his services as Librarian."

The motion was seconded by the Chairman and carried with acclamation.

Mr. Noel Reid addressed the meeting on the subject of Law Reform. The President stated that a resolution of this Society stressing the importance of this matter had been sent to the Department of Justice in 1943.

Mr. Desmond Moran addressed the meeting on the subject of the formation of a Company to carry on mutual insurance of solicitors against liability for negligence. He also stressed that the Council should urge upon the authorities the necessity of providing funds for the publication of legal text-books. The President stated that these matters would be considered by the Council.

On the motion of Mr. George A. Overend, Mr. Thomas A. O'Reilly, Vice-President, took the Chair. Mr. Overend then proposed a vote of thanks to the President for his distinguished service to the Society during his period of office. The motion was carried with acclamation. The President returned thanks and the proceedings terminated.

MEETINGS OF THE COUNCIL

OCTOBER 26TH. The President in the Chair. Also present: Messrs. T. A. O'Reilly and D. P. Shaw, Vice-Presidents; James R. Quirke, John Carrigan, Desmond J. Mayne, Daniel O'Connell, Joseph Barrett, John R. Halpin, George A. Overend, Seán Ó hUadhaigh, James J. O'Connor, Derrick M. Martin, D. R. Counahan, John J. Nash, Patrick R. Boyd, Patrick F. O'Reilly, Arthur Cox, Joseph P. Tyrrell.

The following was among the business transacted:—

Small Dwellings' (Acquisition) Act Costs

The Secretary submitted a draft scale of costs to be charged by solicitors acting for local authorities against their clients the local authorities in connection with mortgages under the above Act. It was decided that the draft scale should be circulated to the solicitors acting for the local authorities for their observations, and that a representative meeting of these solicitors should be summoned as soon as possible to consider the matter before taking it up with the Department for Local Government.

Office of the Revenue Solicitor

It was decided that the Secretary should write to the Revenue Commissioners submitting that vacancies for qualified persons in the Revenue Solicitor's Office should be filled by the appointment of solicitors.

Delays in the Dublin Corporation

Members wrote to the Society complaining of serious delays in the office of the City Manager. It was decided that the matter should be taken up with the City Manager.

Commissioners of Charitable Donations and Bequests

The Waterford Law Association wrote drawing the attention of the Society to the unreported decision in the matter of the Estate of Elizabeth Roche, deceased, *Kelly v. Noonan*, in which it was held by the High Court in 1924, that a legacy for Masses to a named Parish Priest did not lapse on the death of

the legatee before the testator but was payable to his successor as Parish Priest living at the date of the death. It was stated that a number of different cases which have not been reported are filed in the Office of the Commissioners. The Secretary was directed to write suggesting that the Commissioners should have these cases published in the *Irish Law Times* and *Solicitor's Journal*, or that a note thereof be published in the Society's GAZETTE for the information of the profession.

NOVEMBER 9TH. The President in the Chair. Also present: Messrs. Joseph Barrett, John R. Halpin, Daniel O'Connell, James R. Quirke, Joseph P. Tyrrell, Reginald J. Nolan, Patrick R. Boyd, Roger Greene, James J. O'Connor, Gerald J. O'Donnell, John J. Nash, Desmond R. Counahan, Seán Ó hUadhaigh, John Carrigan.

The following was among the business:—

Admission of Solicitors—Reciprocity between Canada and Ireland

ON report from the Committee the Council considered correspondence from the Department of External Affairs inquiring under what conditions a Canadian National would be admitted to practise as a solicitor in the Republic of Ireland. It was decided to reply that, subject to reciprocity, a citizen of any of the Provinces of Canada would be entitled to be admitted as an apprentice to a solicitor, and would be subsequently admitted as a solicitor having complied with the Society's regulations and passed the necessary examinations. The Secretary was directed to ascertain whether there is reciprocity in the Canadian Provinces in regard to Irish Nationals.

Department of External Affairs and Foreign Estates

THE Council considered a report from a Committee on correspondence with a member of the Society which disclosed that the Irish Consul in New York had written direct to a client of the solicitor offering the services of the Department in connection with the right of the client to a share in an estate being administered by the United States Courts. The Secretary was directed to write to the Department of External Affairs referring to an arrangement made in 1945 whereby the Department agreed that in such cases the intervention of the Irish Representatives abroad should be limited to ascertaining the name of the client's solicitor and getting in touch with him, and that the Secretary should state that the action of the Irish Consul in the present case was a breach of the arrangement.

Automobile Association and Royal Irish Automobile Club.—Costs of defence of Traffic Prosecutions

THE Council considered a report from the Committee on the scale of costs payable to solicitors by the Automobile Association and the Royal Irish Automobile Club for conducting the defence of Road Traffic prosecutions on behalf of their members. A scale of costs was prepared by the Committee for adoption by the Council. After a discussion the Council decided on a scale of costs and the Secretary was directed to forward same to the Automobile Association and Royal Irish Automobile Club.

Solicitors' Bill

THE President read a letter from An Taoiseach on the subject of the Solicitors' Bill. It was resolved that the President should reply stating that the Council are greatly disappointed at the slow progress with the Bill and asking that steps be taken to have it introduced in the Oireachtas early in 1951.

NOVEMBER 23RD. The President in the Chair. Also present: Messrs. T. A. O'Reilly and D. P. Shaw, Vice-Presidents; G. A. Overend, F. J. Gearty, John J. Bolger, Maurice M. Power, Daniel O'Connell, James R. Quirke, Roger Greene, James J. O'Connor, Patrick R. Boyd, John J. Dundon, John J. Sheil, Patrick F. O'Reilly, John Carrigan, Arthur Cox, Henry St. J. Blake, Reginald J. Nolan, L. F. Branigan, Niall S. Gaffney, John J. Nash, Derrick M. Martin, John R. Halpin, Desmond J. Mayne, Joseph P. Tyrrell, Seán Ó hUadhaigh, Joseph Barrett.

The following was among the business transacted:—

Extraordinary Members of the Council

THE Secretary reported that he had received a letter from the Southern Law Association stating that the following members of that Association had been appointed extraordinary members of the Council: Timothy A. Buckley, John K. Coakley, John F. Foley, Edmund Hayes, Barry M. O'Meara.

Dublin Solicitors' Bar Association

PERMISSION was granted to the Association to use the Members' Hall for their Annual Dinner on December 9th.

Insurance of Solicitors against negligence

A MEMBER of the Council referring to the address of the President at the Half-yearly Meeting stated that he thought there was some cause of dissatisfaction with the present facilities provided for

insuring solicitors against liability against negligence. He stated that a number of Irish Companies were considering undertaking this line of business. The President stated that it would be advisable to await developments in this matter.

NOVEMBER 30TH. Mr. Norman, and subsequently Mr. Greene, in the Chair. Also present: Dermot P. Shaw, Desmond J. Mayne, James R. Quirke, C. E. Callan, F. J. Gearty, Daniel O'Connell, G. A. Overend, John R. Halpin, P. R. Boyd, John J. Sheil, D. R. Counahan, James J. O'Connor, Arthur Cox, Henry St. J. Blake, Thomas A. O'Reilly, Seán Ó hUadhaigh, Joseph Barrett, Patrick F. O'Reilly, John Carrigan.

The following was among the business transacted:—

High Court Actions—Travelling and Subsistence Expenses to Country Solicitors

THE Secretary reported that the Superior Court Rules Committee would meet on the following day to consider an application from the Society that the High Court rules should include provision for the travelling expenses and subsistence expenses while in Dublin of country solicitors attending on the trial of actions. It was ordered that the President, Mr. Henry St. J. Blake, and the Secretary should attend before the Committee.

Dates of Meetings and Election, 1951

THE following dates were appointed pursuant to Bye-law 29a: Half-yearly General Meeting, 17th May, 1951. Final date for receipt of nominations for election to Council, 29th October, 1951. Ballot for Council, 15th November, 1951.

Department of External Affairs and Foreign Estates

THE Secretary read a letter from the Department of External Affairs, in reply to a letter from the Society, enclosing a copy of a letter from the Irish Consul in New York in which it was stated that the case in which he had communicated direct with the beneficiary he was not aware that the latter had consulted a solicitor. The Council were of the opinion that the reply from the Department was unsatisfactory, and the President undertook to see the Secretary of the Department in connection with the matter.

Approval Fees. Certificate of discharge of Sch. A. tax.

THE Secretary read correspondence from members of the Society stating that the recommendations of the Council, that conditions of sale and contracts

for sale should not contain stipulations obliging purchasers to pay approval fees had not been observed in certain cases, and also complaints that members had been required to pay a fee to the Vendor's solicitor for the Certificate under Section 6 of the Finance Act, 1928. It was ordered that the Secretary should send a circular to the Bar Associations throughout the country asking them to see that their members observe the recommendations of the Council already published.

Road Traffic Prosecutions

A MEMBER of the Society wrote referring to the scale of costs for defending Road Traffic Prosecutions where the costs are payable by an Insurance Company published in the Society's GAZETTE for November, 1949, and asking what is the appropriate scale of costs where a number of cases are defended on the same day. The Secretary was directed to reply stating that the same scale of costs applies to each case except where the same solicitor defends a number of summonses against the same defendant arising out of the same facts on the same day, in which case the normal fee for each summons after the first is one guinea, and that in normal cases the fee prescribed cover all correspondence and attendances necessary for preparing the defence.

DUBLIN COUNTY COUNCIL NOTICE TO PURCHASERS OF NEW HOUSES AND TO THEIR SOLICITORS

THE Dublin County Council cannot take over as public roads or maintain private roads in the County unless these private roads have been constructed and maintained in accordance with the Council's standards and are provided with adequate lighting facilities. The attention of Purchasers of houses on new estates, and the particular attention of their Solicitors is therefore directed to the absolute necessity of ensuring before closing the Sale that the roads, if not already in charge of the Council, are, or at an early date will be, completed to the required standard. If, exceptionally, an Undertaking for completion to standard has to be accepted to close an urgent Sale, it is suggested that the Undertaking should be for completion by a specified early date, that it should be legally enforceable, and should, if necessary, be acted on when the due date arrives. *Indemnities may save Purchasers cost of road construction but they will not save them the hardship of having to enter and leave their homes, possibly for years, over unmade and unlighted roads.* Close attention to this matter, and absolute insistence by Solicitors on compliance with the appropriate

Requisition, will prevent much trouble and inconvenience to Purchasers and will safeguard them against the risk of being obliged in accordance with the Public Health Acts to bear the expense of bringing the roads fronting their houses up to standard preparatory to their being taken over and maintained by the Council.

Purchasers should also ensure that the arrangements for maintenance and repair of drains, sewers, and so forth, serving the houses are satisfactory.

Dated this 1st day of December, 1950.

J. D. WILLIAMS,
11 Parnell Sq., Dublin. Acting County Secretary.

PRESENTATION OF PARCHMENT CERTIFICATES TO NEWLY ADMITTED SOLICITORS

A CEREMONY for the formal presentation of parchment certificates to solicitors admitted during the past six months was held in the Members' Hall, Solicitors' Building, on Thursday, 23rd November, 1950. The ceremony was attended by the solicitors to whom certificates and awards were presented, and by their friends. The President, Mr. William J. Norman, addressed the meeting as follows:—

“Ladies and Gentlemen,

“I am very pleased to be here to-day to introduce a new function in the history of our Society. The Council have decided that a formal ceremony should be held twice in each year in the Society's Hall at which the President, for the time being in office, will present the parchment certificates of admission to solicitors who have been admitted by the Chief Justice during the preceding six months after passing the Society's examinations. The admission of a young man or a young lady to be a member of this profession is naturally a red-letter day in their lives, and the Council feel that it should be marked by a special ceremony at which they should be welcomed into the profession by their colleagues in the presence of their relatives and friends.

“I should first like to congratulate those of you who have been admitted and to express the hope that you will be successful in your professional careers, and that you will do justice to this old and honoured profession. I am a great believer in the value of tradition. I think we all find as we go through life and grow older that the things of real and abiding value are the things which have stood the test of time and the judgment of men over the years. Never forget that you have entered a profession which is founded on traditions which have been handed down through the centuries, and which

govern the professional conduct of solicitors towards their clients on the one hand and between themselves on the other.

"The three oldest professions which, at one time, were the only professions are the clergy, the law and medicine. They have a characteristic which is shared by every calling that can be properly regarded as a profession. The essential characteristic of every profession is that admission is limited to those who after proper examination show themselves duly qualified to practise it, and that when a person has been admitted to the profession his first duty is towards his client and his second towards himself. If there is a conflict between the two interests the duty towards the client must prevail. This concept of professional duty is particularly important in our profession where clients entrust us daily with their family secrets, their reputation, their money, and regard us as their guides, philosophers and friends. It is particularly important that a young solicitor should realise this at the outset because in the early years of practice, before he has acquired the balanced judgment that comes with maturity, he may find himself in a situation where he may be tempted, for the sake of some financial gain or some passing advantage, to do something which is contrary to the code of honour of the profession. I do not propose to give you a long lecture here to-day. You have all had the benefit of the lectures on the Rights, Duties and Responsibilities of Solicitors, which you heard as apprentices. If you observe the precepts enjoined in these lectures you will not go far astray, but if you ever find yourself in a position of doubt as to the proper course to be adopted, I would advise you to write to the Secretary of this Society, asking for the Society's guidance and with its opinion to protect you, you may rest assured that you can be certain of doing the right thing. Before distributing the parchment certificates I would ask each of you to do two things:—(1) Become a member of the Incorporated Law Society from which you received your professional education and which is the representative body of the profession you are now joining; (2) Join the Solicitors' Benevolent Association which is our only professional charity and which provides assistance for members of the profession who, through no fault of their own, have fallen on evil days. The annual subscription is only £1, and Mr. Glynn, Hon. Secretary of the Association, will be very glad to hear from you."

The following received Certificates of Admission :
Christopher J. R. Beatty; William L. Carroll;
Kenneth Francis Clear; Augustine I. Cunningham;

Andrew Patrick Curneen; Dermott Curran; John Anthony Dillon; Richard Francis Gallagher; Dermot M. O. Gleeson; Joseph J. Hughes; Thelma King; Liam Desmond McGonagle; Herbert E. St. George McClenaghan; Sean J. Magee; James Marshall; Philip T. Meagher; Augustine A. Mooney; Louis Noonan; Patrick Joseph Noonan; Norman Arthur Peilow; Patrick Quinn; John Nathaniel Ross; Andrew Francis Ryan; James J. Sheerin; Philip Sheil; Patrick Joseph Skehan; Michael M. Smyth; James Tuohy; Richard Woulfe.

Mr. Andrew P. Curneen received the Certificate for the award of the Overend Scholarship.

Mr. Liam D. McGonagle received a Silver Medal.

OBITUARY

MR. JOHN R. PEART, Solicitor, died at his residence, 18 Greenfield Park, Donnybrook, Dublin, on 2nd September, 1950.

Mr. Peart who was formerly a barrister-at-law, was admitted in Hilary Sittings, 1918, and practised at 35 Westmoreland Street, and 38 St. Stephen's Green, until his retirement in June, 1949.

MR. JOHN KELLY died at his residence, Belclare Lodge, Westport, Co. Mayo, on 24th November, 1950.

Mr. Kelly served his apprenticeship with the late Mr. Henry J. Concannon, Solicitor, Tuam, Co. Galway, was admitted in Michaelmas Sittings, 1911, and practised at Westport until his appointment as Co. Registrar in 1929.

MR. CHARLES J. CROWLEY, Solicitor, died at 64 North Circular Road, Dublin, on 2nd December, 1950.

Mr. Crowley served his apprenticeship with his father, the late John Crowley, 50 Lower O'Connell Street, Dublin, was admitted in Hilary Sittings, 1905, and practised at 52 Lower O'Connell Street, Dublin, as senior partner in the firm of Messrs. Crowley & Bolger until his retirement in 1924.

MR. FRANCIS J. ALLEN, Solicitor, died at his residence, 92 Ranelagh Road, Dublin, on 3rd December, 1950.

Mr. Allen served his apprenticeship with the late Mr. A. E. Goodbody, Solicitor, 30 College Green, Dublin, was admitted in Hilary Sittings, 1917, and practised at 43 Dame Street, Dublin.

REGISTRATION OF TITLES ACT, 1891 AND 1942

NOTICE.

Folio 6741.

COUNTY MAYO.

Registered Owner: MARY IVERS.

An application has been made to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 20th day of December, 1950.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of Mary Ivers to Oa. Or. 6½ p. of the lands Kiltimagh, situate in the Barony of Gallen and County of Mayo, being the lands comprised in said Folio.

NOTICE.

Folio 1607.

COUNTY LIMERICK.

Registered Owner: MARY HERBERT.

An application has been made to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 20th day of December, 1950.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of Mary Herbert to ra. ir. 18p. of the lands Sallymount situate in the Barony of Clanwilliam and County of Limerick, being the lands comprised in said Folio.

EXAMINATION RESULTS.

Intermediate Examination

At the Intermediate Examination for apprentices to Solicitors held on the 2nd and 3rd days of October, the following passed the examination.

Passed with Merit: 1. Colm Price. 2. John Michael McEvoy.

Passed: Brendan E. Boushel, Eileen de Burca, William C. M. Corrigan, Stephen Patrick Derham, Kevin C. Fawsitt, Donal Paul Gallagher, Peter D. P. Gallagher, Edith E. M. Keaney, Edward Minogue, Labhras C. Ó Raghallaigh, Brian Price, Eunice D. J. Spendlove, John Daniel W. Warren.

Twenty-two candidates entered; 15 passed; 7 were postponed.

Final Examination

At the Final Examination for apprentices to solicitors held on the 2nd, 3rd and 4th days of October, the following passed the examination and their names are arranged in order of merit:—

1. Liam Desmond McGonagle. 2. John C. Reedy. 3. John S. Wilcock. 4. Joseph J. Grace. 5. Richard Ryan. 6. Gerald J. M. Moloney. 7. Thelma King. 8. Joseph J. Hughes. 9. Arthur Dey. 10. Andrew F. Ryan. 11. Augustine I. Cunningham. 12. James Marshall. 13. John Patrick Sheehy. 14. James J. Sheerin. 15. Michael D. Lambe, Gerald J. Lyons, Philip Sheil. 18. James McD. Kerr. 19. Helena B. A. O'Doherty. 20. Charles James Markey. 21. Edward J. Barrett. 22. John N. Ross. 23. Cornelius J. Noonan. 24. Charles P. Forde. 25. Eamonn Greene. 26. Patrick Quinn. 27. Louis J. Noonan. 28. Michael J. Leech. 29. Patrick Hugh O'Doherty. 30. Kenneth F. Clear. 31. Ronald H. C. O'Doherty. 32. Patrick J. Noonan. 33. Edward O'Carroll.

Forty-three candidates entered; 33 passed; 9 were postponed; 1 did not attend.

The Council has awarded Silver Medals to Liam Desmond McGonagle, John C. Reedy, John S. Wilcock and Joseph J. Grace.

SCHOLARSHIPS, 1950

The Overend Final Examination Scholarship (Real Property and Conveyancing), was awarded to Andrew P. Curneen, who served his apprenticeship

with Mr. Alfred A. Rochford, Tubbercurry, Co. Sligo, and Mr. Philip A. E. Gallagher, Tubbercurry, Co. Sligo.

The Findlater Scholarship (for competition between the candidates at the Final Examinations held in October, 1949, and April, 1950), was not awarded as the standard of merit was insufficient.

EXAMINATIONS, 1951

<i>Examination</i>	<i>Date</i>	<i>Last date for lodging notice</i>
First Irish	February 2nd.	January 12th
Second Irish	February 2nd and 3rd	January 12th
Final	April 2nd, 3rd and 4th	March 12th
Preliminary	April 2nd and 3rd	March 12th
Intermediate	May 21st and 22nd	April 30th
First Irish	June 29th	June 8th
Second Irish	June 29th and 30th	June 8th
Final	Sept. 10th, 11th and 12th	August 20th
Intermediate	September 10th and 11th.	August 20th
Preliminary	September 11th and 12th	August 21st

First Irish	September 28th	September 7th
Second Irish	September 28th and 29th	September 7th

LECTURES, HILARY SITTINGS, 1951

COURSE A lectures will commence on Thursday, 11th January, at 2.15 p.m.

COURSE B lectures will commence on Friday, 12th January, at 2.15 p.m.

COURSE C lectures will commence on Monday, 15th January, at 3.30 p.m.

PRESENTATION TO MR. T. B. COOLEY

A Committee has been formed to collect subscriptions for a presentation to Mr. Cooley, the Society's Librarian, on the occasion of his retirement. The project has the goodwill and support of the Council, and no other presentation is being arranged. Subscriptions should be sent to any of the following: Desmond Moran, 34 Lr. Ormond Quay, Dublin; James A. Geary, Solr., Irish Land Commissioners, 8 Clare Street, Dublin; Ernest Proud, 4-5 Trinity Street, Dublin.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

Last year over £1,300 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

The active co-operation of the Profession in the Association's good work is asked for and all who are not members are urged to join without delay.

Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

Address:

THE SECRETARY,

SOLICITORS' BENEVOLENT ASSOCIATION,

12 NASSAU STREET, DUBLIN.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

RESEARCH REPORT NO. 10
BY
J. H. GOLDSTEIN
AND
R. F. W. WILSON

Submitted to the Journal of Polymer Science
Part A-1, Vol. 1, No. 1, 1963

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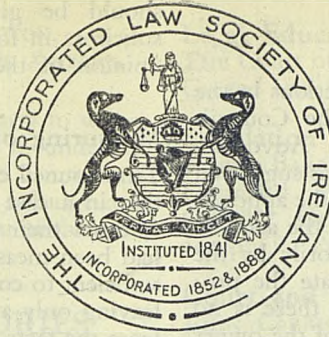
Submitted to the Journal of Polymer Science
Part A-1, Vol. 1, No. 1, 1963

The Solubility of Polystyrene in Benzene

J. H. GOLDSTEIN AND R. F. W. WILSON

DEPARTMENT OF CHEMISTRY, UNIVERSITY OF CHICAGO

CHICAGO, ILLINOIS



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
ROGER GREENE

Vice-Presidents
NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT

Any member who has not taken out and stamped a practising Certificate for the year to end 5th January, 1952, should do so immediately. A "late" Certificate, i.e., stamped after 5th February, 1951, must be produced to the Society within one month after date of stamping. Members are reminded that failure to comply with the requirements in regard to stamping, and, where necessary, producing stamped Certificates to the Society, will disentitle them to charge costs.

MEETINGS OF THE COUNCIL

December 14th

The President in the Chair; also present: Messrs. Niall S. Gaffney, Vice-President; Seán Ó hUadhaigh, Daniel O'Connell, John J. Bolger, John J. Dundon, James J. O'Connor, Reginald J. Nolan, James R. Quirke, George A. Overend, Patrick R. Boyd, John J. Sheil, John J. Nash,

Laurence F. Branigan, Joseph P. Tyrrell, Joseph Barrett, John Carrigan, Gerald J. O'Donnell, Patrick F. O'Reilly, Thomas A. O'Reilly, William J. Norman, Desmond R. Counahan, Arthur Cox.

The following was among the business transacted.

Incorporated Law Society of Northern Ireland

The following nominations as Extraordinary members of the Council from the Incorporated Law Society of Northern Ireland were adopted:— Messrs. Alexander S. Merrick, George Murnaghan, Charles MacLaughlin, James C. Taylor.

Rents and Leaseholds Commission

The Council considered a draft memorandum of evidence on the Rent Restrictions Acts prepared by Messrs. Cox and Overend for submission to the Rents and Leaseholds Commission as the evidence to be tendered on behalf of the Society. After a discussion in which a number of amendments

to the draft memorandum were suggested and noted the memorandum was approved.

Defence Bill, 1950

THE Secretary submitted a report on sections in the Bill which require consideration by the Council. Section 15 requires that the Judge Advocate-General shall be a Barrister-at-Law. It was suggested that solicitors should also be eligible for the appointment. Sections 32 and 33, dealing with the acquisition of land by agreement or compulsorily by the Minister for Defence, do not incorporate the provisions of the Lands Clauses Acts and there is no provision for the payment of the costs of the owner of deducing title in the case of compulsory acquisition. It was decided that representations on these matters should be made and that the President and Secretary should seek an interview with the Secretary of the Department.

January 11th

THE President in the Chair: also present: Messrs. Francis J. Gearty, Vice-President; James J. O'Connor, James R. Quirke, Thomas A. O'Reilly, Laurence F. Branigan, William J. Norman, John J. Bolger, John J. Sheil, Henry St. J. Blake, John Carrigan, Joseph P. Tyrrell, John S. O'Connor, Daniel O'Connell, Louis E. O'Dea, John R. Halpin, Reginald J. Nolan, John J. Nash, Patrick F. O'Reilly.

The following was among the business transacted:

Tortfeasors Bill, 1950

THE Attorney General requested the observations of the Council on the Tortfeasors Bill, 1950, which was introduced in Seanad Eireann last month. The Bill is an Act to amend the law relating to proceedings against, and contribution between, tortfeasors, and it provides that where an injured person recovers judgment against a tortfeasor for damages in respect of an injury by tort, the judgment shall not be a bar to an action by the injured person for damages in respect of that injury against any other person, whether that other person is or is not alleged to be liable as joint tortfeasor with the original defendant. The Bill also contains provisions as to damages and costs where two or more tortfeasors are sued separately, and apportionment of damages amongst tortfeasors *inter se*, and contribution between tortfeasors. The Bill had been referred to a Committee for their report and the Council now considered and adopted the report and directed that it should be sent to the Attorney General.

Entries by solicitors in foreign directories

ON a report from a Committee the Council decided

to issue an opinion as to the information which should be given in entries published by Irish solicitors in foreign law lists and directories. The opinion of the Council is printed below.

Measuring of Costs

THE Council considered a complaint from members that in a case in which they were concerned with Counsel their costs of an application to the Court had been measured at an amount which was barely sufficient to cover Counsel's fees and disbursements, leaving only a very small margin. It was not clear from the facts whether or not Counsel had expressly or by implication consented to the measuring of costs. The Secretary reported that from the records of the Society it appeared that on several occasions the Society has objected to the costs of a party being measured without the consent of the solicitor, or Counsel acting on the solicitor's instructions. The Council decided to direct the attention of members to the fact that in general a solicitor is entitled to ask to have his costs taxed, and that the Court will not, in the absence of consent, measure the costs. If a solicitor has reason to believe that if the costs are measured an inadequate amount will be allowed his proper course is either to ask the Court for an order for taxation, or instruct Counsel to do so. A copy of a resolution of the Bar Council published at page 350 of the *Irish Law Times and Solicitors' Journal*, of 12th December, 1914, is printed below.

MEASURING OF COSTS: RESOLUTION OF THE BAR COUNCIL

THE following resolution of the Bar Council of Ireland was published at page 350 of the *Irish Law Times Solicitors' Journal*, of 12th December, 1914:—

“The Council wish to call the attention of the Bar to Or. LXV, r. 25, of the Supreme Court Rules dealing with the measurement of costs of interlocutory applications and to inform the profession that this rule has of late not been strictly adhered to, with the result that in many cases the costs as measured by the Court do not even cover the solicitor's outlay.

“The Council suggest that in future members of the Bar shall not ask the Court to measure the costs of interlocutory proceedings in which they represent the successful party without definite instructions, and that when they appear for the unsuccessful party they shall not ask to have the costs measured

unless they can show special circumstances within the meaning of the Rule—By order.”

A. B. BABINGTON,
Hon. Secretary.

Order LXV. Rule 25.

“ . . . or on the application of the party to whom such costs are directed to be paid, or if, under the special circumstances of the case, the Court or a Judge shall so think just, the Court or a Judge may direct payment of a sum in gross in lieu of the costs to be taxed.”

ENTRIES IN DIRECTORIES

In the opinion of the Council there is no objection to the insertion, whether for payment or not, of the name, address and description of a solicitor in a directory (including a local directory), provided that it is open to the whole profession (or as the case may be, to all local solicitors) and that the announcement does not take the form or have the appearance of an obvious advertisement for the solicitor himself.

Examples of entries which in the view of the Council are objectionable are those which include non-legal appointments, the name of any particular client for whom the solicitor acts, types of legal work which the solicitor is prepared to undertake, such as conveyancing or advocacy, or the statement “Practising in Local Courts” or the inclusion of the names of firms for whom a solicitor acts as professional agent.

In the opinion of the Council, entries should be confined to the name and address of the solicitor or firm together with the names of the individual partners with their legal appointments, and such postal information as may be necessary.

STATUTORY COMMITTEE

The following members of the Council have been appointed by the Chief Justice to constitute the Statutory Committee for the year to end 23rd November, 1951: Chairman, William J. Norman; Henry St. J. Blake; Patrick R. Boyd; Arthur Cox; Roger Greene; Daniel O’Connell; Seán Ó hUadhaigh.

COURT OF EXAMINERS

The President, Roger Greene; the Vice-Presidents: Niall S. Gaffney and Francis J. Gearty; the last President, William J. Norman; Patrick R. Boyd, Arthur Cox, Desmond Mayne, Patrick F. O’Reilly, James R. Quirke.

STANDING COMMITTEES

Legal Education Committee

THE COURT of Examiners with Messrs. Barrett, Cox, Greene and Quirke.

Legislation and Privileges Committee

JOSEPH BARRETT, John J. Bolger, John R. Halpin, Desmond Mayne, John J. Nash, Thomas A. O’Reilly, George A. Overend, Dermot P. Shaw, Joseph P. Tyrrell.

Court and Offices Committee

JOHN CARRIGAN, Desmond R. Counahan, Arthur Cox, Daniel O’Connell, James J. O’Connor, Gerald J. O’Donnell, Patrick F. O’Reilly, Seán Ó hUadhaigh, James R. Quirke.

Finance Committee

HENRY ST. J. BLAKE, Patrick R. Boyd, William L. Duggan, William S. Huggard, John J. Nash, John S. O’Connor, Louis E. O’Dea, Patrick F. O’Reilly, James R. Quirke.

Gazette Committee

JOHN J. BOLGER, Laurence F. Branigan, William S. Huggard, John R. Halpin, John S. O’Connor, Louis E. O’Dea, Thomas A. O’Reilly, Maurice Power, John J. Sheil.

The President, Vice-Presidents and the last President are ex-officio members of the Standing Committees.

INCORPORATED LAW SOCIETY OF NORTHERN IRELAND

MR. GEORGE E. WARREN has been elected President for the year 1950-51. The following are the extraordinary members of the Council of this Society: Messrs. Alexander S. Merrick, George Murnaghan, Charles MacLaughlin, James C. Taylor.

SOUTHERN LAW ASSOCIATION

MR. TIMOTHY A. BUCKLEY has been elected President of the Association for the year 1950-51. The following are the extraordinary members of the Council of this Society: Timothy A. Buckley, John K. Coakley, John F. Foley, Edmund Hayes, Barry M. O’Meara.

PARLIAMENTARY PROCEEDINGS

Stamp Duty on Indentures of Apprenticeship
To the Minister for Finance, 13th December.

QUESTION: Deputy Peadar Cowan.

To ask the Minister for Finance if he will state

the aggregate sum that has been paid to the treasurer of the Society of King's Inns by the Commissioners for Inland Revenue for the period 31st March, 1925, to 31st March, 1950, out of stamp duties collected on indentures of apprentices to solicitors, and if he is aware of any function or service performed by the Society of King's Inns for the benefit of apprentices during that period, and whether he intends to introduce proposals for legislation to amend the Stamp Act, 1891, so as to provide that the Incorporated Law Society shall become the recipient of £14 out of the duty on each indenture.

ANSWER :

An aggregate amount of £20,720 has been paid over to the treasurer of the Society of King's Inns by the Revenue Commissioners during the period from the 31st March, 1925, to the 31st March, 1950, out of the stamp duties paid on Articles of Clerkship to a Solicitor.

The statutory provision authorising these payments originated in 1790, and, so far as I am aware, it has never been established that the purpose of the payments was to enable the Society to provide facilities for Solicitors' Apprentices.

The question of amending the Stamp Act, 1891, with regard to the duty payable on Articles of Clerkship to a solicitor is receiving consideration.

APPROVAL AND CONTRACT FEES

Certificate under Section 6, Finance Act, 1928

THE following circular has been sent to the Bar Associations by direction of the Council.

"Dear Sir,

"I am directed by the Council to draw your attention to the following resolution which was published in the issue of the Society's GAZETTE for March, 1947:—

"That in the opinion of the Council no solicitor should include in any conditions of sale or contract for sale prepared by him any condition or clause providing for the payment by the purchaser to the vendor or his solicitor of a fee for the approval of the draft conveyance, assignment, or transfer, and that the profession throughout the country be requested to give effect to the resolution."

The resolution of the Council applies to all sales either by public auction or by private treaty.

In an article published in the same issue of the GAZETTE the reasons which led the Council to reach this decision were set out at some length. It was pointed out that the scale fee charged by the vendor's solicitor to his client covers all the

work done in connection with the preparation of the contract, deducing title, and completing the sale, and that the solicitor is not entitled to charge any costs over and above the scale fee. If the conditions of sale or contract for sale contain a stipulation obliging the purchaser to pay an approval fee, the vendor's solicitor on receiving it must either pay it over to his client, or allow it as a credit in the bill of costs. In so far as the public is concerned there seems no particular reason why a purchaser should be obliged to indemnify the vendor against any part of the costs of the sale. The right to exact an indemnity of this kind depends entirely on contract, and the practice of imposing such a liability on the purchaser is purely arbitrary.

The Council are of the opinion that any custom or practice which imposes on either party to a sale an obligation to pay all or part of the other party's costs is against the interests of the profession. The custom of exacting an approval fee is such a practice. In the shortsighted view a particular solicitor may find it to his advantage in a particular case to make the other party liable for his client's costs, but the interests of the profession as a whole do not necessarily coincide with the interests of a solicitor in a particular case, and the same solicitor may have the experience in other cases of having to apply for payment of his own costs to a client who is already liable under the contract for the costs of the other party's solicitor. Generally speaking the practice of making a purchaser indemnify the vendor against the whole or part of the costs causes purchasers to employ the vendor's solicitor, rather than be separately represented with liability for extra costs. If this practice became universal the remuneration of the profession as a whole from conveyancing business would be reduced by an amount varying from 25 per cent. to 50 per cent.

Another consideration which led the Council to disapprove of the practice of charging an approval fee is as follows:—

The vendor's solicitor is legally bound to pay or credit it to his client. A practice has grown up whereby a solicitor collects the approval fee and then informs the vendor that he will allow him an abatement of the costs. The client thinks he has got the abatement, but in fact it is off-set by the approval fee which has been collected by the solicitor. The Council disapprove of this practice on ethical grounds, and on the ground that it countenances the idea of under-cutting costs.

The same considerations which apply to approval fees are equally applicable to what has become known as a contract fee, that is, a provision in a contract for sale obliging the purchaser to pay a sum for the preparation of the contract by the vendor's solicitor,

and to the practice of seeking to make a purchaser pay a fee for the certificate under Section 6 of the Finance Act, 1928. In the opinion of the Council there is no justification for the contract fee. The Income Tax certificate should be furnished in a reply to a requisition on title without charge against the vendor or the purchaser.

I am directed by the Council to ask your Association to inform its members that the recommendations of the Council on the above-mentioned matters should be observed in the interests of the profession as a whole.

Yours faithfully,

ERIC A. PLUNKETT,
Secretary.

REGISTRY OF DEEDS

Preparation of Memorials

The following memorandum, which in the opinion of the Council should be of great advantage to solicitors, has been received from the Assistant Registrar of Deeds. Members of the Society are requested to retain it for reference. If the directions given are carried out, the satisfactory operation of the Registry of Deeds will be greatly facilitated:

1. The memorial, which may be printed or lithographed, must be put into writing, upon parchment and addressed to the Registrar.

Obs.—It is essential that the writing shall be legible. Many memorials submitted for registration are deficient in this regard.

Obs.—In practice we do not accept typescript or writing with a biro pen—both for the same reason: that they can when applied to parchment be rubbed out with an ordinary pencil eraser.

Obs.—Only the best quality black ink should be used. We have a considerable number of memorials and requisitions for negative searches already quite illegible because of the fading of inferior ink. Green ink will hardly last a month on parchment.

Obs.—The memorial must bear a duty stamp of 2s. 6d., except where the duty on the Deed is less than this amount, when the duty on Deed and Memorial should be the same.

2. The memorial then begins: "Memorial of a dated day of....., 19....., made between;" and here should follow an exact copy of the Deed (*mutatis mutandis*) down to the end of the parties.

3. The memorializing of recitals is optional except where the subsequent grant takes the form: "All the property set out in recited Deed of In such case the deed referred to should be recited in *extenso*."

4. The memorializing of the operative part of the

Deed brings us to the fact that the Memorial should be made *in the past tense*. To follow the Deed and write "Now this Indenture witnesseth" as is frequently done is obviously incorrect, since the Memorial is not an Indenture nor can it "witness" anything.

Obs.—The insertion of the consideration is optional. It is sufficient to write "for the consideration therein," but where the Deed deals with settled property and settled Land Act Trustees are parties it is desirable to add the words "paid to the Trustees" after the words "for the consideration therein." This makes it clear that the Trustees, though parties to the Deed, are not actually grantors. It is the practice of the Registry to put on as grantors all *unexplained* parties to the Memorial.

Obs.—It should be taken as a general principle that the property is to be "expressed and mentioned in the same manner as in the deed itself," and it might be advisable to copy the deed at this point strictly, for though in practice measurements and boundaries, etc., are not compared, it has been found that the making of a judicious selection from the deed for the purpose of the memorial nearly always leads to confusion and frequently to downright error.

Obs.—Where alteration of boundaries has made an old situation incorrect, and where a new deed has copied this situation from the old, e.g., where premises once in the County of Dublin are now in the City, it is permissible to add *in the memorial only*, and after the old situation, "which said premises are now in fact in the City of Dublin."

N.B.—There is a great deal to be said in favour of memorializing the whole deed. In such case should the Deed get lost or mislaid a permanent record of the contents is immediately available.

5. This brings us to the habendum, and many solicitors content themselves with the simple statement, "To Hold as therein.") This is an easy way out and, if it is taken, the nature of the deed should appear at the beginning of the Memorial, i.e., instead of "Memorial of an Indenture dated" it should read, "Memorial of Indenture of Lease, Mortgage Settlement, etc., dated" as the case may be. This is necessary as the Registry is required, in abstracting all Memorials, to state "the general nature of the instrument."

Obs.—In the case of Leases, it is desirable that the term and rent should be stated in the habendum, as the statutory form of abstract provides a special column for these particulars. The substitution of "subject to" for "yielding and paying" in the case of a *new* rent is inaccurate and should be carefully avoided.

6. Now comes the setting out of the Deed which is the source of 75 per cent. of our trouble here. The first point to be grasped is that the setting out refers to the execution of the deed only and should be completed *before* the Memorial is signed and sealed. So often is this obvious requirement honoured in the breach rather than the observance that I transcribe hereunder Maguire p. 51, para. 2 in full:—

“The names and additions of the witnesses to the instrument ought to be set out in the memorial before the latter is signed and sealed. This is one of the important matters to be stated in the memorial, with the view to the identity and authenticity of the instrument. It is the clear intention of the Statute that the statement so made in the memorial should, like every other statement required by the Statute, be authenticated by the signatures and seals of the parties making it. Hence, the insertion of these particulars in the memorial after, instead of before, the signing and sealing is quite irregular, and has been judicially condemned.”

The country solicitors must take most of the blame here, in that in most cases they send Deed and Memorial to their Town Agents with the words, “which said Deed (and this Memorial) as to (their) execution. . .” leaving the Agent to do the rest. And even these few words are incorrect since you cannot set out the signing and sealing of the Memorial as it has not yet been done. Apart from the irregularity of this practice, the drawbacks are obvious: the art of writing is near to being a lost one, and the local solicitor or his clerk should know, what the scrawl that often passes for a signature, address and description purports to be. Locally then, the necessary particulars can be correctly transferred to the Memorial, whilst if the matter is left to the Town Agent, he or his clerk then are often hopelessly at sea as to what the witness’s signature is meant to be and what is the address and description of the witness. The address and description are not always in the Deed, but they must appear in the setting out so that the possibility of having a wrong address and/or description inserted in the setting out is a danger, and a danger that obviously cannot be detected by our Comparison Officer.

So vexatious has this matter of the setting out always been that I propose to have an instruction issued by the Registrar that as and from the 1st January, 1951, all memorials in which the setting out of the Deed has not been completed before they are handed in, will be refused *for comparison*.

7. The fact that one witness is sufficient in the Deed is often carried by analogy into the Memorial,

but the Memorial must be signed and sealed in the presence of *two* witnesses, the second witness being not necessarily a witness to the Deed, and such a witness must add his address and description.

8. The affidavit of perfection is usually as one would expect accurate enough. The main thing to be watched is that it should be dated on or subsequent to the date of the Deed, that any alterations be initialled by the Commissioner or P.C., and if taken before a P.C. for the said County or City as the case may be. Affidavits sent to out-of-the-way places should request the person before whom they are sworn to state after his signature that he is qualified to take Affidavits in that particular place.

9. The certificate of contents is often dealt with too cavalierly. A conventional 1 grantor 1 denomination 7 folios is made to serve cases where it has no application. Perhaps if the certifier were aware that if the certificate be untrue “the person subscribing the same shall forfeit £5 to be recovered by Civil Bill by any officer in the Registry Office who will sue for the same” he would be more careful.

10. One other point may be mentioned: the conveyancer who turns to page 376 and under the heading “forms” comes on “Memorial of an Indenture containing nothing more than the statutory requirements,” and proceeds to draw his Memorial on these lines without observing that the following pages give “forms” also—for Lease, Mortgage, etc., and so perpetrates a memorial in an obsolescent form which necessitates the putting of all the parties on our books as grantors and the describing of the general nature of the instrument as “not disclosed by memorial.”

BANK STRIKE

STAMPING OF DEEDS, PAYMENT OF DEATH DUTIES

STAMPING of Annual Practising Certificates. Land Registry fees *purchased in the Stamp Office, Four Courts*.

Arrangements have been made with the Revenue Commissioners that pending the restoration of normal banking facilities, solicitors’ unguaranteed cheques will, in the absence of special reasons, be accepted in the Stamp Office in discharge of duties. Client’s cheques will not be accepted without special permission from the Commissioners. A Solicitor wishing to pay duties by means of a clients’ unguaranteed cheque instead of by his own cheque should write to the Revenue Commissioners stating the circumstances.

ROAD TRAFFIC PROSECUTIONS

MINIMUM FEES.

Defence of members of Automobile Association and Royal Irish Automobile Club

THE Council have adopted the following as the proper scale of costs to be charged by solicitors defending prosecutions under the Road Traffic Acts on the instructions of the above-mentioned bodies, which have been notified thereof by the Society:—

(a) Where a solicitor is retained to defend a prosecution at a Court in the town where he carries on his practice, a fee of two guineas, and when he is retained to defend a prosecution in a Court situate in a town where he does not carry on practice, a fee of three guineas; (b) the fees for defending a second or subsequent cases on the same day at the same Court should be the same as in the first case, except where the defence arises out of the same facts and is conducted on behalf of the same defendant as in the first case, in which event the fee for the second and each subsequent case shall be one guinea; (c) in cases of a serious nature or involving additional work and responsibility, the above scale shall not apply and a special fee should be required. Members are requested to adhere to the prescribed scale of fees.

The above mentioned scale applies only where the defence is conducted on behalf of the A.A. or the R.I.A.C. In other cases the minimum fees are as stated in the Society's Gazette of April, 1949, page 68, and November, 1949, page 26.

REGISTER A

ASSISTANT SOLICITOR (Lady) required by firm in provincial city. State any previous experience and salary required. Box No. A 128.

REGISTER C

WANTED 1923 *Acts of the Oireachtas*. Messrs. Maguire and Maguire, Solicitors, Ballinamore, Co. Leitrim.

OBITUARY

MR. ALBERT E. PRENTICE, Solicitor, died at his residence, 18 Sydney Avenue, Blackrock, on the 8th of January, 1951.

Mr. Prentice served his apprenticeship with the late Mr. Hunt W. Hardman, Solicitor, 14 Molesworth Street, Dublin, was admitted in Easter Sittings, 1913, and practised at 16 Lower O'Connell Street as Senior Partner in the firm of Messrs. Matheson, Ormsby and Prentice.

The Solicitors' Benevolent Association

The Association, which operates throughout the whole of Ireland, cares for Solicitors, their wives, widows and families who have fallen on hard times.

Last year over £1,300 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

The active co-operation of the Profession in the Association's good work is asked for and all who are not members are urged to join without delay.

Membership Subscription: £1 1s. od. (or 10/6 if admitted less than 3 years) a year. £10 10s. od. life membership.

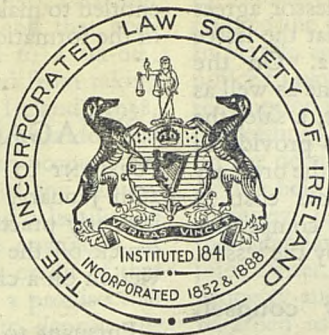
Address:

THE SECRETARY,

SOLICITORS' BENEVOLENT ASSOCIATION,

22 NASSAU STREET, DUBLIN.

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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

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ROGER GREENE

Vice-Presidents
NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

1ST FEBRUARY, 1951: The President in the Chair. Also present: Messrs. Niall S. Gaffney and Francis J. Gearty, Vice-Presidents, Messrs. Thomas A. O'Reilly, Joseph Barrett, James R. Quirke, James J. O'Connor, Dermot P. Shaw, Reginald J. Nolan, William J. Norman, Laurence F. Branigan, John F. Carrigan, Gerald J. O'Donnell, George A. Overend, Desmond J. Mayne, John J. Nash, Joseph P. Tyrrell, Patrick F. O'Reilly.

The following was among the business transacted:

Lessor and lessee—Incidence of costs

A LEASE of a site was granted for the erection of a dwelling house in consideration of a ground rent and a small fine. There was an open contract between the parties for the granting of the lease. A difference of opinion arose as to the costs for which the lessee was liable and which he should pay, and the matter was referred to the Council who expressed the following opinion:—(a) The lessee is liable for the scale fee of

the lessors' solicitor on the rent, and also for the scale fee of the same solicitor on the fine, but in the case of a transaction made by way of a lease, which is substantially a sale in consideration of a rent and a fine, the Council have already recommended that the agreement between the parties should stipulate that each party will pay his own costs; (b) mortgagees on the lessors' interest were required to join. In the opinion of the Council the lessee is not liable for the costs of the mortgagees' solicitor but is liable to pay the sum of £1 11s. 6d., being the costs of the lessors' solicitor in connection therewith under S.R.G.O. 1884, Schedule 1, part 2, rule 3; (c) it is the right of the lessee's solicitor to stamp and register the lease, but if this right is exercised the lessee must pay the costs of the lessors' solicitor in connection with the execution of the memorial by the lessors; (d) the lessee is liable for the surveyor's mapping fee; (e) the printing charges are included in the lessors' scale fee; (f) the costs in connection with the P.D. stamp are payable by the lessors and are not recoverable against the lessee; (g) under an open contract

for the granting of a lease, the lessee is not entitled to investigate the lessors' title. If the lessor agrees to furnish title he is entitled to insist that the lessee shall pay the costs under Schedule 2. On the making of a lease in consideration of a fine as well as a rent where the transaction is, in effect, a sale, the ordinary practice of the profession is to provide in the contract that title will be furnished in the ordinary way without extra charge; (b) the lessors' costs in connection with the usual certificate of compliance with the building covenant are payable by the lessee.

Documents drawn or settled by counsel. Solicitors' costs

A MEMBER enquired whether a solicitor who instructs Counsel is entitled to charge the usual items in his costs for drawing a pleading or other document, which is, in point of fact, drawn entirely by counsel and returned to the solicitor for approval and engrossment. In the opinion of the Council, where it is necessary or proper to employ counsel, the real question for decision is not whether the solicitor's charges for drawing the document should be allowed or disallowed, but whether the whole or part of the fee paid to counsel is chargeable by the solicitor against the client in addition to the solicitor's charges. The solicitor's obligation to the client is either to draw the document himself or to have it drawn by some other duly qualified and competent person, and he accepts legal responsibility for the document whether it is drawn by himself or another. It was decided by the High Court in *re E. W. King & Co. Ltd.* (1944, I.R. 455), that the client's liability for the fee paid to counsel in addition to the solicitor's charges for drawing the memorandum and articles of a company was not affected by the fact that counsel at his own request drew the documents without the assistance of a draft prepared by the solicitor. In the opinion of the Council the liability of the client is the same whether the document is drafted by the solicitor and submitted to counsel, or drafted by counsel and submitted to the solicitor, and the whole amount of counsel's fee is chargeable against the client unless it is a special fee, in which case other considerations may arise.

Memorandum and Articles of Association prepared by accountants

A MEMBER reported that he had been requested by an accountant to make the declaration of compliance with the statutory requirements of Section 17 (2) of the Companies (Consolidation) Act, 1908. The memorandum and articles had been prepared by the accountants and the solicitor was not engaged in the formation of the company. It was ordered that the

member should be informed that a solicitor is not entitled to make this declaration unless he is engaged in the formation of the company.

PROCEEDINGS AGAINST SOLICITORS

PURSUANT to an order of the Chief Justice dated 26th January, 1951, the name of Louis Gillic, who formerly practised at Virginia, Co. Cavan, has been struck off the Roll of Solicitors following his conviction on a criminal charge.

PURSUANT to an order of the Chief Justice dated 26th January, 1951, made on a report from the Statutory Committee, Mr. Michael J. K. Dore, who practised at Newcastle West, Co. Limerick, has been suspended from practice until further order of the Court.

PROCEEDINGS OF THE OIREACHTAS

To the Minister for Finance.

QUESTION: To ask the Minister for Finance if he will state the amounts collected by the Revenue Commissioners during the period 31st March, 1925, to 31st March, 1950, in stamp duties on (a) indentures of apprentices to solicitors; (b) forms of admission to the roll of solicitors; and (c) annual licences of solicitors.

—Peadar Cowan.

For answer not before Wednesday, 14th February, 1951.

ANSWER: The aggregate amounts of stamp duty paid during the period from the 31st March, 1925, to the 31st March, 1950, on Articles of Clerkship to solicitors and on Annual Certificates taken out by solicitors were £118,400 and £205,997, respectively.

It is estimated that during the same period, stamp duty amounting to £32,600 was paid on instruments of Admission as a Solicitor.

LEGAL DECISIONS AFFECTING THE PROFESSION

Clark v. Ulster Bank, Ltd. (1950), N.I. 132: A solicitor has an account with the Ulster Bank. In 1941 he opened a No. 2 account for the purpose of banking clients' moneys, but he did not state this purpose to the bank at the time. In July, 1944, the solicitor's personal account was in debit to the amount of £12,953, while the No. 2 account stood in credit to the amount of £12,624. The bank accordingly claimed that it was entitled to set off the amount for which the personal account was in debit against the amount which the No. 2 account was in credit. The solicitor sought a declaration against the bank on the grounds (i) that it was a term of the contract between himself and the bank that the bank would honour cheques drawn on No. 2 account while it was in credit; (ii) that the

bank knew at all material times that the No. 2 account was an account of clients' moneys, and that consequently the bank was not entitled to a set-off; (iii) that the bank was in law debarred from taking action by the Solicitors' Act (Northern Ireland), 1938, Section 37(2). The said Section 37(2) provides that a bank, at which a solicitor keeps an account for clients' moneys, shall not, in respect of any liability of the solicitor to the bank (not being a liability in connection with that account) have any right of set-off against moneys standing to the credit of that account. This is however subject to a proviso that nothing contained in the section is to deprive the bank of any right existing at the time when the first optional regulations to be made by the Council of the Northern Ireland Law Society regarding the keeping of clients' money accounts under Section 33 of the Act came into operation. No such regulations had, in point of fact, been made.

It was held by Black, L. J., dismissing the action, that:—(i) In the absence of any agreement to the contrary, a bank is entitled to combine customers' accounts and set off the debit balance of those in debit against the amount standing to the credit of those in credit, unless it has notice that any of these sums are trust funds; (ii) That though the nature or number or magnitude of transactions passing through a particular account of a solicitor to the bank may afford notice to the bank that such account is an account of clients' moneys, this is a question of fact to be determined in each case; (iii) That Section 37(2) of the Solicitors' (Northern Ireland) Act, 1938, applies only to accounts which to the knowledge of the bank are clients' moneys accounts; (iv) That when a Bank acquires notice that one of the accounts kept by the customer is a trust account, it may nevertheless exercise any right of set-off to which it may then be entitled, having regard to the state of the accounts at that time.

Per curiam:—"Accounts are merely entries of transactions in books, and where a customer has several accounts with a banker, the true position at any time between banker and customer will only be found by deducting the aggregate of the customer's debit balance from the aggregate of his credit balances, or vice versa".

Barratt v. Gough, Thomas (No. 2) (Court of Appeal) (1950) 2 All E. R. 1048. The property in question at Oswestry was purchased by the plaintiff in June, 1919, and the documents of title were left in the custody of the defendant as his solicitor. In December, 1919, the plaintiff mortgaged the property to one Reece to secure a sum of £5,000. The defendant acted for both parties in the matter and the documents of title were never removed from his custody.

In February, 1941, Reece died and by his will appointed the defendant and three others as executors. In March, 1944, having previously given six months' notice to pay off the mortgage, the plaintiff instituted redemption proceedings against the executors. These proceedings were adjourned into Court for argument on the defendant's claim to a lien on the documents of title held by him.

Vaisey, J., held (1945) 2 All E. R. 414, that since the defendant had, by the operation of law, become joint owner, subject to redemption, of the mortgaged property and of the title deeds, these deeds must be regarded as having passed out of his custody as solicitor, and, since redemption involved the return by the mortgagee, not only of the estate, but also of the indicia of the title to the estate, he was not entitled to any lien on the documents. The Court of Appeal reversed the order (*ibid*, 650) on the ground that it was premature. In January, 1946, the defendant took a transfer of the mortgage from the mortgagee's executors to himself alone and thenceforth held the documents in question as sole mortgagee. The redemption proceedings were consequently stayed as against the other three executors. In February, 1948, a redemption order was made. The question of the defendant's claim to a lien was expressly left open in the order, with liberty to apply. In February, 1949, the defendant applied by Chancery summons, for *inter alia*, a declaration as to his lien on the documents of title. On 21st March, 1949, Romer, J., following the decision of Vaisey, J., held that the defendant was not entitled to the lien claimed. On the present hearing of the appeal against this decision in October, 1950, it was contended for the defendant that, having received the deeds in his professional capacity, the defendant became entitled to a lien over them so long as they remained in his physical possession, and that a lien so acquired continued to be available against any claim to possession of the documents regardless of any intermediate change in the ownership of the documents or in the identity of the person for whom the defendant held them.

The Court of Appeal (Sir Raymond Evershed, M.R., Asquith and Jenkins, L.J.J.), dismissing the appeal, held:—(i) The defendant's possession of the mortgage deed and the right to demand it from him which the plaintiff now had as a redeeming mortgagor, were referable solely to the relationship of mortgagee and mortgagor, and not to that of solicitor and client. Therefore, the defendant was not entitled to any lien against the plaintiff, so far as the mortgage was concerned; (ii) When a client for whom a solicitor held title deeds mortgaged the property comprised in them to another client of the same solicitor, then, even though the deeds before and after the mortgage remained continuously in the

solicitor's possession, the solicitor held them after completion of the mortgage exclusively in the right and on behalf of the mortgagee. By this change in the character of the solicitor's possession of the deeds, the solicitor's lien against the mortgagor was destroyed, since the conditions necessary to support it, namely, the mortgagor's right or title to the documents, had ceased to exist. Consequently the defendant was not entitled to any lien on the documents.

Per Jenkins, L. J. :—" I see no justification in principle for holding that the mere accident of continued physical possession of deeds by a solicitor necessarily involves the continuance of his lien against the original depositor. No doubt he loses his lien if he parts with possession, but this is far from establishing the converse proposition that if he retains possession, his lien is necessarily preserved. If there is no relationship of solicitor and client at the time of the claim, the solicitor cannot make good his lien by showing that he originally received the deeds from the claimant as his client, and has since retained physical possession of them."

E. v. T. (1949, Scots Law Times, 411):—A complaint was made to the Solicitors' Discipline Committee regarding the conduct of a country solicitor. The Committee reported the case to the Court with a finding that his neglect of the interests of his client and his obstinate delay in carrying out his professional duties amounted to professional misconduct. The respondent, T., had in fact for two years, notwithstanding repeated applications, failed to produce a certain deed and other titles, and knowingly misrepresented the position.

The First Division of the Court of Session (Lord President Cooper, Lords Carmont and Russell), held that such gross professional negligence amounted in this case to professional misconduct and ordered that T. be suspended from practice for one year.

Per curiam :—" The defendant contemptuously disregarded his professional responsibilities in relation to this transaction. Only strong grounds would justify the Court in condoning as innocent what the Statutory Committee, composed as it always is of professional men of the highest repute and competence, have condemned as guilty. The respondent has again and again adopted an attitude of reckless indifference towards the responsibilities which professional status as a solicitor carries with it."

Bailey v. Bullock and others—94 Solicitors' Journal, 689 (1950). As a result of the negligence of the managing clerk of the defendants, a firm of solicitors, in connection with the plaintiff's action for possession of a house, the plaintiff was put to certain expenses.

He and his family had to live for nearly two years as lodgers with his father-in-law. He included in his claim for damages the inconvenience and discomfort to which he had in that respect been subjected.

Barry, J., held that he was bound by the decision in *Groom v. Crocker* (1939) I.K.B. 194, which decided that the rights and duties of a solicitor were regulated by the contract of employment, and that, in the absence of any duty other than those imposed by the contract, a solicitor was not liable to his client in tort. In a proper case, damages for personal inconvenience might be recovered in an action for breach of contract. Hence the inconvenience was such that it should have been reasonably contemplated by the defendants as a probable result of their failure to perform their contractual duties.

The plaintiff was therefore entitled to £300 damages.

LIBRARY ACQUISITIONS

1. Books received

Acts of the Oireachtas (Bound Volume)—1948. Arnould—Marine Insurance and Laws of Average, 2 vols.—1950. Archbold—Criminal Pleadings and Practice, 32nd edition—1949. Belfast and Ulster Directory—1950. Bingham—Motor claim cases, Second Cumulative Supplement—1949. Butterworth—Workmen's Compensation Cases—Vol. 41, 1948—49. Caplin—Powers of Attorney—1949. Catholic Directory—1950. Charlesworth—Negligence, 2nd edition—1947, with supplements. Coghlan—The Law of Rent Restriction in Ireland, 2nd edition—1950. Cripps—Compulsory Acquisition of Land, 2 vols., 9th edition—1950. Dicey—Conflict of Laws, 6th edition—1949. Dix—Law relating to Competitive Trading—1950. Dublin University Calendar—1950—51. Dymond—Death Duties (10th edition), 3rd Consolidated Supplement—1950. English and Empire Digest, Second Cumulative Supplement. Freeman and Nicholls—Right of way, 3rd edition revised—1946. Gale—Easements, 12th edition—1950. Gazdar—National Insurance, 2nd edition—1949. Grattan, Doyle and Napley—Remuneration of Auctioneers and Estate Agents—1947. Hamilton—Solicitors' Guide to Development and Planning—1949. Halsbury—Statutes of England, Cumulative Supplement No. 19—1950, 2 vols. Head (F.D.) Meetings, 5th edition—1950. Institute of Chartered Accountants in Ireland. International Law List—1951. Irish Catholic Directory and Almanack—1950. Jervis—Coroners, 8th edition—1946. Josling—Change of Name, 3rd edition—1950. Josling—Execution of a Judgment—1949. Josling—Registration of Business Names—1948. Josling and Caplin—Apportionments for Executors and Trustees—

1949. Josling—Naturalisation—1949. Konstam—Income Tax, 11th edition, 2 vols.—1950. Law List—1950. Lewin—Law of Trusts, 15th edition, edited by R. Cozens-Hardy—1950. Locke—Advice to a Young Solicitor—1947. Lowndes—Laws of General Average, 7th edition—1948. Maguire (W. J.)—Question Time, Vol. III—1948. Michael and Will—Water, 9th edition—1950. National University of Ireland Calendar—1949. New South Wales Law Almanack—1950. Northern Ireland Public General Acts—1949. Pereira—Law of Hire and Purchase, 2nd edition—1939. Phillips—Proving a Will—1949. Public General Acts and Measures, 2 vols.—1949 (42 Register P.T.O.). Register of Defunct Companies Removed from Stock Exchange Year Book, 1950. Shawcross—Motor Insurance, 2nd edition—1949. Stock Exchange Year Book—Supplement of Defunct Companies. Taylor—Medical Jurisprudence, 2 vols., 10th edition—1949. University College, Dublin, Calendar—1950-51. Wexford and Otter Barry—Fire Insurance, 4th edition—1948. Whitaker's Almanack—1950 and 1951. Who's Who—1950. Winder (L. J.)—Irish Corporation Profits Tax—1946. Withers—Reversions, 2nd edition—1933. Young—Taxation Appeals—1949.

2. Books on order

Pollock—Law of Partnership, 15th edition, edited by Turner—1950. Robinson—Costs in Commercial Arbitrations. Williams—Law of Executors, 2 vols., 13th edition, edited by Perry—1950. Williams—Joint Obligations in Contract—1950.

OBITUARY

MR. JOHN FORDE, Solicitor, died at his residence, Rockmount, Boyle, Co. Roscommon, on the 18th of January, 1951.

Mr. Forde served his apprenticeship with the late James A. Kiernan, Solicitor, Ballynamore, was admitted in Hilary Sittings, 1915, and practised at Boyle as Senior Partner in the firm of Messrs. John Forde & Co.

MR. FRANCIS CLINCH, Solicitor, died at his residence, 10 Greenmount Road, Terenure, Dublin, on the 19th of January, 1951.

Mr. Clinch served his apprenticeship with the late William Scallan, 17 Bachelor's Walk, was admitted in Trinity, 1893, and practised at 44 Fleet Street, Dublin.

MR. WILLIAM S. McCULLOUGH, Solicitor, died at his residence, 43 Upper Rathmines, Dublin, on the 22nd of December, 1950.

Mr. McCullough served his apprenticeship with the late Mr. H. Halpin, Solicitor, Cavan, was admitted in Hilary Sittings, 1913, and practised at 43 Dawson Street.

MR. ROBERT B. WOLFE, Solicitor, died at his residence, Beechland, Holmston Avenue, Dun Laoghaire, Co. Dublin, on the 16th of January, 1951.

Mr. Wolfe served his apprenticeship with the late Mr. Francis C. E. Bland, 10 St. Stephen's Green, Dublin, and was admitted in Trinity Sittings, 1923, and practised at 15 Molesworth St., Dublin, as Senior partner in the firm of Messrs. Anderson & Bland.

MR. JOHN J. MACKEN, Solicitor, died at his residence, Dominick Street, Mullingar, on the 8th of February, 1951.

Mr. Macken served his apprenticeship with the late Mr. Shapland M. Tandy, 2 Beresford Place, Dublin, and the late Mr. Archibald S. McCoy, Waterford, was admitted in Easter Sittings, 1899, and practised in Mullingar. He was a member of the Council of this Society from the year 1924 to 1926.

MR. JAMES G. E. FITZGERALD died in Monaghan on the 10th of February, 1951.

Mr. Fitzgerald served his apprenticeship with the late Mr. John Gillespie, Solicitor, Monaghan, was admitted in Michaelmas Sittings, 1920, and practised at Monaghan.

MR. GERALD J. HEGARTY, Solicitor, died at his residence, Sunbury, Castletownberehaven, Co. Cork.

Mr. Hegarty served his apprenticeship with the late Mr. Michael R. Hegarty, Solicitor, Kinsale, was admitted in Easter Sittings, 1904, and practised in Castletownberehaven.

THE REGISTER

Section B

YOUNG SOLICITOR, wide experience in all branches of general practice, especially Conveyancing, Land Registry, Probate, Court Practice, four years' experience as managing assistant large provincial office, presently employed, seeks assistantship in good Dublin office. Excellent references. Box No. B 151.

Lady Solicitor, with experience in general practice especially Probate, Land Registry and Conveyancing, seeks Assistantship preferably in Dublin City. Excellent references. Box No. B152.

INTERNATIONAL LABOUR OFFICE APPOINTMENT

APPLICATIONS are invited for a post of Member of Section in the Legal Division of the International Labour Office in Geneva. The successful applicant may be required to reside in Geneva or at any other place abroad. The work is of a legal nature and the following are the qualifications required:—

- (1) Nationality: Canada, Ireland, United Kingdom, U.S.A.
- (2) Age: Not less than 23 nor more than 35 years.
- (3) A University degree, or the equivalent in professional experience.
- (4) Good general legal training; knowledge of international law and constitutional law.
- (5) Languages: English and a working knowledge of French. Spanish will be a useful additional qualification.

Salary range: 4,410 to 7,850 American dollars, with possible promotion to a scale of 7,850 to 9,700 dollars free of Swiss Income Tax. Any member interested may obtain further particulars from the Secretary.

CALENDAR AND LAW DIRECTORY, 1951

ANY member requiring a copy of the Calendar, who has not already ordered one, should do so immediately, as the proofs are in the printers' hands. The numbers printed are based on orders received. Price 7/6., postage free 8/2d. Remittance with order.

PUBLIC STATUTES OF THE OIREACHTAS, 1950

1. Customs (Temporary Provisions) Act, 1945 (Continuance).
2. Defence Forces (Temporary Provisions).
3. Pensions (Increase).
4. Air Navigation and Transport.
5. Minerals Company (Amendment).
6. Irish Whiskey.
7. Local Government (Remission of Rates).
8. Central Fund.
9. Flax Act, 1936 (Suspension Act, 1950).
10. Exported Live Stock (Insurance).
11. Imposition of Duties (Confirmation of Order).
12. Transport.
13. Local Loans Fund (Amendment).
14. Social Welfare.
15. Erne Drainage and Development.
16. Land.
17. Imposition of Duties (Confirmation of Orders) (No. 2).
18. Finance.
19. Trade Union.
20. Appropriation.
21. Agricultural Workers (Holidays).
22. Rates on Agricultural Land (Relief).

23. Turf Development.
24. Limerick City Management.
25. Housing (Amendment).
26. Local Government (Repeal of Enactments).
27. Nurses.
28. Rent Restrictions (Continuance and Amendment).
29. Industrial Development Public Authority.
30. MacSwiney (Pensions).
31. Expiring Laws.
32. Coinage.
33. Vocational Education (Amendment).
34. Supplies and Services (Temporary Provisions) Act, 1946 (Continuance and Amendment).

PRIVATE ACT (NO. 1 OF 1950)

LOCAL Government Provisional Orders Confirmation Act, 1950 (relating to 1. City of Limerick Extension of Boundaries Order and 2. Bray Urban District Council Financial Relations Provisional Order).

SOLICITORS' BENEVOLENT ASSOCIATION

THE injustice of an annuity granted by a charitable body being treated as means for the purpose of the Old Age Pensions Acts, was referred to by Mr. R. A. O'Brien, chairman, at the 87th annual meeting of the Solicitors' Benevolent Association, at the Four Courts, Dublin, on 26th January, 1951.

Mr. O'Brien, who moved the adoption of the annual report, said that recently a solicitor's widow, of over 70 years of age, was elected to an annuity of £52 10s. As a result, under the law as it stood at present, she forfeited her old age pension, with the consequence that the State benefited to the extent of 17s. 6d. a week at the expense of the association.

"Charitable bodies like ours grant annuities after a most careful scrutiny of applicants' circumstances," declared Mr. O'Brien, "and it is not merely a hardship, but an injustice, that such pensions should be taken into account in the calculations of means under the Old Age Pensions Acts. All charitable bodies similar to the association should press for the necessary relief in connection with any Government social security scheme."

Mr. O'Brien said that they were sometimes asked: "Why should there be a Solicitors' Benevolent Association? Are not solicitors a prosperous body?" In times gone by, when legal charges were relatively high and the profession was not grossly over-crowded, there may have been some truth in the idea of professional opulence. The times had changed, and the lot of many solicitors to-day was, financially, not a happy one. Five years' apprenticeship, costing some £2,000 for maintenance and education; the passing of stiff

examinations, ended in "the final." In the majority of cases several lean years followed, in which the solicitor was either an assistant in an established firm or trying to get together a connection. If, after years of hard work, he was, at the age of 40, earning £700 or £800 a year and making provision against old age, he could count himself more successful than the majority. The earnings of many solicitors fell below this level, and it was not surprising that there were poor and necessitous solicitors and widows and families seeking relief from the association.

Mr. O'Brien paid tribute to the late Mr. William S. Hayes, saying that the Association, the profession and general public had sustained a great loss in the passing of an outstanding solicitor and citizen.

The Association's income from all sources during 1950 was slightly down, the gross total for the year being £2,066. There had been a disposable income of £1,767. The amount paid in relief (£1,708) was the largest in the history of the Association.

Mr. Roger Greene, President of the Incorporated Law Society of Ireland, seconded the adoption of the report, which was agreed. Re-election of the present directors was proposed by Mr. Ivan Howe, seconded by Mr. R. Healy, and agreed. Votes of thanks to the Press and to the chairman were proposed by Mr. A. G. Quirke and Mr. R. D. English.

The annual report showed that there was now no annuity of the Association less than £40. "The claims on the Association during the present year are likely to increase," it is stated, "and unless there is a substantial increase in income it will be necessary to resort to capital to meet the demand upon the Association."

Thanks are recorded for the receipt of a total of £3,940 from the estate of the late Henry F. Chidley and a legacy of £100 from the estate of the late Thomas George Quirke.

INDEX OF STATUTORY INSTRUMENTS

Received by the Society pursuant to the Statutory Instruments Act, 1947. The last list was printed in the Society's Gazette for August, 1950.

AGRICULTURE, LANDS AND FISHERIES

SUBJECT MATTER AND REFERENCE NUMBERS.

Agricultural and Fishery Products (Regulation of Export Act, 1947) (Export of Poultry and Rabbits)—302/1950.
 Agricultural Wages—232/1950.
 Agricultural Workers' Holiday Remuneration—229/1950.
 Bacon Curing, Restrictions—265/1950.
 Bee Pest Prevention—254/1950.
 Dairy Produce—223/1950.

Poultry—303/1950
 Feeding Stuffs—237/1950.
 Fish Pastes and Fish Jellies Export—266/1950.
 Flour and Bread Rationing (Harvest Period)—211/1950.
 Poultry—302/1950, 303/1950.
 Rabbits—302/1950, 303/1950.
 Tobacco (Areas for 1951)—326/1950.
 Tobacco Rehandlers (charges) Regulations—325/1950.
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 Sugar Beet, Carriage of—310/1950; Revoked from 8/2/51 by 34/1951.
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 Tea (Maximum Prices)—24/1951.
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COUNTY AND TOWN MANAGEMENT

SUBJECT MATTER AND REFERENCE NUMBERS

Change of Name (Non-Municipal Town of Bunclody, Co. Wexford)—281/1950.

Combined Purchasing by Local Authorities—292/1950.
Donegal County Council Electoral District—214/1950.
Local Government (Dublin) (Temporary Act), 1948 (Continuance No. 2)—316/1950.
Returning Officers' Expenses—213/1950.
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Civil Service Remuneration—6/1951.
Dublin Port & Docks Board, Pensions—215/1950, 21/1951.
Labour Court, Procedure as to Publication and Notices—258/1950.
Limerick Harbour Pensions—216/1950.
Military Service Pensions—255/1950.
Tobacco Joint Labour Committee—314/1950.
Waterford Harbour Pensions—280/1950.

FINANCE AND CENTRAL GOVERNMENT

SUBJECT MATTER AND REFERENCE NUMBERS

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Civil Service (Remuneration) Regulations—6/1951.
Dublin Ports and Docks Board Pensions Increase—215/1950, 21/1951.
Dundalk Harbour Pensions Increase—304/1950.
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Limerick Harbour Pensions Increase—216/1950.
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Military Service Pensions—255/1950.
Statistics (Census of Production)—17/1951.
Waterford Harbour Pension Increase—280/1950.

HARBOURS, RIVERS AND HYDRO-ELECTRIC SCHEMES

SUBJECT MATTER AND REFERENCE NUMBERS

Ballina Harbour Rates—279/1950.

Cork Harbour Works—321/1951.
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Lee River Hydro-Electric Scheme—321/1949.
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Pensions of Harbour Authority Employees—215/1950, 216/1950, 280/1950, 304/1950, 21/1951.
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Housing (Reconstructed Houses) (Amendment) Regulations, —247/1950, 308/1950.
Housing (Reconstruction Grants) Regulations, 143/1950.

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SUBJECT MATTER AND REFERENCE NUMBERS

Criminal Appeal (Fees and Expenses of Legal Aid) Regulation—305/1950.
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SUBJECT MATTER AND REFERENCE NUMBERS

Summer Time—27/1951.
Wild Birds (County Wexford)—253/1950.

SOCIAL SERVICES

SUBJECT MATTER AND REFERENCE NUMBERS

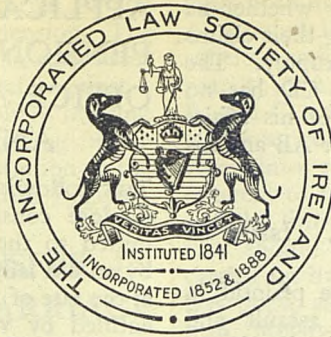
National Health Insurance (Administration of Benefits)—190/1950.
National Health Insurance, Decisions and Appeals—189/1950.
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Social Welfare Schemes (Cash Supplements, supplementary allowances and substitutive allowances)—288/1950.

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(INCLUDING AIR TRANSPORT.)

SUBJECT MATTER AND REFERENCE NUMBERS

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Air Navigation (Personnel Licensing)—33/1951.
Carlow Traffic (Parking and Waiting) Bye-Laws—228/1950.
Milk, Carriage of—235/1950.
Wheat, Carriage of—225/1950.
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Dundalk Traffic (Parking and Waiting) Bye-Laws—218/1950.
Sugar Beet—310/1950, 34/1951.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

ROGER GREENE

Vice-Presidents

NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary

ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

FEBRUARY 22ND, 1951. Mr. Niall S. Gaffney, Vice-President, in the Chair. Also present:—Mr. Francis J. Gearty, Vice-President; Messrs. John S. O'Connor, John J. Dundon, Maurice M. Power, James R. Quirke, Daniel O'Connell, Desmond Mayne, George A. Overend, Derrick M. Martin, John J. Nash, Gerald J. O'Donnell, William J. Norman, Patrick R. Boyd, James J. O'Connor, Henry St. J. Blake, John Carrigan, Dermot P. Shaw, Joseph P. Tyrrell, Joseph Barrett, Thomas A. O'Reilly, John J. Sheil, Desmond R. Counahan, Patrick F. O'Reilly, John R. Halpin.

The following was among the business transacted:—

Costs of Mortgages under the Small Dwellings (Acquisition) Acts

THE Council considered a resolution submitted by the Association of Solicitors to Local Authorities on the subject of the proposed scale of costs for solicitors acting for local authorities investigating

titles of borrowers. The resolution asked the Council to approve a modified scale of costs and to recommend it to the profession, conditional upon its acceptance by the Minister for Local Government. The resolution was adopted and it was ordered that a deputation should ask to be received by the Minister for the purpose of submitting the suggested scale.

Bankrupt's former solicitor acting for creditor

THE following query was submitted for the opinion of the Council:—S., a solicitor, acted for AB for a considerable time in connection with family matters. AB recently guaranteed CD in the bank in connection with a business venture, and AB's son became a partner in the venture investing £200. S. acted for both parties in connection with the arrangements. AB's son retired from the business and claimed the return of the sum of £200. CD was recently adjudicated bankrupt. S. acted for CD until the adjudication in bankruptcy, but is no longer acting for him. While acting for CD, S. obtained information as to his

financial position. S. wishes to know whether he may act for AB and his son in proving their claims against the estate of CD in the bankruptcy. The Council were of the opinion that as CD has no privilege against complete disclosure of his affairs in the Bankruptcy Court S. may act for AB and his son in proving their claims.

Appeal from the District Court. Issue of execution order

MEMBERS of the Society acted for the plaintiff in civil proceedings for damages for assault and battery in the District Court and obtained a decree for £10 damages with £3 11s. 6d. costs and expenses. On appeal by the defendant the decree of the District Court was affirmed with £16 16s. 7d. costs and witnesses' expenses. The County Registrar refused to issue a warrant for the total amount of the decree as affirmed, amounting to £30 8s. 1d., on the ground that this is the duty of the District Justice and referred to the Circuit Court Rules 1950, Order 43, Rule 7, and the District Court Rules, 1948, Rules 197 and 198. The decree was sent to the District Court clerk who issued a warrant for the amount with District Court costs and expenses only totalling £13 11s. 6d. This amount had been collected from the defendant and the costs of the affirmation of the decree are still outstanding

They asked for the opinion of the Council as to the legal position. The Council expressed the opinion that having regard to Section 23 of the Courts of Justice (District Court) Act, 1946, it was the duty of the District Justice to issue an execution order for the whole amount of the decree with costs and expenses as allowed by the Circuit Court.

COMPANY LAW REFORM COMMITTEE

THE Attorney General has set up the following Committee to consider and make recommendations on the subject of company law reform:—Chairman, Mr. H. Vaughan Wilson, S.C. Members: Messrs. Robert Leonard, K.C.; Henry J. Moloney, S.C., representing the General Council of the Bar of Ireland; Messrs. Arthur Cox and George A. Overend, representing the Incorporated Law Society of Ireland; Messrs. Herbert E. A. Addy and Gabriel Brock, representing the Institute of Chartered Accountants in Ireland; Messrs. Mervyn Bell and W. L. White, representing the Society of Incorporated Accountants in Ireland. Secretary, Mr. John Kenny, B.L.

APPLICATION FOR AN OLD AGE PENSION. DELAY IN THE STAMP OFFICE, ADJUDICATION BRANCH AND LAND REGISTRY

THE following facts, which, members will agree, disclose considerable hardship, were recently submitted to the Council. Solicitors were consulted by an old lady on the subject of an old age pension at the rate of 17s. 6d. per week to which she became entitled by virtue of a marriage settlement dated 23rd November, 1948, made in view of the intended marriage of her son which was solemnised on the following day. The settlement was lodged for stamping on 26th November, 1948, and after repeated reminders the stamp duty was assessed, the deed being stamped on 19th April, 1949. It was lodged in the Land Registry on 22nd April, 1949, and registration was effected on 31st August of the same year. The interval between the execution of the settlement and the registration of the dealing during which the deed was in the custody of the two Government departments was approximately ten months. Shortly after 24th November, 1948, an application was made to the Local Pensions Committee claiming the old age pension with effect from the date of the settlement, but the claim was rejected on the ground that no evidence of the settlement could be produced. No appeal was taken against this decision. As soon as registration had been completed a certified copy of the folio was lodged with the Pensions Officer with a claim for arrears of old age pension back to 26th November, 1948, to which the registration was referable. The Local Pensions Committee on 31st December, 1949, awarded the applicant a pension from 23rd September, 1949, and refused the claim for arrears. The applicant did not appeal against this decision within the prescribed time of seven days. The papers were referred to the Council with the request that they should approach the Minister to have the decision of the Pensions Committee re-opened having regard to the extreme hardship of the case and the lengthy delay which had occurred in the two Government departments concerned. The Minister stated that he had no power to re-open the matter, and that the decision of the Pensions Committee became final in the absence of an appeal. He also said that it could not be assumed that the Central Pensions authority would have disallowed the original claim if an appeal had been lodged within the prescribed time although evidence of the settlement could not then be produced. The applicant in this case was the unfortunate victim of

delay in two Government departments which resulted in the loss of almost a year's pension. The point to be noted by solicitors is that in such cases an appeal should be lodged immediately against a decision of the Local Pensions Committee refusing the claim with the request that the hearing of the appeal should be postponed until registration of the dealing had been completed in the Land Registry.

STAMP DUTY ON TRANSFER IN CONSIDERATION OF MARRIAGE

A MEMBER of the Society writes referring to a case of a transfer on marriage in which a brother or sister assigns or transfers to another brother or sister in consideration of marriage, and also a money consideration. This situation frequently arises in connection with marriage deeds where the father has died intestate, one of the children subsequently getting the land on marriage, the mother or brothers or sisters getting the fortune brought in by the bride on "marrying into the farm." The following is a quotation from a letter received by our correspondent's town agent:—"The Adjudication Office wish us to inform you that where a brother or sister assigns his or her interest to another brother or sister in consideration of marriage and also of money the instrument is assessed as a conveyance on sale of the interest of such brother or sister unless the market value of the interest is greatly in excess of the money consideration, in which event the marriage is treated as the primary consideration. This is in accordance with counsel's opinion."

INCOME TAX CLAIMS FOR EXEMPTION UNDER SCHEDULE D IN SO FAR AS THEY AFFECT THE OPENING OF NEW BUSINESSES

It is thought that many members of the profession are not fully aware of their rights to claim exemption from Income Tax Schedule D if a loss can be shown in the first year of the carrying on of a new business. The following are the facts of a case in which exemption from Income Tax was claimed. It is pointed out, however, that this claim for exemption from tax is applicable not only to solicitors' businesses but to the opening of new businesses of any kind. The actual facts in the case of which the writer is personally aware are as follows:—A. was a solicitor who had carried on practice in Ireland for many years. B. was another solicitor who had also carried on practice as a solicitor in Ireland for many

years both in a partnership and on his own account. A. appointed B. his Executor. C. was also a qualified solicitor acting as qualified assistant to A. In the year 1934 A. died and after negotiations between B. and C., and the Residuary Legatees of A's. will, it was agreed between B. and C. that they should enter into partnership under a name and style different to the names of the firm carried on by A. and the firm previously carried on by B., and that they should jointly acquire the solicitor's business carried on by A. up to the date of his death. This was done, and on the 1st January, 1936, the new firm, Messrs. XYZ & Co., of which B. and C. were the partners, commenced business. The firm XYZ employed a firm of Auditors to prepare their accounts and to deal with the income tax position of the firm XYZ from its inception. As a result of the first year's working of the firm the audited accounts showed a loss which was accepted by the Inspector of Taxes dealing with the firm's assessment. The accounts of the firm were made up on the basis of costs furnished during the year 1936 and an adjustment was made in respect of costs earned in cases which were finally completed up to the 31st December, 1936, where bills had not been furnished prior to that date. No account was taken in the accounts of the firm XYZ for the amount of costs earned on partially completed work in the year 1936, and therefore the question of work in progress was not considered. It would have been very difficult and probably impossible to assess with any degree of accuracy the amount of costs due in respect of such work in progress, and accordingly by negotiation between the Auditors and the Inspector of Taxes it was agreed that no figure should be included in the accounts in respect of it, thereby, establishing a loss for the calendar year 1936. Accordingly for the period 1st January to 5th April, 1936 actual (a loss), the financial year 1936/37, (first 12 months of the new business, 1st 1st January to 31st December, 1936—a loss), and the financial year 1937/38 (based on preceeding year 1st January to the 31st December 1936) the Case II assessment was nil. This position follows the rule applicable to cases I and II of Schedule D Income Tax Act of 1918 as amended by Section 9 of the Finance Act of 1929, the relief in respect of the loss being allowed under the provisions of Section 34 of the Income Tax Act, 1918.

It will be seen that the most important aspect of the matter is the establishment of a loss for the first year in which the business is operated, as, of course, on the results of this first year depends the quantum of the assessments for several Income Tax years. It is usually found that the Revenue Authorities endeavour to have all fees brought into the first

account of any business as it is most important to them to avoid, if possible, the establishment of a loss on the working of the firm for the first year. In the particular case referred to herein the Auditors of the firm resisted the ascertainment of work in progress because of the difficulties involved and put forward the argument to the Revenue Authorities that it should be sufficient to include the costs furnished together with the fees earned in cases finally completed but not furnished up to the end of the first year, and this position, it is understood, is usually accepted, at any rate in the case of solicitors' businesses, by the Revenue Authorities. Whether there is a new business in the case of a solicitor who purchases the interest in a solicitor's business previously carried on by a deceased or retired solicitor would be a question of fact and would depend upon the circumstances, but in most cases of this nature the Revenue Authorities will agree to treat the business, especially in the case of a business carried on by a deceased solicitor and purchased by a solicitor after his death, as a new business for Income Tax purposes even if the name of the firm is unchanged.

EXAMINATION RESULTS

At examinations held on the 2nd and 3rd days of February, 1951, under the Legal Practitioners (Qualification) Act, 1929, the following passed the examinations:—

First Examination in Irish

Patrick Joseph Carolan, Fintan Clancy, Peter J. C. Coyle, Thomas Joseph Crowley, Matthew P. Drum, Edward Joseph Duffy, John F. Garavan, Iseult Clare Kennedy, Richard D. Kennedy, Kenneth Kenny, Michael Brendan Lynch, Sean F. MacGiollarnath, Joseph Bernard McCarthy, Kevin P. St. G. McClenaghan, James F. J. Maguire, Albert Louis O'Dea, Finian J. O'Driscoll, Patrick R. O'Gorman, Thomas P. Owens, Noel Thomas Smith, Hallam J. C. Studdert, James Noel Tanham.

Twenty-nine candidates entered; twenty-two passed; six failed; one did not attend.

Second Examination in Irish

Donal G. Binchy, Daniel C. Brilley, James M. Cawley, Arthur Dey, Eamonn M. Greene, Dermot F. Jones, Myles C. Murphy, Patrick D. O'Connor, Patrick H. O'Doherty, Patrick J. O'Driscoll (Jnr.).

Sixteen candidates entered; ten passed; six failed.

The remaining candidates are postponed.

FATAL ACCIDENTS ACT COSTS

A SEAMAN lost his life as a result of a collision at sea between the *Queen Mary* and R.M.S. *Curacao* for which the *Queen Mary* was held partly to blame. The administrator of his estate obtained judgment for damages and costs in respect of his death in an action brought against the defendants under the Law Reform (Miscellaneous Provisions) Act, 1934. Apart from the damages recovered in this action the estate of the deceased was so small that no Grant of Administration would have been required, and the administrator obtained the grant solely to enable him to bring the action. As a result of the damages recovered, the estate of the deceased had increased in value to such an extent that it was necessary for the administrator to file a corrective affidavit, and to incur additional expenses in connection with the administration. The administrator duly included these additional administration expenses in his bill of costs in the action. The Registrar, while allowing the expenses incurred in obtaining the grant, disallowed the additional administration expenses incurred after judgment.

On appeal to the Probate Court Willner, J., held that, as the additional administration expenses incidental to the increase in value of the estate were incurred after the plaintiff had recovered judgment, and were in no way necessary to enable him to conduct the litigation, they could not be allowed on taxation under Rule 27, Order 65, of the Rules of the Supreme Court. The following dictum of Malins, V. C., in *Smith v. Buller*, L.R. 19, Eq. 473, was approved:—"The costs chargeable under a taxation as between party and party are all that are necessary to enable the adverse party to conduct the litigation, and no more."—(*Thomas v. Cunard-White Star Ltd.*)

GARNISHEE PRACTICE NOTE

A SOMEWHAT unusual garnishee order was sought in the High Court recently. A creditor obtained a judgment against a debtor for a sum which, together with costs, amounted to just over £400. The debtor, in turn, was the successful plaintiff in an action for damages against a third party who had paid into court with his defence the sum of £500. By an order made in this action it was directed that this sum be paid out to the solicitor for the plaintiff (that is, the original judgment debtor). The judgment creditor thereupon applied for and obtained a garnishee order nisi directed to the debtor's solicitor attaching so much of the money in Court as was necessary to satisfy his judgment. At the same time he obtained a stop order directed to the Accountant General in respect of the funds in Court. The

solicitor filed an affidavit showing that he claimed a lien on the funds to the extent of £470, in respect of costs payable to him by his client, the debtor. Upon the hearing of the motion to have the conditional order made absolute, the judgment creditor expressly disclaimed any intention to dispute this claim, but contended that as it did not extend to the entire of the fund, he was entitled to have the order made absolute in respect of any balance remaining after the solicitor's claim for costs had been satisfied. He also conceded that the solicitor was entitled to add his costs of appearing on the motion to his claim. It was contended on behalf of the solicitor for the judgment debtor (who appeared by the same counsel) that the order ought to be discharged, firstly, because the conditional order had not been served on the solicitor within the period of ten days limited by Order LII, r. 12, and, secondly, that it was not competent for the Court to make an order attaching funds in Court in respect of which an Order directing payment out in particular manner had already been made. Dixon, J., ruled that as the solicitor had elected to appear, and no order was being sought which would in any way prejudice his rights, he (the Judge) should waive the non-compliance, under Order LXXXIX, r. 1. On the second point, the learned judge held that a creditor was entitled to garnishee funds in Court in such circumstances, and that no conflict would arise between his order and the order for payment out already made. His order would be to attach so much of the said sum of £500 as was left in the hands of the solicitor after discharging his lien for costs already incurred together with his costs of appearing on the motion; the stop order would be discharged, and the creditor would be entitled to add the costs of the garnishee proceedings to the amount of his judgment debt. —(*Irish Law Times and Solicitors' Journal.*)

LAND PURCHASE ACTS RULES, 1951

THE Land Purchase Acts Rules, 1951 (S. I. No. 50 of 1951). Made on the 26th February, 1951, embodying amendments to the former Rules may be obtained from the Government Publications (Sales) Office, College Street, Dublin—price 9d. A revised Schedule of Office Fees applicable from 2nd April, 1951, is attached to these Rules.

LEGISLATION

THE Tortfeasors Act, 1951 (No. 1 of 1951) and the Criminal Justice Act, 1951 (No. 2 of 1951) were

signed by the President on the 21st February, 1951, and have accordingly become law.

STATUTE LAW REVISION IN ENGLAND

IN July, 1947, Lord Jowett, the Lord Chancellor, set up a Statute Law Revision Committee with the double object of:—(i) consolidating scattered enactments so that the Statute Law might be more easily found and understood; and (ii) reducing the bulk of the published volumes of the statutes and statutory instruments and keeping up-to-date the necessary index to them, and of providing means whereby they might readily be noted up annually. A recent statement by Mr. Chuter Ede, the Home Secretary, summarised in the *Law Times* of 2nd March, 1951, has indicated the progress made since then. Since July, 1947, 25 Consolidating Acts taking the place of over 90 acts ranging in date from 1540 to 1950 had been passed, and scattered provisions had been eliminated from about 150 other existing Acts; this included the 462 Clause Companies Act of 1948; and bills relating to the consolidation of Income Tax Laws and of the laws relating to Customs and Excise would be introduced soon. A simplified procedure by a Joint Committee of both Houses was foreshadowed by the Consolidation of Enactments (Procedure) Act, 1949; this Act only applied to the correction and minor alteration of existing statutes. The Schedules to the Statute Law Revision Acts, 1948 and 1950, repeal numerous measures which have in practice fallen into abeyance; these Acts apply to Northern Ireland, and if within the competence of the Parliament of Northern Ireland, under the Government of Ireland Act, 1920, can be altered by that Parliament. Thus, recently, the Short Titles Act, 1951, was passed in Northern Ireland, by which short titles are given to several old Irish Statutes. The Third Edition of the Statutes Revised (to the end of 1948) had just been issued and the Chronological Table of all Statutes (to the end of 1950) would be issued next month. An index to the statutes in force covering all Acts to the end of 1950 would be published before the end of the year. Eight volumes of the new edition of Statutory Rules and Orders—the first since 1904—has been published; this work would be completed in about 28 volumes by the end of 1951. An Index of all Statutory Rules and Orders in force was published in December, 1950, covering the period down to the end of 1949. A new edition of the Consolidated Index of Local Acts covering the period 1801–1947 was published in November, 1949. The Statutory Publication

Office had been so re-organised as to prevent the accumulation of arrears in future.

It is hoped that with the establishment of the new Statute Revision Committee in Ireland, lawyers and the public will no longer be subjected to the unwarranted delay in statutory revision and in law reform which has occurred hitherto.

NOTICE TO SOLICITORS

Registration of Charges, Judgment Mortgages and other Instruments affecting Agricultural Land

THE serious attention of solicitors who have been instructed to register instruments relating to agricultural land, is directed to the following precautions to be taken in relation to such registrations, viz:—

1. Where the lands to be affected have been vested by the Land Commission in the tenant-purchaser, and a *Folio has actually been opened in the Land Registry* in respect thereof, the instrument affecting such land, or, in the case of a judgment mortgage, the affidavit to register such judgment mortgage, should, of course, be lodged in the Land Registry in accordance with the ordinary procedure in the case of registered land.
2. Where the lands to be affected have been vested in the tenant-purchaser, *but a Folio has not yet actually been opened in his name in the Land Registry*, the Deed of charge or other instrument (including a judgment mortgage affidavit) *must of course, be similarly lodged in the Land Registry*, as indicated in paragraph 1 (supra), since, under Section 31 (3) of the Land Act, 1931, such lands are, as on and from the date of the Vesting Order, deemed to be registered land, and are thereupon exempt from registration in the Registry of Deeds (Section 19 of the Registration of Title Act, 1891): and such instrument will not affect the lands until registered in the Land Registry. In such case registration in the Registry of Deeds would not preserve the priority of the interests created by such instrument, or, in the case of a judgment mortgage, would be ineffectual to create a charge on the lands.
3. *The fact that, on a search in the Registry of Deeds, no memorial of the registration of such land under the Registration of Title Act, 1891, appears, is not to be taken as evidence that the lands are still subject to registration in the Registry of Deeds,*

or that they are not deemed to be registered in the Land Registry under the above-mentioned Section 31 (3) of the Land Act, 1931.

4. Accordingly, before taking steps to register a deed of charge, judgment mortgage or other instrument on agricultural lands, solicitors are earnestly advised—
 - (a) *to inquire from the First Registration Branch of the Land Registry whether or not a vesting Order in respect of such land has been transmitted by the Land Commission to the Land Registry for registration.*

Particulars of the name of the estate, record number, name of the purchasing tenant and Collection number of the holding should be furnished for the purpose of identification when making such inquiry.

- (b) If a Vesting Order vesting the lands has not actually been received in the Land Registry, then *inquiry* (giving above-mentioned particulars) *should be made from the Land Commission* as to whether or not such land has in fact been re-vested in the tenant-purchaser, whose interest is sought to be affected by the Deed of Charge Judgment, Mortgage Affidavit or other instrument.

5. If, as a result of the inquiries indicated at (a) and (b) (supra), it is ascertained that the lands in question have been re-vested in the tenant (even though the Vesting Order has not been received by the Land Registry from the Land Commission), the Deed of Charge or other instrument *must be lodged in the Land Registry*, following the ordinary procedure in the case of registered land indicated at paragraph 1 (supra).
6. The above-mentioned precautions are necessary by reason of the fact that, owing to circumstances beyond the control of the Land Registry, there exists a considerable arrear of Vesting Orders awaiting actual registration in that Department, in respect of which Vesting Orders Folios have not yet been opened. Strenuous efforts are being made by the Staff of the Registry to reduce this arrear, and, where a case for special urgency on the merits is made to the Registrar, registration in such a case will be expedited and a Folio opened.

It is of vital importance that practitioners, in the interests of their clients, should take the precautions above indicated in the cases envisaged in this Notice.

Dated the 19th of February, 1931.

JOSEPH O'BYRNE,
Registrar of Titles.

OBITUARY

MR. A. MORELAND HARPER, Solicitor, died on the 8th of January, 1950.

Mr. Harper served his apprenticeship with the late Mr. William J. C. Mills, Solicitor, Belfast, and the late Mr. Harper, Solicitor, Belfast, was admitted in Trinity Sittings, 1907, and practised at 8 Donegall Street, Belfast.

MR. THOMAS MCKINTY, Solicitor, died on the 15th of January, 1950.

Mr. McKinty served his apprenticeship with the late Mr. Robert E. McLean, Solicitor, Belfast, was admitted in Hilary Sittings, 1906, and practised at 1 Donegall Street North, Belfast.

MR. W. J. McCOURT, Solicitor, died on the 27th of February, 1950.

Mr. McCourt served his apprenticeship with the late Mr. Daniel McCartan, Solicitor, and was admitted in Hilary Sittings, 1916.

MR. WILLIAM J. G. SEEDS, Solicitor, died on the 14th day of April, 1950.

Mr. Seeds served his apprenticeship with the late Mr. James E. Proctor, Solicitor, Limavaddy, was admitted in Hilary Sittings, 1913, and practised at Limavaddy.

MR. THOMAS S. McALLISTER, Solicitor, died on the 29th of April, 1950.

Mr. McAllister served his apprenticeship with the late Mr. John F. McAllister, Solicitor, Ballymena, and Mr. R. Boal, Ballymena, was admitted in Trinity Sittings, 1901, and practised at Ballymena.

MR. A. NEWTON ANDERSON, Solicitor, died on the 10th of May, 1950.

Mr. Anderson served his apprenticeship with the late Mr. Edward Bates, Solicitor, Belfast, was admitted in Trinity Sittings, 1902.

MR. J. SYDNEY BRIGHT, Solicitor, died on the 6th of April, 1950.

Mr. Bright served his apprenticeship with the late Mr. John B. Aitkenson, Solicitor, Portadown, was admitted in Michaelmas Sittings, 1898, and practised at Portadown.

MR. DANIEL MCCARTAN, Solicitor, died on the 7th of October, 1950.

Mr. McCartan served his apprenticeship with the late Mr. McCartan, Solicitor, Belfast, and was admitted in Hilary Sittings, 1891.

MR. WILLIAM PATTERSON, Solicitor, died on the 8th of October, 1950.

Mr. Patterson served his apprenticeship with the late Mr. Joseph H. Shaw, Solicitor, and was admitted in Easter Sittings, 1891.

MR. JOSEPH DODDS, Solicitor, died at his residence, Kyleglas, North Circular Road, Limerick, on the 27th February, 1951.

Mr. Dodds served his apprenticeship with the late Mr. Samuel G. Crymble, Solicitor, Belfast, was admitted in Hilary Sittings, 1899, and practised at Limerick up to his retirement in 1949.

SIR JOSEPH GLYNN, Solicitor, died at his residence, 81 Ailesbury Road, Dublin, on the 7th of March, 1951.

Sir Joseph Glynn was admitted in Michaelmas Sittings, 1891, and practised at Gort up to 1897 and at Tuam until his appointment in 1911 as Chairman of the National Health Insurance Commission in Ireland.

MR. CHARLES LAVERTY, Solicitor, died at his residence, Redhouse, Castleblayney, on the 12th of March, 1951.

Mr. Laverty was admitted in Trinity Sittings, 1894, and practised at Castleblayney. He was a member of the Council of this Society from the year 1924 to 1939; was Vice-President for the year 1928-29, and President for the year 1934-35.

THE REGISTER

Section A

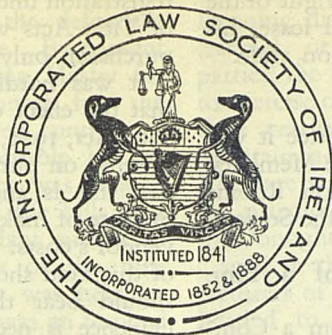
MESSRS. Longfield, Kelly & Armstrong, Solicitors, Dunganon, Co. Tyrone, would be anxious to obtain the assistance of a Solicitor qualified in the Republic of Ireland. Good salary and Articles in Northern Ireland would be given to suitable applicant. Apply by letter in first instance.

REQUIRED by Darley Orpen & McGillicuddy of 31 Kildare Street, Dublin, Church of Ireland Assistant Solicitor or Clerk experienced in conveyancing and Estate Duty Work.

Section C

COSTS:—Combined booklets on 1947 and 1949 Revision of Fees are available from residue of stocks at 10/- (post free)—John McMahan, Solicitor, Ardee, Co. Louth.

NEW ERA PUBLISHING Co. has limited supply of 2nd edition, *Modern Administration and Probate Practice*. Limited supply. Excellent work for all engaged in winding-up estates, gruffing wills, and family matters. N. Moore, "Avoca," Santry, Co. Dublin.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

ROGER GREENE

Vice-Presidents

NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary

ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

MARCH 15TH. The President in the Chair. Also present: Messrs. Niall S. Gaffney and Francis J. Gearty, Vice-Presidents; Joseph Barrett, Joseph P. Tyrrell, Thomas A. O'Reilly, Christopher E. Callan, James R. Quirke, Daniel O'Connell, Derrick M. Martin, William S. Huggard, Patrick R. Boyd, John J. Nash, William J. Norman, James J. O'Connor, John Carrigan, Gerald J. O'Donnell, Henry St. J. Blake, John J. Sheil, Desmond R. Counahan, Reginald J. Nolan, Arthur Cox, John R. Halpin, Dermot P. Shaw, Patrick F. O'Reilly.

The following was among the business transacted:—

Rents and Leaseholds Commission

A draft Memorandum of the evidence of the Society proposed to be tendered to the Commission was considered and adopted, subject to a number of minor amendments.

Renewal Lease. Costs

The Council was asked to express an opinion on the following facts:—

A tenant, being entitled to a renewal lease under Part 3 of the Landlord and Tenant Act, 1931, served on his landlord the usual notice under the Act claiming relief. The landlord admitted the claim and, after negotiations, the parties agreed on the amount of the rent to be reserved in the renewal lease. The tenant contended that the case does not differ in principle from a renewal lease in pursuance of a covenant in the original lease and that Opinion No. 33 of the Council printed at page 482 of the 1950 edition of the Society's Calendar and Law Directory applied, and that accordingly it was the right of the tenant's solicitor to prepare the renewal lease, the costs being chargeable under the old system as modified by Schedule 2. The landlord contended that his solicitor should prepare, stamp and register the renewal lease and counterpart, and that the costs on the commission scale should be paid by the lessee.

The Council held that Opinion No. 33 referred to is limited to a renewal lease granted in pursuance of a covenant in the original lease and does not apply to a statutory lease granted to the lessee in accordance with his rights under the Landlord and

Tenant Acts, and accordingly it was the right of the lessor's solicitor to prepare the renewal lease, his costs being chargeable on the commission scale.

Consultation Rooms

On a report from the Finance Committee it was decided by the Council that in future the Members' Hall, Council Chamber and Consultation Rooms should be available only for members of the Society.

Leases granted in consideration of a Fine and a Rent

The Council considered a report from a Committee referring to a recommendation already published in the GAZETTE that where a lease which is substantially a sale is granted in consideration of a fine as well as a rent, the agreement for the lease prepared by the solicitors for the parties ought to contain a stipulation providing that each party to the lease should pay his own solicitor's costs. The Committee enquired whether this recommendation was intended to apply to the case of a lease of a site for the erection of a dwelling house in consideration of a rent, and of a small fine intended to reimburse the lessor for the proportionate cost of the roads, drains, laying on water and similar matters. The Council decided that the recommendation already made in regard to the costs applies irrespective of the amount of the fine.

RESTRICTIVE CONDITIONS OF SALE

Burdens which affect registered land without registration under Section 47 of the Registration of Title Act, 1891

The effect of Section 15 of the Registration of Title Act, 1942, is to make void any stipulation in a contract for sale or conditions of sale that the Vendor is not to be required to furnish evidence that the land sold is free from any burdens which affect it without registration under Section 47 of the Registration of Title Act 1891. This statutory provision in the view of the Council is in the interests of the public and the profession, as the practice of including stipulations which are unduly restrictive of the purchaser's right to investigate the title is to the advantage of neither the solicitors nor their clients. The attention of the Council has been drawn to the following Condition of Sale which has been used in some localities since the passing of the Registration of Title Act, 1942.

"Any evidence which may be required as to the existence of any burdens, or the non-existence of such, which may affect registered land without

registration under the provisions of the Registration of Title Acts will be given at the sole cost of the purchaser only."

It was hardly contemplated by the Legislature that the effect of Section 15 of the Registration of Title Act, 1942, would have been to throw additional expense on purchasers, and it seems to the Council that this is another example of the objectionable practice of making a purchaser liable for part of the vendor's costs. The Council think that stipulations of this kind should be avoided, and that the vendor should bear the expense of producing whatever evidence is necessary that the burdens have been discharged.

NEGATIVE AND COMMON SEARCHES

EXPLANATIONS OF ACTS

THE Council think it advisable to draw the attention of solicitors acting for vendors to the importance, when explaining acts appearing on a search against premises which have been sold, of ensuring that the explanations given are accurate. This applies particularly where the explanation is worded in such a way as to suggest that the facts have been personally investigated by the vendor's solicitor and not merely supplied to him by his client. It is suggested that where an explanation is based on information supplied by the client and not on the solicitor's personal investigation of the facts the source of the information be stated in order to avoid any misunderstanding.

PROFESSIONAL ITEMS

Withdrawal or amendment of Bill of Costs
MR. JUSTICE KINGSMILL MOORE gave judgment in a case of interest to the profession in the case of *White v. Boggs* (85, I.L.T.R. 1.). The plaintiff was solicitor for the father of the defendant and also for the defendant in connection with the sale of several holdings of unregistered land, and had also acted as the purchaser's solicitor in the same transactions. The defendant was sued as the vendor and personal representative of the vendor in connection with the respective sales.

The solicitor thought that he was entitled to one set of charges only, divisible equally between the vendor and purchaser in each case. This opinion was in point of fact erroneous, the amount of the charges depending upon the facts in each case. See *Wilson to Best* and another (1915, I. I.R. 58). Payment of the bill by the defendant was delayed owing to a dispute, and the plaintiff

having discovered the mistake in the bills drew fresh bills and furnished them to the defendant claiming the full scale fee in each case. By consent the matter was referred by the Taxing Master for determination by the Court. Counsel for the plaintiff argued that under the implied contract of retainer the full scale fees were payable by the defendant and that no fresh contract was created by the furnishing and acceptance of the bills at a later stage. Counsel for the defendant submitted that the furnishing and acceptance of the bills constituted offer and acceptance. It was held by Mr. Justice Kingsmill Moore that it was an implied term of the contract that the full scale fees should be paid by the defendant and that there was no accord and satisfaction.

The judgment as reported does not disclose the costs which were recovered by the solicitor from the purchaser of the several holdings, who was not a party to the proceedings, but it would seem that in the bills as furnished he was charged with half the scale costs.

Negligence by Firm of Accountants

The case of *Candler v. Crane Christmas & Co.* (1951, 1 All E.R. 426), although concerned with negligence by a firm of accountants in preparing client's accounts, is of interest to solicitors. The facts were that the managing director of a private company, which was seeking fresh capital, instructed the defendants to prepare the company's accounts and balance sheet. The immediate object of the accounts, which was known to the defendants' clerk who was dealing with the matter, was for production to an intending subscriber of capital to satisfy him as to the financial stability of the company. The clerk concerned, who was held to be acting within the scope of his employment, prepared the accounts and they were shown to the plaintiff, who was the intending subscriber of capital, in the clerk's presence, and the plaintiff subsequently subscribed £2,000 for shares relying on the accuracy of the accounts.

The accounts were subsequently certified by the defendant firm in the form in which they had been shown to the plaintiff. It was admitted that, without any fraud on his part, the accounts were completely misleading due to the failure of the clerk of the defendant firm to check and verify information supplied by the managing director of the client company, and negligence was admitted. The company went into liquidation and the plaintiff lost the money which he had invested. The question was whether the defendant firm in preparing the accounts owed any duty to a third party beyond their duty towards their own clients. It was held

by the English Court of Appeal (Lord Justice Denning dissenting), that in the absence of a contractual or fiduciary relationship between the parties, the defendants owed no duty to the plaintiff to exercise care in preparing the accounts and giving their certificate and that the plaintiff could not maintain against them an action for negligence. The case will probably rank as a leading decision on the principles laid down by the House of Lords in *Donoghue v. Stevenson* (1932, A.C. 502), the "snail in the bottle" classic, in which the manufacturers of mineral waters, which were sold already bottled to wholesalers and ultimately consumed by persons with whom they were not in privity, were liable to the consumers for damage due to foreign matter introduced through the manufacturers' negligence. In that case Lord Atkin suggested the following as the test of liability: "You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law, is my neighbour? The answer seems to be—persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question."

This principle has, however, never been applied where the damage complained of was not physical damage either to person or property, and the Court in the present case refused to extend it in the manner sought by the plaintiff. Lord Justice Asquith said that in the present state of the common law different rules still seem to apply to negligent misstatement on the one hand, and negligent circulation or repair of chattels on the other, and that *Donoghue's* case did not seem to him to have abolished these differences.

Instructions to Sue for Gaming Debt

What is the duty of a solicitor on receiving instructions to sue in respect of a gaming debt? Since *Hill v. Hill* (1949), A.C. 530, it is no longer possible to succeed on an allegation of consideration, such as a promise not to report default to a union or sporting organisation, and apart from limited classes of cases in which gaming debts are indirectly enforceable, as in the case of loans to pay betting losses already incurred, it would seem to be impossible to give full particulars on a writ of a gaming debt without disclosing that there is no cause of action. The Lord Chief Justice expressed the opinion, in giving evidence before the Royal Commission on Betting in June, 1950, that it was a contempt of court to endorse a writ for a gaming debt as for "an account stated." He added that

if such a writ came before him again he intended "to have steps taken so that the matter may be brought before the court and judgment given as to whether it is contempt or not." Presumably if this were contempt it would be equally contempt to endorse the writ for money due under "contracts." The Council of The Law Society have expressed the opinion, in the March issue of the Law Society's Gazette, that, in view of the fact that R.S.C., Ord. 19, r. 15, *Grizewood v. Blane* (1851), 11 C.B. 526, and *Willis v. Lovick* (1901) 2 K.B. 195, require the statute to be pleaded by a defendant who sets it up as a defence, it is not professionally improper for a solicitor to accept instructions to sue in such a case. The Council understand that the Lord Chief Justice's observations apply exclusively to the case where such a writ is endorsed for "an account stated" and that his view is that, as such a pleading does not truly disclose the real nature of the claim, it amounts to an attempt to deceive the court. But solicitors are still left to puzzle out for themselves how a writ may be issued which does disclose the true nature of the claim, having regard to the duty of the court not to countenance a claim which is ex facie illegal (*Alexander v. Rayson* (1936) 1 K.B. 169). (*Solicitors' Journal*, March 10th, 1951).

CRIMINAL APPEAL (FEES AND EXPENSES OF LEGAL AID) REGULATIONS, 1950 (S.I. No. 305/1950)

THE MINISTER for Finance, pursuant to the Criminal Appeal Rules, 1924, hereby makes the following regulations:

1. These regulations may be cited as the Criminal Appeal (Fees and Expenses of Legal Aid) Regulations, 1950.
2. In these regulations—
the expression "Dublin solicitor" means a solicitor who is required, under the Stamp Act, 1891, to pay the stamp duty applicable to a solicitor who practises in the city of Dublin or within three miles therefrom;
the expression "country solicitor" means a solicitor who is required, under the Stamp Act, 1891, to pay the stamp duty applicable to a solicitor who practises outside the limits referred to in the preceding paragraph of this regulation.
- 3.—(1) Subject to paragraph (2) of this Regulation the rates and scales of payment in respect of legal aid assigned to an appellant by the Court of Criminal

Appeal pursuant to Rule 43 of the Criminal Appeal Rules, 1924, shall be as follows—

- (a) to senior counsel—nine guineas on brief and six guineas in respect of each day on which the appeal continues beyond the first day;
 - (b) to junior counsel—six guineas on brief and four guineas in respect of each day on which the appeal continues beyond the first day;
 - (c) to a Dublin solicitor—four guineas on the assignment and two guineas in respect of each day on which the appeal continues beyond the first day;
 - (d) to a country solicitor—six guineas on the assignment and three guineas in respect of each day on which the appeal continues beyond the first day together with, in respect of any occasion on which he has necessarily to travel to Dublin in connection with the appeal, such travelling expenses and subsistence allowance as are appropriate to a civil servant of the highest grade.
- (2) Where, in the opinion of the Attorney-General, a case is of special difficulty he may recommend a special fee for the sanction of the Minister for Finance.
- GIVEN under the Official Seal of the Minister for Finance, this 19th day of December, 1950.

(L.S.)

(Signed) J. J. McELLIGOTT.

LEGAL LITERATURE OF THE MONTH

A selection of articles from periodicals in the Society's Library

Costs, Incidence of Liability—*Solicitors' Journal*, March 3rd and 10th. The Art of Drafting—*Solicitors' Journal*, March 3rd. Ownership and the sale of Goods—*Solicitors' Journal*, March 31st. Some authorised modes of applying capital money under the settled Land Act—*Solicitors' Journal*, March 31st. Maintenance payments and taxation—*Law Times*, March 30th. Parcels in conveyances—*Law Times*, March 30th. Betting transactions and the Gaming Acts—*Law Times*, March 9th. Covenants against Assignment, Unreasonably withholding consent—*Law Times*, March 9th. House Purchase, mortgage transactions and Legal Costs—*Law Times*, April 13th. The irrevocable authority of Agents—*The Solicitor*, April, 1951. Conveyances of Single Houses—*Solicitors' Journal*, March 24th. Lessees' liability for costs of Counterpart—*Solicitors' Journal*, March 24th. Practice Pitfalls, Withdrawal of Appeal—*Law Notes*, March, 1951.

APPOINTMENT

MR. J. DESMOND MORAN, Solicitor, 34 Lower Ormond Quay, has been appointed Sheriff for County Dublin as from May 1st.

OBITUARY

MR. GERALD F. ROBINSON, Solicitor, died at his son's residence, 4 Maretimo Road, Blackrock, County Dublin, on the 14th April, 1951. Mr. Robinson served his apprenticeship with Mr. Septimus D. Lambert, 35 South Frederick Street. He was admitted in Trinity Sittings, 1928, and practised at 13 Bachelor's Walk, Dublin.

THE REGISTER

Section A

VACANCY in Co. Tipperary Solicitor's Office for competent Assistant Solicitor with some years' experience. Reply giving full particulars to Box No. A129.

COST Drawer wanted for Belfast Office—good terms offered including residence. Crawford & Lochart, Solicitors, 14 Ely Place, Dublin.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

NOTICE

Folio 3441. COUNTY LONGFORD.

Registered Owner: MARY BRADY.

An application has been made by the devisee of the said Mary Brady to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 24th day of April, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO:

Land Certificate of Mary Brady to 27a. 11. 19p. of the lands Fostragh situate in the Barony of Longford and County of Longford being the lands comprised in said Folio.

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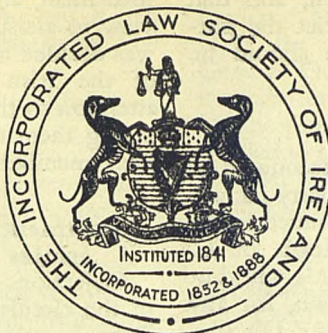
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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
ROGER GREENE

Vice-Presidents
NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

APRIL 26TH. The President in the Chair. Also present: Messrs. Niall S. Gaffney and Frances J. Gearty, Vice-Presidents; Patrick R. Boyd, Desmond Mayne, Daniel O'Connell, Reginald J. Nolan, Thomas A. O'Reilly, Dermot P. Shaw, Derrick M. Martin, Louis E. O'Dea, William J. Norman, Henry St. J. Blake, John Carrigan, Gerald J. O'Donnell, James J. O'Connor, John J. Sheil, Sean O hUadh-aigh, Joseph Barrett, Joseph P. Tyrrell, John R. Halpin, George A. Overend, James R. Quirke, John J. Nash, Maurice M. Power, Arthur Cox, Patrick F. O'Reilly, Desmond R. Counahan.

The following was among the business transacted:—

Sale at a price inclusive of costs

Members wrote referring to the common practice of builders of offering to sell newly built houses to purchasers at a net price expressed to include all legal charges, and stated that in many cases the title furnished to the lessee is insufficient. They submitted that the practice of offering houses at inclusive

prices, if permissible at all, should be strictly regulated and they asked that the Council should use their influence to see that a good marketable title should be furnished. The Committee which considered the matter referred to the opinion of the Council published in the Society's GAZETTE for June, 1949, disapproving of the practice by solicitors of publishing advertisements for the sale or leasing of property at a price inclusive of costs on the ground that such advertisements suggest that the services of the vendor's solicitor are at the disposal of the purchaser without any additional charge. The Committee recommended that the attention of members should be drawn to this opinion by a notice in the Society's GAZETTE. The Council adopted the report of the Committee. The Council also appointed a deputation to interview the President and Secretary of the principal builders' associations with a view to inducing them to advise their members that advertisements for the sale or lease of new houses should contain no reference to solicitors' costs. The Council were also of the opinion that where new property is sold by way of lease the contract for the lease should provide that a marketable title

to the lessor's interest will be shown, and that Conditions of Sale which unduly restrict the purchaser's right to investigate the title should be avoided.

Estate Duty Office—Disclosure

A died in 1913 and B, his executrix, accounted in her affidavit of assets for his entire property including certain premises in which A was, as stated in the affidavit, entitled in remainder on death of C. D. acted as solicitor for B. in proving A's will, but never acted for C. nor, as far as known, for any other party interested in these premises. D's files relating to A's estate were put away over 35 years ago. B. never became entitled to these premises in possession and never occupied same. Both B. and solicitor D. died many years ago. D's former practice is now carried on by E. who is not acting for the present occupier of these premises and who has not got any personal knowledge of the title hereto. The Estate Duty Office have now furnished the following queries to E. :—“(1) the present address (if living) or the exact date of death (if dead) of C. who was entitled for life to the premises with remainder to A. (See page 6 of copy of A's I. R. Affidavit); (2) the title under which C. received the life interest.” It was desired to have the opinion of the Council of the Incorporated Law Society as to :—(i) Is E. bound to furnish the Estate Duty Office with the information sought now by them including the making of the various searches amongst old files and enquiries required to procure such information. (ii) If so bound is E. at liberty to furnish the information sought? (See Finance Act, 1894, section 8 (42) (6), Hanson, 9th edition, pages 187 and 687, Succession Duty Act, 1853, section 49. The Council, adopting the report of a Committee, were of opinion that the solicitor was neither obliged nor entitled to furnish the information required by the Revenue Commissioners.

Formation of Companies by Accountants

The Council considered a report from a Committee on the subject of a report published in the issue of *The Accountant*, dated 16th December, 1950, of a recommendation by the Council of the English Institute of Chartered Accountants to the effect that the drafting and settling of memoranda and articles of association of companies should properly be left to solicitors, and that while that Council was advised that a chartered accountant who prepares the memorandum of association and articles of association of a company would not by doing so be infringing the law, it was nevertheless of opinion that he should not draft or settle the documents in

final form, any suggestions he makes being with a view to assisting the responsible legal advisers. It was decided to make representations to the Councils of the Irish Accountancy bodies inviting their attention to the opinion of the English Council and asking them to make a similar recommendation to their members in Ireland.

Department of External Affairs and foreign estates

Objections were raised by members to the form of the circular letter heretofore issued by the Irish Consular agents in the United States to Irish beneficiaries in American estates on the ground that the circular in its present form tends to suggest that the services of the Department are at the disposal of the beneficiaries, and that it may be unnecessary to engage an Irish solicitor. Representations were made by the Society to the Department on the subject, and the Department had agreed to withdraw the circular now in use and to substitute another to meet the objections of the Council. The Council considered the proposed new circular on a report from a Committee and decided to inform the Department that it is no longer open to objection, and to thank the Department for the courteous manner in which the Society's representations had been received.

Solicitor's liability for medical fees

Mr. X., a surgeon, wrote to the Society complaining that in a case in which he had been asked by Mr. Y., solicitor, to submit particulars of his fees for treatment of an injured person for the purpose of a claim for damages for his injuries, the claim had been settled for a sum which included the medical expenses but Mr. X. had not received from the solicitor the amount of his fees. On investigation it was found that the cheque for the amount of the compensation had been drawn by the Insurance Company in favour of the client and forwarded to the solicitor, and that the client had thereupon required the solicitor to hand over the cheque to him saying that he would pay the doctor's fees himself. The solicitor's costs had been paid by separate cheque. The Council, on a report from a Committee, decided that in the interests of the good relations between the medical profession and the solicitors' profession members should, where possible, ensure that the doctor's fees are paid, particularly where the amount of the fees is used as the basis of the settlement of the claim. As between the client and the solicitor, the latter has no legal answer to a demand by the client for the amount of any compensation received by the solicitor as his agent, and the solicitor is not entitled to withhold it. On the facts in the present

case the Council found that the solicitor had not been guilty of any impropriety as he had merely acted in accordance with his legal obligations.

Incidence of costs as between vendor and purchaser

THE attention of the Council was drawn to a local practice limited to a small area whereby the conditions of sale usually include a stipulation that the purchaser will pay the whole of the vendor's solicitor's costs. It was decided in accordance with the previous ruling of the Council that this practice is contrary to the interests of the public and of the profession, and the Secretary was directed to write a letter to each solicitor in the district drawing his attention to the opinion of the Council and asking that it should be followed.

MAY 4TH. A special meeting of the Council was held. The President in the Chair. Also present: Messrs. Sean O hUadhaigh, Thomas A. O'Reilly, Dermot P. Shaw, John J. Nash, John R. Halpin, Desmond Mayne, John J. Sheil, Patrick R. Boyd, William J. Norman, John Carrigan, Patrick F. O'Reilly, James R. Quirke, Joseph Barrett.

Final Examination

THE Report of the Court of Examiners was considered and adopted.

Organisation of the work of the Council

PROPOSALS circulated by the President were considered and approved subject to certain amendments.

MAY 17TH. In the absence of the President, Mr. Gaffney, Vice-President, took the Chair. Also present: Messrs. Francis J. Gearty, Vice-President, John J. Sheil, Patrick R. Boyd, Desmond R. Counahan, William J. Norman, Patrick F. O'Reilly, Henry St. J. Blake, Arthur Cox, Gerald J. O'Donnell, Reginald J. Nolan, George A. Overend, Louis E. O'Dea, John R. Halpin, James R. Quirke, Joseph P. Tyrrell, Maurice M. Power, Thomas A. O'Reilly, Sean O hUadhaigh, T. A. Buckley, John Carrigan, John J. Nash, James J. O'Connor.

Housing (Amendment) Act, 1950. Costs of obtaining certificate under Section 6

THE Council, on a report from a Committee, decided to advise members that where a solicitor applies to the Department of Local Government for the certificate under Section 6 of the Housing (Amendment) Act, 1950, for the purpose of having the lease stamped with *ad valorem* duty of 1 per

cent. on any fine payable thereunder, the services rendered by the solicitor are not covered by the scale fee under the Solicitors' Remuneration, General Orders 1884 to 1947 or under the Land Registration Rules 1934, as amended. The solicitor for the purchaser is, in the opinion of the Council, entitled to make an additional charge and the Council consider that a fee of £3 3s. is reasonable in respect of applications for the certificate in the normal case.

Arbitration Bill, 1951

THE Council considered a report from a Committee on a draft bill prepared by the Attorney General's department. It was decided to make representations with regard to certain provisions therein concerning solicitors' costs and to inform the Attorney General that subject to these points the Council consider the Bill a beneficial measure.

Northern Ireland or English solicitors acting for purchasers

MEMBERS enquired whether the Council would approve of their dealing with a Northern Ireland solicitor who is not entitled to practise in the Twenty-Six Counties, acting for a vendor of property in Dublin. The Council decided to inform the members concerned that in accordance with previous decisions there is no legal objection to a Northern Ireland or an English solicitor's acting for the vendor or purchaser of property in the Twenty-Six Counties provided that all acts done by the solicitor are performed outside the Twenty-Six Counties and that members of this Society should recognise their right so to act. The further question was raised as to whether the usual receipt for the purchase money in a deed executed by the vendor and produced by a Northern Ireland or English solicitor would be a good discharge for the purchase money paid to that solicitor by the purchaser of property in the Twenty-Six Counties. The Council decided to inform members that in their view the answer is doubtful, and that members would be advised to seek counsel's opinion thereon for the protection of their clients.

ORDINARY GENERAL MEETING OF THE SOCIETY

MAY 17TH. In the absence of the President, Mr. Niall S. Gaffney, Vice-President, took the Chair. The following members of the Society signed their names as being present:—Messrs. Francis J. Gearty, Vice-President, Henry St. J. Blake, Patrick R. Boyd, John Carrigan, Desmond R. Counahan, Arthur Cox, John R. Halpin, John

J. Nash, William J. Norman, Daniel O'Connell, James J. O'Connor, Gerald J. O'Donnell, Patrick F. O'Reilly, Thomas A. O'Reilly, Sean O hUadhaigh, George A. Overend, Maurice M. Power, James R. Quirke, John J. Sheil, Joseph P. Tyrrell, Reginald J. Nolan, Timothy A. Buckley, James B. McGarry, Richard Ryan, James G. Lyons, Robert W. R. Johnston, James J. Hickey, Joseph P. O'Connell, Sean A. O hUadhaigh.

The notice convening the meeting was, by permission of the meeting, taken as read. The minutes of the Ordinary General Meeting held on 23rd November, 1950, were read, confirmed and signed by the Chairman.

The Chairman announced that he nominated the following members of the Society to act as scrutineers of the ballot for the election of the Council to be held on 22nd November, 1951:—John R. McC. Blakeney, Desmond J. Collins, Thomas Jackson, Brendan P. McCormack, Roderick J. Tierney.

The Chairman, addressing the meeting, said:—

“Ladies and Gentlemen, it is with the greatest possible regret that the President offers you his apologies for not being present at this half-yearly General Meeting of the Society. This would have been his first opportunity of addressing the Society as a whole since his election and as you may well imagine he has not abandoned lightly his opportunity of doing so. As he has explained to members of your Council the President has been invited as principal guest to the annual dinner of the Eire Society of Boston on May 19th and he has accepted the invitation. The President feels greatly honoured by the invitation of the Eire Society of Boston which he regards as a tribute to our Society. As one of the Vice-Presidents I have been asked to read this address to you on behalf of the President and I hope that you will accept his apologies for not being with you.

Since our last half-yearly meeting the Great Reaper has carried out his customary duties and this year some very eminent members have fallen to the stroke of his scythe. The following members of the Society have disappeared from our midst. Mr. Charles J. Laverty, of Castleblayney, died on March 12th. He was admitted in Trinity Sittings, 1894, served on the Council from 1924 to 1939 and was President in 1934-35.

The following solicitors have also died since our last ordinary meeting:—Francis J. Allen, A. Newton Anderson, J. Sydney Bright, Francis Clinch, Charles J. Crowley, Joseph Dodd, Vincent P. Duffy, Robert T. Falkiner, James G. E. Fitzgerald, John Forde, Sir Joseph Glynn, A. Moreland Harper, Gerald J. Hegarty, John Kelly, John J. Macken,

Thomas S. McAllister, Daniel McCartan, W. J. McCourt, William S. McCullough, Thomas McKinty, William Patterson, Albert E. Prentice, Gerald F. Robinson, William J. G. Seeds, Robert B. Wolfe. We offer our sincere sympathy to their families.

Once again I appeal to those members of our profession who have not joined our Society to do so without further delay and I ask the existing members of our Society to canvass their colleagues and apprentices with a view to getting them to join.

I also appeal to every solicitor throughout the country to join a local Bar Association and to do everything possible within his power to make his Bar Association a vigorous and live body. Recent events have underlined the necessity for professional bodies to organise. As I see it for some time to come professional organisations are liable to come under fire from many quarters. A closely knit and well organised Law Society, supported by active Bar Associations, will be able to resist such attacks if and when they come. The time-worn cliché, “united we stand, divided we fall,” carries greater significance to-day than it has done for many a day past.

This Society will do everything within its power to assist Bar Associations and in return the Society expects Bar Associations to co-operate with the Society when they are called upon. I would ask you to attach the greatest possible importance to the necessity to organise your Associations and to act accordingly.

LAW REFORM:

I understand the Attorney General has set up a section in his office for the investigation and overhaul of our present laws with the object of reforming them and bringing them up-to-date. This is long overdue. I congratulate the Attorney General on this practical step but it occurs to me that he is making a mistake in dealing with such an important matter within the narrow confines of his own office. Theory is never a substitute for practical experience and it seems to me a pity that the Government when considering Law Reform generally do not set up a number of parallel committees with different Chairmen to examine and make proposals for legislation on the lines of the Company Law Reform Committee which has recently been set up. It seems to me that there will be very little professional or public interest in the machinery of Law Reform which operates behind closed doors in Upper Merrion Street.

COMPANY LAW REFORM COMMITTEE:

As you know, the Council at the invitation of the Attorney General appointed Messrs. Overend

and Cox as the representatives of this Society on this Committee. This undoubtedly is a step in the right direction but as I have mentioned in my previous paragraph it is a pity that this principle of an Examining Committee has not been extended into other aspects of much needed legal reform. It is hoped that a report of this Committee, and other Committees that may be set up to deal with Law Reform, will not meet with the same fate as many other Government Commissions have met in the past and that the delay in dealing with Committee suggestions and bringing about reforms will not be such as to render them obsolete even before they are introduced.

STAMP DUTIES :

The profession still continues to receive complaints from vendors and purchasers as to the financial hardship imposed on the public by the new rates of stamp duties on the sale and transfer of land and house property under the Finance (No. 2) Act, 1947. This burden is particularly heavy in the case of young married couples and when it is realised that it is seldom possible to buy a house nowadays for less than £2,000 it will be seen that one of the immediate effects of the Finance (No. 2) Act, 1947, by raising the duty from 1 per cent. to 5 per cent. was to levy a new tax of at least £80 on many newly married couples. The Society protested against this duty when it was first imposed and renewed its protest each succeeding year. The position was alleviated to some extent by the Housing (Amendment) Act, 1950, which authorised a reduction of the duty to 1 per cent. where new houses are purchased by means of a grant under the Small Dwellings (Acquisition) Acts. The Small Dwellings Acts apply however in only a limited number of cases. In the vast majority of cases including sales of agricultural land the 5 per cent. duty continued to be enacted. The case of a newly married couple is perhaps the most extreme case of hardship. The view of the Society is, however, that a tax of 5 per cent. on the sale or transfer of house property or lands cannot be justified under any circumstances.

In the Budget Speech of the Minister for Finance, delivered on May 2nd, there was a welcome but only partial remission of the duty. If the next Government implements the Minister's proposals the 5 per cent. duty in the case of land and houses will be reduced to 3 per cent. Purchasers of new houses for which a grant can be obtained under the Housing (Amendment) Act, 1950, will, of course, still continue to pay the 1 per cent. rate. I would like to thank the Minister for this partial relief but I should like to point out that as far as this

Society is concerned it is still regarded as only a half measure, and that solicitors and their clients will not consider that justice has been done until the duty in the case of lands and houses has been reduced to the same level as the duty on transfers of Stock Exchange securities. In this connection it should be remembered that until 1947 the Stamp Duty on transfers of land was at the same rate as on transfers of stocks and shares. The 1947 Act raised the duty on transfers of stocks and shares to 2 per cent. and the duty on transfers of land and houses to 5 per cent.

In his Budget Speech the Minister announced that the 2 per cent. duty on transfers of stocks or marketable securities would be reduced to the original 1 per cent. as regards transfers of stocks or marketable securities issued by an Irish company. In my opinion a transfer of Irish land or house property to an Irish citizen should not be treated less favourably than a transfer of stocks and shares in an Irish company.

RENTS AND LEASEHOLD COMMISSION :

The Society's memorandum on the subject of the Rent Acts has already been submitted and oral evidence has been given before the Commission. The Memorandum on the Landlord and Tenant Act, prepared by this Society, is in draft form and will be submitted to the Commission as soon as possible.

SOLICITORS BILL :

Charles Dickens, who was a disgruntled law clerk, took his revenge on the profession, *inter alia*, by portraying the law's delays in the famous case of Jarndyce v. Jarndyce. The technique of delay described in that famous case has unfortunately been adopted by successive Governments in their attitude towards the Solicitors Bill. The Bill was first introduced by the Society in 1943. It is essentially a non-contentious matter and its principles and outstanding provisions are for the purpose of safeguarding the public in their dealings with our profession. Its secondary importance is to modernise the profession's domestic affairs such as examinations and matters of that sort. The public stand to gain a great deal from this Bill; the profession relatively little materially but much from the additional confidence and trust of the public which will result from it.

As I have said the Bill was first introduced in 1943 during the regime of a previous Government. Despite many assurances that the Bill would receive speedy consideration its progress has been very disappointing. With the change of Government, three years ago, it was hoped that the desirability

of this Bill would be more fully recognised and earlier promises and assurances gave some hope in this direction. Last year your President informed you, with every reason for assurance, that the checking of the Solicitors Bill in the various Departments of State was almost complete and that he hoped that by the end of that Session of the Oireachtas, in May, 1950, that it would be in the hands of the Government with a view to its introduction in the Dail. I regret I have to inform you that the assurances which were given to our President and the Society then have proved to be fruitless, and that little progress has been made in the past twelve months. Although the Bill has been with the Department of Justice since 1943 it was recently hinted that some points of controversy had emerged in the Bill. So far the Society has not been informed what these points are, nor, despite enquiries, has it been able to find out. Some two months ago we were informed that the Bill would be ready for introduction to the Dail after Easter. Now Whitsuntide is past and as far as we have been able to discern the position is unchanged. It is most disappointing and disheartening to find that the Society's efforts to promote the public good and the improvement of the profession should have been side-tracked over a period of years in favour of measures which, to me at any rate, seem to be of lesser importance.

At the recent Council dinner of the Society the Minister for Justice stated he had every reason to believe that the Bill would be in the hands of the Government before the present Session. Although this statement followed a familiar pattern of other Ministers on the same topic I hope that at last we have reached the end of the road. Since then the Oireachtas has been dissolved. The Council intend to take the first opportunity of approaching the next Government to urge that in view of the delay which has occurred in the past the Bill should be given priority in the legislative programme of the next Dail.

DEFENCE BILL, 1950:

Representations were made to the Department of Defence that Solicitors should not be excluded from consideration for appointment to the Office of Judge Advocate General; this matter is to be considered by the Government.

TORTFEASORS BILL, 1950 -

This Bill was submitted to the Society in draft form and the Council sent a memorandum to the Attorney General making suggestions for its improvement. The Council suggested that the law of contributory negligence should be amended

by introducing the principle of apportioning damages according to the relative degrees of negligence of the plaintiff and the defendant. This suggestion, however, was not accepted.

DEPARTMENT OF EXTERNAL AFFAIRS AND FOREIGN ESTATES:

The Society approached the Department of External Affairs concerning the form of the circular issued by Irish Ambassadors and Consuls abroad to Irish citizens notifying them of their right to participate in the distribution of assets belonging to estates being administered by the American and other Courts. The Circular heretofore in use amounted to a suggestion that the services of the Department should be employed to the possible exclusion of solicitors. Your Council feels that the Department of External Affairs, and indeed any other Government Department, should not engage in solicitors' work but, in this sphere, should confine themselves to the preservation of the interests of Irish Nationals. On representations from the Council the Department agreed to alter the form of the circular and a new draft was prepared which is now considered to be satisfactory. I would like to take this opportunity of acknowledging the speed and courtesy with which the Department met our Society in the matter.

SOLICITORS' REMUNERATION:

We are the only profession in the State whose charges and fees are controlled by Statute. In the light of modern conditions this arrangement can hardly be considered as satisfactory to the profession having regard to its inflexibility in the face of steadily rising prices. The cost of running a solicitor's office in terms of wages, stationery, which is a very large item, and other overheads, has increased by well over 100 per cent. since 1939. The absurdity of our present position is demonstrated by stating that solicitors now only receive a maximum increase of 35 per cent. over our 1921 fees. The average increase in fees since 1921 is about 25 per cent. A £20 fee in 1921 to-day stands at £25, out of which we have to pay the increased cost of running our office in terms of wages, stationery, etc., provide for our homes and families in a world of increasing prices and deflating value of money. The absurdity of this position has only to be stated to be demonstrated, when, according to the Parliamentary Secretary to the Minister for Industry and Commerce in the Dail on 2nd May last, the position of the pound sterling was as follows:—A quantum of goods to the value of 11/7d. in 1914 cost 20/- in 1939 and cost 39/- in February, 1951. We find that applications for

increases in our fees do not meet the realistic, approach which we are entitled to expect. On the other hand the Department of Finance some years ago saw no anomaly in increasing the stamp duties by 400 per cent. and the office fees payable to the Land Registry in some cases up to 500 per cent. at a time when pressure is being brought on solicitors to Local Bodies to reduce their charges.

Every effort is made by the profession as a whole and the Society, in particular, to maintain the standards of trust, confidence and dignity which are normally associated with and reposed in the solicitors' profession. Speaking in broad terms no other profession in this country is the recipient of so much trust. The record of the profession for many years past shows that confidence is very rarely misplaced. In my view it is most undesirable that the present unsatisfactory position of solicitors' remuneration must necessarily have the effect of gravely interfering with the standard of living of the members of the profession. A prosperous and independent profession is a very definite safeguard of the public interest.

EDUCATION :

The general standard of education in Ireland appears to me to be on the decline. This is reflected in the quality of the applicants for admission to the profession and to our office staffs. This shortcoming is not peculiar to our profession and, naturally, is a cause of grave concern to those looking to the future of the country and the profession.

I have referred to a number of points of immediate interest to the profession as a whole. Many other points may have occupied the attention of your Council since the last General Meeting of the Society. In dealing with these many problems the members of the Council endeavour to justify the confidence you have reposed in them by electing them to represent you.

Ladies and Gentlemen, I would like to thank you for your attendance and Mr. Gaffney for his kindness in deputising for me."

The meeting then considered the special business mentioned in the agenda, namely, the appointment of five members to the Nomination Committee for the Cultural and Electoral Panel pursuant to the Seanad Electoral (Panel Members) Act, 1947, section 22. The Chairman proposed the following names for appointment to the Committee:— Arthur Cox, Francis J. Gearty, Patrick F. O'Reilly, James R. Quirke, John J. Sheil. There was no other proposal and the Chairman's proposal was unanimously adopted. Mr. Boyd proposed a vote of thanks to the Chairman for his conduct

of the meeting which the Chairman suitably acknowledged. There was no other business and the proceedings terminated.

SEANAD ELECTION

At a Special General Meeting of the Society on May 29th, it was decided to propose the following members for nomination to the Cultural and Educational Panel at the pending election to the Seanad :

Patrick F. O'Reilly, Dublin,
William J. Norman, Dublin.

LECTURER IN EQUITY AND REAL PROPERTY

THE Council invite applications from solicitors for the position of Lecturer in Equity and Real Property. Particulars of the terms and conditions of appointment may be obtained from the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin.

EXAMINATION RESULTS

Preliminary Examination

At the Preliminary Examination for intending apprentices to solicitors held on the 2nd and 3rd days of April, the following candidates were successful and their names are arranged in order of merit :—

1. Gordon Alan Henderson ; 2. Peter J. Cyril Coyle.

The remaining candidates are postponed.

Six candidates entered, 2 passed, 4 failed.

Final Examination

At the Final Examination for apprentices to solicitors, held on the 2nd, 3rd and 4th days of April, the following candidates were successful and their names are arranged in order of merit :—

1. Francis E. A. Taylor ; 2. Leonard A. Davies ; 3. T. Finbarr O'Reilly ; 4. Mary P. Gallagher ; 5. Edmund S. Doyle ; 6. David R. Pigot ; 7. Michael Lucas ; 8. Edward R. Rogers ; 9. Comhghall U. MacGuill ; 10. Ernest J. Margetson ; 11. Desmond E. M. Matthews and Daniel A. White (*equal*) ; 13. Eileen Mary Woulfe ; 14. Brendan J. Wallace ; 15. James P. Woods ; 16. Patrick U. Murphy ; 17. Kevin P. Loftus ; 18. Mary B. P. O'Mahoney ; 19. Patrick J. McCormack ; 20. Edward A. Fagan ; 21. Daniel G. Shields ; 22. Kevin J. Callanan ; 23. Thomas M. L. Coyle ; 24. William E. T. Bradshaw.

Thirty-three candidates entered; 24 passed; 8 failed; 1 did not attend.

The remaining candidates are postponed.

The Council has awarded a Special Certificate to Francis E. A. Taylor.

LEGAL APPOINTMENT

Mr. Bernard Daly has been appointed County Registrar for County Mayo. Mr. Daly was admitted in Michaelmas Sittings, 1938, and practised at Ballinrobe.

SOLICITOR'S APPRENTICE INCOME-TAX CHILD ALLOWANCE

IN 1944 the Council made representations to the Chief Inspector of Taxes on the refusal of the Revenue Commissioners to concede the child allowance in respect of a solicitor's apprentice. The attitude of the Revenue Commissioners on that occasion was that the allowance could not be made having regard to the provisions of the Finance Act, 1920, section 21. There are no legislative provisions in force in the Republic of Ireland similar to the English Finance Act, 1938, section 20. (*See Heaslip v. Heasmer*. 13 Tax Cases 212). The Society has received no official notification of any change in the attitude of the Revenue authorities but was recently informed that an Inspector of Taxes has conceded a claim for the child allowance of £60 in respect of a solicitor's apprentice. To obtain an allowance in Ireland it is necessary to prove that the person in respect of whom the allowance is granted, if over 16 years of age, is receiving whole-time education at a recognised educational establishment. The accountants who made the claim obtained a copy of the Summary of Regulations of this Society for production to the Inspector of Taxes in support of it.

LEASE OF PORTION OF REGISTERED LAND

MEMBERS have written to the Society drawing attention to the position created by Section 55 (1) of the Land Act 1923, which prohibits the subdivision or letting of a holding without the consent of the Land Commission. The section did not specifically prohibit the letting of part of a holding. This may have been an oversight on the part of

the framers of the Act. Consequently, a lease of portion of a registered holding which was vested under the Land Act 1923, may be registered in the Land Registry without production of any consent of the Land Commission, and the Land Registry will accept and register such leases. It should be noted that this applies only to holdings which were vested under the 1923 Act. Although there is a similar omission from Section 4 (1) of the Land Act 1927, it was later remedied by Section 44 (2) of the Land Act 1936. Accordingly, leases made after the enactment of the Land Act 1936, of portion of a holding vested under the Land Act 1927, require the consent of the Land Commission. The position with regard to land vested under the Land Act 1923 is unaffected. It is thought advisable to draw the attention of members to the position having regard to the confusion which may arise from the different provisions applicable depending on the date of vesting.

POLICE REPORTS

THE Society has received a letter from the Department of Justice on the subject of abstracts of police reports and copies of witnesses' statements in connection with street accidents. The Minister for Justice has decided that in connection with street accidents in respect of which prosecutions are pending the Commissioner, Garda Siochana, has been directed not to furnish either abstracts of reports or copies of witnesses' statements until the criminal proceedings have been disposed of finally. The practice whereby the names and addresses of vehicle owners and witnesses of accidents in respect of which criminal proceedings are pending are supplied to parties concerned or their legal advisers has not been discontinued.

LEGAL LITERATURE OF THE MONTH

A selection of articles from periodicals.

Law Times, April 6th.—“Plea of Tender.”

April 13th.—“Minors and Grants of Administration.” “House-Purchase-Mortgage Transactions and Legal Costs.”

April 20th.—“Guarantor of Void Loan.” “Sale of Leaseholds: Effect of Beneficial Owner Covenants.”

“ Assents by Personal Representatives in their own favour.”

The Solicitor. April—“ The Irrevocable Authority of Agents.”

The Solicitors' Journal, April 7th—“ Liability of Ministry of Health for negligence of Hospital Staffs.”

“ Without Prejudice.” “ Repudiation and Public Bodies.”

April 14th—“ Illegal Premiums Paid to Agents.” “ The Teaching of Equity.”

April 21st—“ A Mechanised Accounting System for Solicitors.”

April 28th—“ Sale of Business to a Company.”

Northern Ireland Legal Quarterly, November, 1950—“ Notice and Registration.”

The Modern Law Review, April, 1951—“ Some Aspects of Mutual Wills.” “ The Right to Rescind for Breach of Condition in a Sale of Specific Goods under the Sale of Goods Act, 1893.” “ A Ramble with Res Ipsa Loquitur.”

STAMP DUTIES

Mr. McGilligan's Budget Speech

In my Budget Speech last year I referred to the 5 per cent. stamp duty imposed by the Finance (No. 2) Act, 1947, on transfers or leases of houses and lands. I expressed regret that I was unable to propose any alteration in the incidence of the duty but undertook that the matter would be reviewed again before the next Budget. Deputies may recall, incidentally, that sub-section (6) of Section 6 of the Housing (Amendment) Act, 1950—which was passed in August, after the Finance Act—provided for a reduction of the stamp duty rate from 5 per cent. to 1 per cent. in connection with any transfer or lease of a house qualifying for a grant on first sale under the main provisions of the same section.

I now propose, as regards the types of case still affected by the 5 per cent. duty, that that rate should be reduced to 3 per cent. of the amount or value of the consideration.

A minor point arises in this connection. Where the amount or value of the consideration exceeds £500 and does not exceed £1,000 the existing law provides a graduated scale finishing on the note that, where the amount or value is £1,000 but not

more, the duty chargeable is £50—in other words, at the rate of 5 per cent. This graduated scale will require consequential amendment so that it will go up, not to 5 per cent., but to 3 per cent.

Provision for these changes will appear in the Finance Bill and they will come into effect on the 1st August next or the date of the passing of the Finance Act, whichever is the later day. It is estimated that, this year, the cost of bringing down the rate as proposed will run to £233,000. I am not proposing this year any alteration in the 25 per cent. rate.

The Finance Act, 1947, doubled the stamp duties chargeable under the First Schedule to the Finance Act, 1891, on conveyances or transfers of stocks or marketable securities. The doubling of the duties meant an increase in the rate from 1 per cent. to 2 per cent. I now propose that the rate of duty should be reduced to its original 1 per cent., as regards conveyances or transfers of any stock or marketable security issued, whether before or after the passing of the Finance Act, by an Irish company. This relief will operate as on and from the 1st August next, or should it occur later, the date of the passing of the Finance Act.

It has been represented strongly to me that, if a reduction were effected as now proposed, it would give a notable impetus to investment in Irish securities generally and would improve the market for new issues. I am, therefore, taking this step in the hope that it will add to the attractiveness of Irish securities and encourage Irish investors to invest their capital in them rather than outside the country.

I should, perhaps, stress that this relief will not affect transfers of shares in external companies, except in a limited field for which it is considered desirable to make special provision. As regards external companies, the reduction in the rate will apply only where shares are transferred on branch registers established by such companies in this country.

The relief will cost roughly £25,000 this year.

—(*Parliamentary Debates*)

RESOLUTION No. 5.—RATES OF ESTATE DUTY

MR. MCGILLIGAN: I move—

That, in the case of persons dying after the 2nd day of May, 1951, the scale set out in the Schedule to this Resolution shall be, and shall have effect as, the scale of rates of estate duty in lieu of the

scale set out in the Third Schedule to the Finance Act, 1941 (No. 14 of 1941).

SCHEDULE.

SCALE OF RATES OF ESTATE DUTY.

Principal Value of the Estate		Rate per cent. of duty
Exceeding £2,000 and not exceeding £3,000	..	1
„ 3,000 „ „ „ 5,000	..	2
„ 5,000 „ „ „ 7,500	..	3
„ 7,500 „ „ „ 10,000	..	4
„ 10,000 „ „ „ 12,500	..	6
„ 12,500 „ „ „ 15,000	..	8
„ 15,000 „ „ „ 17,500	..	10
„ 17,500 „ „ „ 20,000	..	12
„ 20,000 „ „ „ 25,000	..	14
„ 25,000 „ „ „ 30,000	..	16
„ 30,000 „ „ „ 35,000	..	18
„ 35,000 „ „ „ 40,000	..	21
„ 40,000 „ „ „ 45,000	..	24
„ 45,000 „ „ „ 50,000	..	27
„ 50,000 „ „ „ 60,000	..	30
„ 60,000 „ „ „ 75,000	..	33
„ 75,000 „ „ „ 100,000	..	37
„ 100,000 „ „ „ 150,000	..	41
„ 150,000 „ „ „ 200,000	..	45
„ 200,000 „ „ „ 250,000	..	49
„ 250,000 „ „ „ ———	..	53

Passed by Dail Eireann, 2nd May, 1951.

OBITUARY

MR. ROBERT T. FALKINER died at his residence, "Ardmeen," Blackrock, Co. Dublin, on the 14th of March, 1951.

Mr. Falkiner served his apprenticeship with the late Mr. Richard B. Falkiner, 9 Suffolk Street, was admitted in Trinity sittings in 1926 and practised at 9 Suffolk Street under the style of Hone & Falkiner.

MR. VINCENT P. DUFFY, Solicitor, died at Letterkenny Hospital, Co. Donegal, on the 23rd of April, 1951.

Mr. Duffy served his apprenticeship with the late Mr. Edward J. Duffy, Kingscourt, Co. Cavan, was admitted in Michaelmas Sittings, 1927, and practised at Stranorlar under the style of James Boyle & Co., and at Kingscourt under the style of Edward J. Duffy & Co.

MR. AYLWARD R. O'CONOR, Solicitor, died at his residence, Somerton Lodge, Dun Laoghaire, Co. Dublin, on the 16th of May, 1951.

Mr. O'Conor served his apprenticeship with the late Mr. Aylward O. B. O'Conor, 11 Hume Street, was admitted in Hilary Sittings, 1898, and practised at 11 Hume Street in the firm of O'Conor & Son until 1915. He was subsequently legal adviser and a member of the Board of W. & R. Jacob Ltd.

MR. HENRY D. KEANE, Solicitor, died at his residence, 22 John's Hill, Waterford, on the 17th of May, 1951.

Mr. Keane served his apprenticeship with the late Mr. Daniel Dunford, Waterford, was admitted in Hilary Sittings, 1900, and practised at Waterford as senior partner in the firm of Henry Keane & Co.

MR. DENIS J. BERGIN, Solicitor, died at his residence, 28 Villiers Road, Rathgar, on the 20th May, 1951.

Mr. Bergin served his apprenticeship with the late Mr. William H. Dunne, 7 Suffolk Street, was admitted in Michaelmas Sittings, 1927, and practised in the Legal Department, National Bank Ltd., 7 Suffolk Street.

THE REGISTER

Section A

REQUIRED for Waterford City Office competent energetic Clerk, knowledge of costs and conveyancing desirable. Salary according to ability. Box No. A 130.

REQUIRED principally for conveyancing, assistant solicitor with 5 to 12 years' experience. Reply by letter only, giving detailed particulars of education, experience and salary expected, to Whitney, Moore & Keller, 46 Kildare Street, Dublin.

SOLICITORS' GOLFING SOCIETY

THE Solicitors' Golfing Society held its Spring meeting at the Curragh Golf Club (by kind permission of the Captain and Committee) on Sunday the 27th May.

The fixture, though marred to some extent by unfavourable weather, proved very enjoyable and was notable for the support accorded it by solicitors outside Dublin, two coming all the way from Longford to play for the numerous prizes.

These were won as follows:—

The Captain's (Mr. K. Burke) Prize, W. A. Menton; Incorporated Law Society's Challenge Cup, K. Burke; The Veterans' Cup, R. A. Osborne (Athy); St. Patrick's Plate, W. J. Ryan (Abbeyleix).

The Society's next fixture will be the Autumn meeting at Portmarnock Golf Club (by kind permission of the Captain and Committee), on Thursday

the 4th October and it is hoped that there will be a large attendance at this meeting and that solicitors outside Dublin will support it in large numbers.

REGISTRATION OF TITLE ACTS, 1891 and 1942.

NOTICE

Folio 2182

COUNTY LIMERICK

Registered Owner: PATRICK BRAY

An application has been made by Thomas Bray the personal representative of the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate certificate unless he

is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Thomas Bray. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 31st day of May, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Patrick Bray to 31a. 1r. 10p. of the lands of Kylegarve situate in the Barony of Coonagh and County of Limerick, being the lands comprised in said folio.

October 1891
The following is a list of the names of the persons who have been admitted to the membership of the Association since the last meeting of the Association held on the 15th of October 1891.

REGISTRATION OF THE ACTS

1891 and 1892

1891
1892

The following is a list of the names of the persons who have been admitted to the membership of the Association since the last meeting of the Association held on the 15th of October 1891.

THE REGISTER

1891

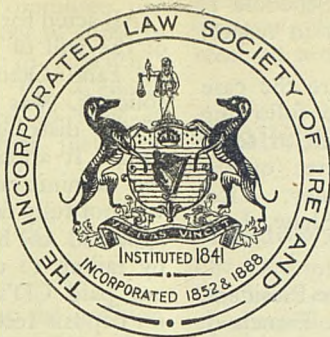
The following is a list of the names of the persons who have been admitted to the membership of the Association since the last meeting of the Association held on the 15th of October 1891.

NEW MEMBERS

1891

The following is a list of the names of the persons who have been admitted to the membership of the Association since the last meeting of the Association held on the 15th of October 1891.

1891



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

ROGER GREENE

Vice-Presidents

NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary

ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

MAY 29TH. A special meeting of the Council was held to consider a report from a Committee on a suggested application for an increase in the scales of solicitors' item charges under the Solicitors' Remuneration General Orders 1884-1947, and for other amendments to the Orders. In the absence of the President and Vice-Presidents, Mr. William J. Norman took the Chair. Also present: Messrs. Seán Ó hUadhaigh, James J. O'Connor, Arthur Cox, Patrick R. Boyd, John J. Sheil, Thomas A. O'Reilly, William S. Huggard, John Carrigan, Dermot P. Shaw, Desmond Mayne, Edmund Hayes, Daniel O'Connell.

The following decisions were reached: (i) An application should be made to the Committee appointed under Section 2 of the Solicitors' Remuneration Act, 1881, consisting of the Chief Justice, the President of the High Court, the Senior Ordinary Judge of the Supreme Court and the President of the Incorporated Law Society of Ireland, for an order increasing the scale fees for

item charges under the old system as modified by Schedule 2 by 75 per cent. on the fees charged in 1939, in substitution for the increases granted in 1947. The last mentioned increases were 25 per cent. in respect of letters and attendances, and 16 $\frac{2}{3}$ per cent. in respect of other work, calculated in both cases on the fees charged in 1939; (ii) Having regard to the majority decision of the Supreme Court (O'Byrne and Lavery, JJ., dissenting), in the case of *Lanigan v. Carlow Mental Board*, the Committee should be asked to rescind Rule 11, part 1, Schedule 1, of the Solicitors' Remuneration General Order, 1884, which provides that the commission scale does not apply in the case of sales under the Land Clauses Consolidation Acts or other Acts incorporating the same; (iii) The Committee should be asked to amend the first commission scale in Part 2, Schedule 1, Solicitors' Remuneration General Order, 1884, as amended, which prescribes the charges for leases and agreements for leases at a rack rent, by providing that where the rent exceeds £100 per annum the commission is to be paid as a percentage on the

actual amount of the rent. At present, subject to the limited operation of Rule 6 of Schedule 1, Part 2, the commission is payable only in respect of unbroken units of £100.

The Secretary was directed to prepare the case in support of the application and the following were appointed as a Special Committee to settle it and to attend before the Committee on the application: Messrs. Niall S. Gaffney, Vice-President, G. A. Overend, Dermot P. Shaw, John J. Sheil.

JUNE 14TH. Mr. Niall S. Gaffney, Vice-President, in the Chair. Also present: Messrs. Francis J. Gearty, Vice-President; G. A. Overend, Patrick R. Boyd, Derrick M. Martin, James R. Quirke, Joseph Barrett, Daniel O'Connell, Thomas A. O'Reilly, Reginald J. Nolan, Patrick F. O'Reilly, John R. Halpin, John J. Sheil, John J. Nash, James J. O'Connor, William J. Norman, Arthur Cox, Desmond Mayne.

The following was among the business transacted:—

Branch Office. Adequate supervision

AB, a practising solicitor, died some years ago. CD, who practises in a town fifty miles distant, continued the practice of AB for the purpose of winding it up. The practice of the deceased solicitor was continued under a business name. The office of AB was open daily under the supervision of an unqualified managing clerk, and CD attended from his own office, usually once a week, for the purpose of supervising the business. The matter was brought to the attention of the Council by members of the Society, and, having invited the views of CD, the Council decided that in their opinion it was not possible for CD to supervise adequately the transaction of clients' business in the branch office fifty miles distant from his own office, and that, unless arrangements could be made to sell the the practice within a specified time, a qualified solicitor should be engaged to manage the branch office, or that, alternatively, the branch office should be opened only on days when CD attended there personally. The general principle is that it is not in accordance with proper professional practice that a solicitor's office should be managed by an unqualified assistant without adequate professional supervision of clients' business. While the adequacy of the supervision must depend upon the facts of particular cases, the Council are generally of the opinion that a branch office which is open daily should be managed by a qualified assistant. If there is no permanent qualified assistant in charge of the office it should be open only on days when the principal attends in person.

Undertaking by solicitor

AB acted for his father, FB, who was sole executor of the will of JQ, deceased. Probate was granted on 22nd October, 1941. In March, 1949, CD, solicitor, was consulted by a residuary legatee whose distributive share of £750 had not been paid. It appeared that the executor had handled the administration himself and that the solicitor was not fully familiar with the details. The executor appeared to have overpaid some of the legatees by failing to deduct the full legacy duty, and had not paid CD's client whose share, however, was on deposit receipt. Sufficient moneys had not been retained by the executor to pay AB's costs. After correspondence AB wrote to CD enclosing the deposit receipt for £750 in the client's name on CD's undertaking to hold it pending settlement. CD alleged that the administration account furnished was unsatisfactory and asked the Council to say whether, having regard to the alleged failure of the executor to furnish a satisfactory account, he was absolved from his undertaking, and whether he might hand the deposit receipt to his client in order to save the estate the expense of Court proceedings. The opinion of the Council was that CD could not release himself from the undertaking given, presumably on his client's instructions, and that, if so advised, he ought to consult counsel as to his client's legal rights.

Auctioneer and house agent employed by solicitor

It was reported to the Society that a person holding an auctioneer's and house agent's licence was in the employment of a solicitor as a clerk. The Secretary was directed to write to the solicitor concerned to enquire whether the facts as stated to the Council are correct, and, on confirmation of the facts as stated, to invite the solicitor's attention to the notification to the profession published in the Society's *Gazette* for June, 1950, that it is not in accordance with professional practice and etiquette for a solicitor to employ as a clerk a person holding an auctioneer's or house agent's licence.

Application under Section 18

On a report from the Court of Examiners the Council decided not to oppose the application to the Chief Justice by an intending apprentice for exemption from the Preliminary Examination. The applicant holds the Leaving Certificate of the Ministry of Education, Northern Ireland.

Solicitors' Remuneration

On a report from the Special Committee the Council approved of the draft statement in support of the application for an increase in solicitors' remuneration and amendments to the General Order. The Secretary was directed to have it engrossed and submitted to the Chief Justice as soon as possible.

VACANCY FOR LECTURER TO THE SOCIETY

The Council invite applications for the position of Lecturer in Equity and Real Property. Any member wishing to apply for the appointment should communicate immediately with the Secretary.

SOLICITORS SHARING AUCTIONEERS' COMMISSION

WHERE a solicitor is retained to buy or sell, or otherwise to act as agent for a client and obtains a profit from the transaction from a third person the solicitor is obliged to account to his client for the amount of the profit so received. In this respect the legal position of a solicitor is not distinguishable from that of any other agent. Under the Prevention of Corruption Act, 1906, Section 1, it is a misdemeanour punishable by imprisonment for an agent to accept or obtain corruptly from any person any gift or compensation as an inducement or reward for doing or forbearing to do any act in relation to his principal's affairs, or for showing or forbearing to show favour to any person in relation to such affairs. In the opinion of the Council if evidence were produced to the Society that a solicitor had accepted a share of auctioneers' commission without disclosing it to his client, the vendor, such evidence would raise a *prima facie* case of professional misconduct which would justify an application by the Society to the Statutory Committee against that solicitor. The onus of showing that the profit so received had been disclosed to the client would rest upon the solicitor.

If the evidence showed that the solicitor had accepted a share of auctioneers' commission in consideration of showing favour to the latter in relation to the client's affairs the solicitor might also be exposed to proceedings under the Prevention of Corruption Act, 1906. This statement is limited to the case where a solicitor himself shares an auctioneer's commission. It is not misconduct for a solicitor to arrange for a reduction in the amount of the auctioneer's commission

on a sale, or for a refund of all or part of the advertising expenses, where the arrangement is made on the client's instructions and the moneys received are duly credited to the client.

DECISIONS AFFECTING THE PROFESSION

Withdrawal of bill of costs

ON December 23rd, 1949, having conducted for his clients certain proceedings which were ultimately compromised, a solicitor, Mr. L., delivered to his clients a bill showing costs amounting to £729 and disbursements, £1,250 and giving credit for cash paid on account amounting to £745. In a letter of same date, sent with the bill, the solicitor, Mr. L., drew attention to the fact that certain Counsel's fees, amounting to £399, had been marked "not yet paid" and asked for a remittance in order to discharge them. No answer to this letter was received and accordingly Mr. L. wrote a letter, on January 20th, 1950, suggesting that the clients should authorise the solicitor for the trustees of the Will under which they took a share, to pay out of the proceeds of sale of the trust property a sum of £1,000 in order to discharge Counsel's fees. Mr. L. received a letter in reply from his clients stating that he was solely responsible for the delay. In these circumstances, in February, 1950, Mr. L. applied in a Probate action for a charging order on his clients' share on the trust estate recovered or preserved through his efforts. This application was heard on the 15th February, 1950, and was adjourned generally under an arrangement whereby the administrators (the son and daughter of the clients), undertook to retain sufficient of the clients' share to discharge the bill, while the clients undertook to have the bill taxed under the Solicitors' Act, 1932. As Mr. L. was aware that he could not ask the Taxing Master to tax as disbursements unpaid Counsel's fees unless they were paid before the taxation, he managed to reduce these fees to £280 which he paid on 17th March, 1950. The taxation came on before the Taxing Master on March 27th, when the Master pointed out that the bill was defective in that Counsel's fees, unpaid when it was delivered, were not shown in a separate schedule and that he had, therefore, no option but to disallow them. Thereupon in April, 1950, Mr. L. wrote to the clients asking for their consent to his withdrawing the bill and re-drawing it in a proper form. The clients declined to consent to this and the solicitor now applied to the Chancery Court for leave to amend the bill or to withdraw and re-draw it. Harman, J.,

held that the bill was defective under the Rules of the Supreme Court (England) Order 65, Rule 27, but the Court had discretion to permit its withdrawal and re-delivery and it was proper to exercise it in this case in favour of L. *Re. A solicitor* (1943, I, All England Reports 157). *Re. A Solicitor* (1936, I, All England Reports, 491). Per Harman J. "I agree that a solicitor must show a strong case to justify the amendment or withdrawal of a bill of costs and that the applicant ought to have been alive to the rule as to showing unpaid disbursements separately. I agree also that it would need a very strong case to allow a solicitor to alter his bill so as to increase his charges. The mistake here was, however, merely one of form. No attempt to deceive the clients was made nor is any increased charge sought to be introduced. The clients have largely benefited by the efforts of their solicitor and Counsel, and it would in my opinion, be a disproportionate punishment of a mere slip if they were to saddle the solicitor personally with these not inconsiderable fees which he has paid. For all these reasons, I propose to exercise my discretion and to allow the bill to be withdrawn and re-delivered. I shall direct the bill, when re-delivered, to be taxed. The terms, therefore, are: tax the clients' costs of this application and of the application for taxation as between solicitor and client, and order the solicitor to pay them. Subject to their payment within fourteen days of taxation, the solicitor may withdraw his bill and deliver a fresh bill not distinguished from it in any particular save that proper entries may be made in respect of disbursements and that bill, if and when delivered, should be taxed." (*re. a Solicitor* (1951) I, All E. R. 592).

Undercutting. Attracting business unfairly

The Court dismissed an appeal by Mr. Wilfrid Ariel Evill, a solicitor, from findings and an Order, made on December 1st, 1950, by the Disciplinary Committee of the English Law Society, constituted under the Solicitors' Acts, whereby it was ordered that Mr. Evill should pay a penalty of £100, for failing to comply with Rules 1 and 2 of the Solicitors' Practice Rules, 1936.

It was stated that Mr. Evill had no desire for the anonymity to which he was entitled as an appellant to that Court.

By Rule 1 of the Rules of 1936, "a solicitor shall not . . . permit in the carrying on of his practice any act . . . which can reasonably be regarded as calculated to attract business unfairly. By Rule 2 "a solicitor shall not . . . allow himself to be held out . . . as being prepared to do professional business . . . in non-contentious

matters . . . at less than two-thirds of the scale of charges fixed by the regulations contained in the General Order of 1882, made under the Solicitors' Remuneration Act, 1881."

Mr. Gilbert Paull, K.C., and Mr. Colin Duncan appeared for Mr. Evill; Mr. C. R. Havers, K.C., and J. R. Cumming-Bruce for the Committee.

The Lord Chief Justice, giving judgment, said that the Amalgamated Engineering Union, like some other trade unions, acted like a building society and helped their members to buy houses. Mr. Evill had an arrangement with the union whereby he was to act for them in their capacity as mortgagees and at the same time would charge the prospective purchaser of a house, who would be a member of the union, far less than would ordinarily be payable under the established scale of charges.

The arrangement had been made many years previously, and it was clear that a considerable amount of the business brought to Mr. Evill by the union had been done by him on those terms. He charged the proper fee to the union as mortgagees and then, instead of charging the scale fee to prospective purchasers, he had been charging what was not much more than a nominal fee.

The point was simply this: Mr. Evill had been acting in a way which, if he was free so to act, was beneficial so far as the particular member of the trade union was concerned. But the rules were designed not only to protect the clients of solicitors but also to preserve proper standards among solicitors themselves.

The case of a solicitor acting for both parties, a mortgagee and a purchaser, was provided for by the rules; he received scale and a half—not double. Mr. Evill, however, and he (His Lordship) was not suggesting that he had no reason for his attitude, made it clear to the prospective purchaser that he would be charging the union the proper fee for the mortgage and for investigating the title for them; that he would, therefore, not have to investigate the title all over again for the purchaser; and that he would, accordingly, not make the charge for investigating title to the latter because he had not done that work for him.

That, however, was not what the relevant rule said: If Mr. Evill investigated a title, he did so for the purchaser as well as for the mortgagees, even if he did not go through the farce of doing it all over again a second time. A solicitor acting for both parties owed a duty to both. By Rule 6, of the General Order of 1882, he ought to charge scale and a half in such a case, and if he said that he would not charge that but only something very much less then he was, to put it shortly, under-

cutting. In the present case, the amount which the member of the union would have had, as purchaser, to pay under the scale was £24, whereas Mr. Evill only charged him £4 15s.

Mr. Evill, it should be said, had been perfectly frank throughout. The evidence on which the Disciplinary Committee had acted was in substance contained in his own letter written in reply to the complaint. In his (his Lordship's) opinion, in acting as he had, Mr. Evill, had undoubtedly infringed Rules 1 and 2 of the Rules of 1936, and the appeal should be dismissed. Mr. Justice Oliver and Mr. Justice Sellors agreed.

—(*The Times* Newspaper, 1st May, 1951).

Solicitor's lien defeated by set-off between parties

Petitioning creditors—Bowmaker Limited, presented a petition in the Windsor County Court against the debtor and a receiving order in bankruptcy was made. On November 13th, 1950, an appeal to the Court by the debtor was allowed (1950, 2 All E. R. 1129), and the receiving order was set aside on account of defects in the bankruptcy proceedings. The applicants were thereupon ordered to pay to the debtor the costs of the appeal and of the proceedings in the Windsor County Court amounting to £72. The applicants were, however, judgment creditors of the debtor for a balance of £409 1s. 4d., remaining out of a larger sum for which they originally obtained judgments. The debtor's solicitors notified the creditors, Messrs. Bowmaker, of an intention to issue execution against them to recover the said sum of £72 for costs. In these circumstances the creditors applied to a Divisional Court of the Chancery Division for a stay of execution of the order for payment of the costs and intimated that they proposed to bring a fresh bankruptcy petition against the debtor. This application for a stay of execution was resisted by the debtor on the ground that to grant such a stay would be equivalent to allowing a set-off to be made and (a) a set-off would interfere with the lien of the debtor's solicitors for costs on the sum of £72, and (b) that the judgment creditors would be obtaining payment in full in priority to other possible creditors. Harman and Danckwerts, J.J., held that the Court had a discretion to allow a set-off when reasonable, notwithstanding a solicitor's lien: *Reid v. Cupper* (1915, 2 K.B. 147), applied. There being at the time no bankruptcy no question of undue preference arose, and, in any event, money set-off under an Order of the Court could not constitute an undue preference, and on the facts of the case, it was

just that the creditors should have a stay of execution. Per Harman, J.: "The old decisions about the practice in bankruptcy were based apparently, on the view that the practice in Chancery was being followed. Now, whatever the practice in Chancery was at one time, it has, at any rate since 1916, allowed a set-off in all proper cases, notwithstanding the solicitor's lien, and I see no reason why bankruptcy practice should not follow the same rule. I agree that we have a discretion to allow this set-off, or a stay, which amounts to much the same thing, if it be just. In my opinion, it would be right to allow it. I cannot see that as between the parties themselves there cannot be any justice in allowing the debtor to levy execution against the goods of his creditors, nor do I think that this ought to be allowed for the sake of the debtor's solicitor. I cannot see any reason why the creditors should pay the costs of the debtor's solicitor if the debtor is unable to do so, nor do I believe that a solicitor accepting the retainer of a person against whom bankruptcy proceedings are pending, does so in reliance on the view that the petitioner's solicitor may blunder and thus give him the advantage of an order for costs against the petitioner." (*Re. A Debtor* (1951) 1, All E. R. 600).

LEGAL LITERATURE OF THE MONTH

A selection of articles from periodicals.

- Law Times*, May 4th.—"False Imprisonment."
"Insertion of a Nominal Consideration in Deeds."
May 11th.—"Solicitor acting for both Parties—Fees." ; "Fatal Accidents—Damages in Court."
May 18th.—"Order of Application of Assets—Lapsed Shares."
May 25th.—"The Tucker Report and Partnerships." ; "Power to appoint Additional Trustee."
The Solicitor, May—"Liens of Sub-Agents." "The Assignability of Leases."
The Solicitors' Journal, May 5th.—"Investment Clauses." "How to revoke an appointment as executor." "Boundary Adjustment."
May 12th.—"Postponement of Order for Possession."
May 19th.—"Trusts for the relief of Old Age."

The Solicitors' Journal, May 26th.—“Religion and Custody.”; “Right to re-enter part of Agricultural Holding.”

The Irish Jurist, Easter Term, 1950—“Furnished Lettings and the Rent Acts.”; “Compensation for damage to property under the Malicious Injuries Acts.”

International Law Quarterly, April 1951.—“Unification of the Laws respecting Negotiable Instruments.”; “Resulting change of Legitimate Minor’s Domicile.”

The Conveyancer and Property Lawyer, March-April, 1951.—“Wills and the Settled Land Trustees.”

The Law Quarterly Review, April 1951.—“Settled Shares in a Company—Income and Capital.”; “Liability in Negligence for False Statements.”

THIRD INTERNATIONAL CONGRESS OF SOCIAL DEFENCE

THE Third International Congress of Social Defence will be held in San Marino from September 16th to 22nd. In this context the term “Social Defence” is used in its wide modern sense as referring to the sphere of criminal law and the function of the State in the repression of crimes or anti-social acts. Members who may wish to attend the Congress may obtain further information from the Department of External Affairs.

EXAMINATION RESULTS

At the Intermediate Examination for apprentices to Solicitors held on the 21st and 22nd days of May, 1951, the following passed the Examination.

Passed with Merit: 1. Patrick C. Kilroy. 2. Charles Hennessy. 3. Henry J. A. Lafferty. 4. Ernan Rory O’Connor. 5. George H. Crawford. 6. Leo J. Loftus. 7. Edward Anthony Cody. 8. Daniel J. Courtney. 9. Patrick J. O’Connor.

Pass: John Bailey, John K. Boland, Susanna Bowler, Francis J. Plunkett Dillon, Robert McGonagle, Margaret Magan, Thomas Mullaney, Patrick B. Munnely, Thomas Niall O’Byrne, Brian K. Overend, Patrick Smyth.

Twenty-six candidates entered; 20 passed; 4 failed; 2 did not attend.

The remaining candidates are postponed.

OBITUARY

MR. ROBERT MECREDDY, Solicitor, died on the 14th November, 1950.

Mr. Mecredy served his apprenticeship with the late Mr. George A. Atkinson, Solicitor, Enniskillen, was admitted in Trinity Sittings, 1906, and practised at Manorhamilton until 1943, and at Enniskillen from 1940 until his death.

MR. JOHN W. SIMPSON, Solicitor, died on the 16th December, 1950.

Mr. Simpson served his apprenticeship with the late Mr. W. C. Gillespie, Solicitor, Armagh, was admitted in Hilary Sittings, 1899, and practised at Armagh.

MR. JOHN J. REA, Solicitor, died on the 27th January, 1951.

Mr. Rea served his apprenticeship with the late Mr. Edward V. Hamilton, Solicitor, Aughnacloy, was admitted in Hilary Sittings, 1900, and practised at Aughnacloy.

MR. GEORGE C. LEPPER, Solicitor, died on the 29th January, 1951.

Mr. Lepper served his apprenticeship with Mr. Alfred E. Brett, Solicitor, Belfast, was admitted in Hilary Sittings, 1897, and practised at Belfast until 1938.

REGISTRATION OF TITLE ACTS, 1891 and 1942

NOTICE

Folio 186 L.S.D.

CITY OF DUBLIN

Registered Owner: ANNIE L. WOLFE.

An application has been made by the registered owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 28th day of June, 1951.

JOSEPH O’BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Annie L. Wolfe to the premises known as No. 11 Achill Road, Upper Drumcondra, situate in the Parish of Clonturk, Dublin, being the property comprised in said folio.

NOTICE

Folio 3085.

COUNTY LIMERICK

Registered Owner: WILLIAM F. WALKER.

An application has been made by the registered owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 28th day of June, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of William F. Walker to 6a. 2r. 28p. of the lands of Blackabbey situate in the Barony of Coshma and County of Limerick, being the lands comprised in said Folio.

THE REGISTER

Section A

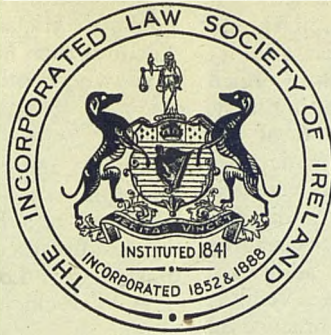
FOR SALE AS A GOING CONCERN

Fully equipped and long established Solicitor's Practice, situate in Ballaghaderreen, County Roscommon. Offers in writing to Mark F. Conroy, Solicitor, 4 St. Francis Street, Galway.

Required Law Clerk with competent knowledge of Conveyancing and Probate work, or young qualified Assistant. Reply, giving detailed particulars of education, experience and salary expected, to Allen & Hopkin, Solicitors, Church Street, Cavan.

NEW RATES OF STAMP DUTIES
AND DEATH DUTIES

In the May issue of the GAZETTE the speech of the Minister for Finance concerning the reduced rates of duty was printed. The Finance Act, 1951, has since been passed by Dail Eireann. By section 17 it is enacted that the new rates of death duties apply in the case of persons dying after 2nd May, 1951. Sections 17 to 19 concerning the new rates of stamp duty come into operation on 1st August, 1951, or on the date of the passing of the Act, whichever is the later, and shall not have effect with respect to any instrument executed before such coming into operation.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

ROGER GREENE

Vice-Presidents

NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary

ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

JULY 5TH. The President in the Chair. Also present: Messrs. Niall S. Gaffney, Francis J. Gearty, Vice-Presidents, Sean O hUadhaigh, Joseph Barrett, James R. Quirke, Daniel O'Connell, Dermot P. Shaw, John R. Halpin, Thomas A. O'Reilly, Reginald J. Nolan, Louis E. O'Dea, John J. Sheil, Derrick M. Martin, James J. O'Connor, Joseph P. Tyrrell, John J. Nash, Desmond Mayne, Desmond R. Counahan, Arthur Cox.

The following was among the business transacted:—

Solicitors Bill

A deputation consisting of the President with Messrs. O hUadhaigh and Cox was appointed to approach the Minister for Justice to press for the early introduction of the Bill.

Certificates of discharge from Income Tax and death duties

In the case of *Hopkins v. Geoghegan* (1931, I.R. 135), on a vendor and purchaser summons, Mr. Justice Johnston, in order to avoid expense and delay, expressed the following opinion without giving a formal decision. He held that the certificate under Section 6 of the Finance Act 1928, if required by the purchaser, is an expense which must be borne by him under Section 3 (6) of the Conveyancing Act, 1881, in the absence of a stipulation to the contrary in the agreement for a sale. The Council subsequently published a recommendation, while not questioning the validity of the *obiter dictum* of Mr. Justice Johnston, that the certificate in question should be furnished by a solicitor acting for a vendor without additional charge either against his client or against the purchaser. A member acting for a vendor was required to obtain and furnish two certificates of discharge from death duties on the death of former owners of the property and asked for the opinion of the

Council as to whether he was entitled to make an additional charge, and, if he was, whether it was payable by the purchaser or whether it should be treated in the same way as the certificate under Section 6 of the Finance Act, 1928. The Council adopted a report from a Committee stating that, as regards the certificate under Section 6 of the Finance Act 1928, no charge should be made over and above the scale fee, but that if the vendor's solicitor was required to undertake any additional work such as the preparation of income tax returns in order to obtain the certificate, the additional costs so incurred were payable by the vendor. In the opinion of the Committee the practice in regard to certificates of discharge from death duties is the same. The remuneration for the application of the certificate is included in the scale fee, but if it is necessary to prepare Inland Revenue Affidavits or Accounts the costs are payable by the vendor or the party for whom the work is done.

Land Registry. Cost of voluntary transfers

A member asked for the opinion of the Council as to the proper procedure to obtain a determination of the capital value of registered land on a voluntary transfer under L.R.R. 1937, Rule 245. He pointed out that the artificial value under Rules 245 (a) and (c) is much less than the current market value of land, which, in many cases, would reduce the solicitor's costs by obliging him to accept the fixed charge appropriate to cases where the value does not exceed £1,000 instead of charging in detail for the work done where the value exceeds £1,000. The Secretary stated that he had ascertained from the Taxing Masters that an application to them under Rule 245 (b) to have the capital value assessed may be made *ad hoc* without applying for the taxation of the costs if the parties do not require it, and that in the view of the Taxing Masters the term capital value means current market value. The Secretary was directed to reply informing the member of the Taxing Masters' view, and at the same time stating that, in the opinion of the Council, the practice is to accept the value on which stamp duty is assessed without reference to the Taxing Master, unless either the client or the solicitor requires it.

PROGRAMME OF LECTURES 1951—52

COURSE A.

Common Law (including Personal Property, Contracts and Torts), 42 lectures delivered as follows:—

Michaelmas Sittings—12; Hilary Sittings—21; Easter Sittings—9; Minimum attendance for credit is Michaelmas—9; Hilary—16; Easter—7. Lectures each Monday and Thursday at 2.15 o'clock, save where otherwise notified.

COURSE B.

Equity and Real Property, 42 lectures delivered as follows:—Michaelmas Sittings—12; Hilary Sittings—21; Easter Sittings—9; Minimum attendances for credit is Michaelmas—9; Hilary—16; Easter—7; Lectures each Tuesday and Friday at 2.15 o'clock, save where otherwise notified.

COURSE C.

Conveyancing (18 lectures, of which at least 14 must be attended): General Practice of a solicitor's office (20 lectures of which at least 15 must be attended) and the rights, duties and responsibilities of solicitors (4 lectures of which at least 3 must be attended). Lectures will be delivered as follows:—Michaelmas Sittings—12; Hilary Sittings—21; Easter Sittings—9; Lectures on Monday at 3.30 and Wednesday at 2.15 o'clock, save where otherwise notified.

For a selection of recommended reading see the published syllabus for the Intermediate and Final Examinations. The lecturer will not necessarily undertake to cover the entire field in each subject of lecture out of any particular text book. He will advise the class as to its reading and will assume that each student will have read on the lines advised, in advance of each lecture, on the subject matter of the lecture. The aim of lectures will be to guide students in their work and to illustrate, explain and supplement their reading.

A written examination will be held at the end of each term's lectures.

Courses B and C may be attended in the same year, but Course A *must* be completed before either Course B or C is commenced. An apprentice who had on 1st October 1948 already attended and obtained credit for the Society's Junior and Senior Lectures is eligible for Course C lectures but is not obliged to attend them. Every other apprentice is obliged to take Courses A, B and C.

Enrolment fee for each Course—£5 5s. od.

PROCEEDINGS AGAINST UNQUALIFIED PERSONS

LETTING AGREEMENT DRAWN BY AUCTIONEER

In the case of *Plunkett v. O'Dwyer*, in which the Plaintiff was the Secretary of The Incorporated

Law Society of Ireland and the Defendant was an Auctioneer practising in Limerick, heard by Judge Barra O'Briain at Limerick Circuit Court on the 13th June, 1951, the action was brought to recover the penalty prescribed by Section 3 of the Conveyancers (Ireland) Act 1864 in the case of unqualified persons acting as Conveyancers "for or in expectation of fee, gain or reward." It was alleged in the Civil Bill that the Defendant, not being duly qualified to act or practise as a Conveyancer had drawn, prepared and had perfected a tenancy agreement in writing dated the 10th August, 1950 between Michael P. Holohan of one part and Standard Telephones & Cables Limited of the other part, being a letting of office premises in Limerick City, and that the Defendant had done so for or in expectation of fee, gain, or reward contrary to the Section.

The facts appearing in evidence were that on the 27th June, 1950 the Defendant as agent for the owner of the premises had negotiated terms of a letting agreement with a representative of Standard Telephones & Cables Limited, who, it was agreed, would be responsible for the Defendant's fee. By letter dated the 4th July, 1950 Standard Telephones & Cables Limited confirmed to the owner of the premises the terms which had been agreed upon, and requested that the owner should have his agent prepare a letting agreement. The Defendant thereupon prepared a tenancy agreement between the owner of the premises and Standard Telephones & Cables Limited. The agreement was duly executed by both parties and thereupon Standard Telephones & Cables Limited paid to the Defendant the sum of £7 10s. od. described as "letting fee" and it was proved that this fee, which was calculated at 5 per cent. on the first year's rent, was the usual commission charged by auctioneers in the City of Limerick for negotiating lettings of premises. The agreement was not under seal.

Mr. J. G. McMahon (instructed by Mr. Niall S. Gaffney) for the Law Society submitted that the Defendant was liable to the penalty provided by the Statute because the preparation of the agreement was a necessary step in the process which would result in the payment of a letting fee to the Defendant, and that the Defendant had prepared the agreement and had it perfected in the expectation that as a result he would gain a reward consisting of the letting fee. Counsel referred to the decision in England in *Pacey v. Atkinson* (1950 1 A.E.R. 320) as to what constitutes an act "done for or in expectation of any fee, gain or reward" under the Solicitors Act 1932 as amended by the Solicitors Act 1941, in which Goddard L.J. in his Judgment

says: "The word 'expectation' clearly indicates that there need be no legal right to recover but a mere expectation or hope that some reward will be forthcoming as a result of the action taken."

Section 2 of the Conveyancers (Ireland) Act 1864 was referred to for the purpose of indicating that any contract in writing respecting real or personal property constituted a conveyance for the purposes of the Act.

Mr. J. J. Kenny (instructed by Mr. A. J. Blood-Smyth) for the Defendant contended that as the letting fee was paid in respect only of the Defendant's services in negotiating the letting, and as he received no payment for drawing the agreement and would have been entitled to the letting fee whether he prepared the agreement or not that he had not prepared the agreement for or in expectation of fee, gain or reward. It was further argued that the agreement was not a conveyance because it was not under seal.

The learned Circuit Court Judge held that the agreement was a conveyance and that the preparation of it constituted acting as a conveyancer within the Act. He referred to the evidence of the Defendant who agreed in cross-examination that no letting fee would have been payable to him unless a letting was made and that the only letting contemplated in the circumstances was that contained in the written agreement. He stated that the preparation of the agreement was a necessary step in the proceedings which would result in the payment of the Defendant's letting fee and a *sine qua non* in the gaining by the Defendant of a reward, and accordingly he held that the Defendant prepared the agreement in the expectation that as a result he would gain a reward. As there was no evidence that the Defendant had wittingly encroached on the preserves of the legal profession he imposed the minimum penalty of £5 and awarded costs to the Plaintiff.

STAMP DUTY ON LEASES OF SITES FOR BUILDING DEVELOPMENT

Members have written about the practice recently adopted by the Revenue Commissioners of requiring building leases to be lodged for adjudication of the stamp duty.

The Society has been in touch with officers of the Revenue Commissioners and it may be taken that the following sets out the Commissioners' practice in dealing with building leases.

1. *Where no buildings have been completed at the date of the lease:—*

If a lease of a site is granted in consideration of (a) a rent reserved by the lease and (b) of a bona

fide covenant to expend moneys on the erection or completion of buildings on the site, the duty is charged only on the rent. Such a lease containing a covenant to expend a specified sum in building development and to employ a named builder, e.g., the lessor, is ordinarily regarded as exempt from duty on the building expenditure, and adjudication is not considered necessary in such cases.

2. *Where buildings are completed or are in a state of substantial completion at the date of the lease.*

(a) Where there is a previous agreement with the lessee to grant a lease, and a collateral building agreement, the duty charged on the lease depends upon the substance of the antecedent agreements. If the agreement for the lease is such that the lessee can enforce the grant of the lease independently of the completion of the building contract the lease is not normally regarded as chargeable with *ad valorem* duty in respect of the building price. If however the documents show that the lessee can, not enforce the grant of the lease until the building contract has been completed *ad valorem* duty is charged in respect of the building price.

(b) On the granting of a lease of a site from A to B, where buildings are erected on the site between the date of the agreement and the date of the lease, the fact that the buildings are mentioned in the parcels clause of the lease does not of itself mean that duty will be claimed on the value of the buildings if they were erected under a collateral independent agreement. If it appeared from a lease that substantial buildings had been demised in consideration of a ground rent only, or in consideration of expenses incurred by the lessee, the Revenue Commissioners would be obliged to investigate the facts of the case on adjudication to ascertain whether or not there was in fact an independent building agreement.

(c) Adjudication may also be necessary in the case of a lease or other document in order to establish the facts on which duty has to be assessed. In some cases of leases expressed to grant undeveloped sites for terms of years, with covenants by the lessees to erect buildings, it was found on investigation that the buildings had been completely or almost completely finished before the leases were granted.

3. To summarise the position, (a) a lease of a site with a bona fide unfulfilled covenant by the lessee to expend an agreed amount on building is not charged with duty on the capital expenditure even though the money is to be paid to a named builder, e.g., the lessor. (b) Where there is an agreement for a lease of a site at a rent only, and buildings are erected by or on behalf of the lessee between the date of the agreement and the granting

of the lease, duty is not charged on the capital moneys expended, provided that the agreement for the lease and the building agreement are separate and independently enforceable. (c) Where, between the date of an agreement for a lease of an undeveloped site and the granting of the lease, buildings are erected on the site, either by the lessor or by a third party, and under the terms of the agreement the lessee is not entitled to enforce the grant of the lease until the building price has been paid to the builder, the money so paid is regarded as consideration for the lease and *ad valorem* duty is charged in respect thereof.

STAMP DUTY ON SALE, LEASE, AND TRANSFER OF LAND

THE Finance Act, 1951 is now law. Section 17 amends Section 13 of the Finance (No. 2) Act, 1947, by substituting new rates of stamp duty on conveyances and transfers of land where the consideration or value does not exceed £1,000. Section 18 similarly amends Section 24 of the Finance Act, 1949.

Section 19 was introduced as an amendment in the Seanad. It applies to every conveyance, transfer or lease (whether executed before or after the passing of the Act) in respect of which a grant has been, or will be made under the Housing Amendment Acts of 1948 and 1950 and which but for the Finance Act, 1951, would be chargeable with the 5 per cent. stamp duty. The Section provides that Sections 13 of the Finance (No. 2) Act, 1947 and 24 and 25 of the Finance Act, 1949, shall not apply and shall be deemed never to have applied to a conveyance, transfer or lease to the person to whom the grant has been or will be paid, or who is a member of the public utility society to which the grant has been or will be paid. The amount of any excess duty paid may be repaid by the Revenue Commissioners. The effect of the Section is that in certain cases in which, for failure to comply with the technical requirements of the Housing Amendment Acts, instruments became liable for stamp duty at the full rate, the difference between the duty paid and the lower rate will now be refunded. In order to obtain the benefit of the Section the instrument must be lodged for adjudication.

CORRESPONDENCE

DEAR SIR,

In *The Reform of the Law*, by Glanville Williams, recently published, three important matters appear,

namely, (1) The organisation of the Legal Profession, (2) Legal Education, and (3) Legal Aid.

It is to be hoped that the Department of Justice and the Incorporated Law Society of Ireland will take some immediate steps to bring about some reforms of the law in this State which are certainly overdue from the point of view of the public and our profession.

A number of reforms is suggested from time to time but practically nothing is ever accomplished.

Yours faithfully,

“A Country Solicitor.”

28th June, 1951.

BOOK REVIEW

THE REFORM OF THE LAW by Glanville Williams, London, Victor Gollancz, 1951, pp. 224. 18/-.

We are indebted to Professor Glanville Williams for editing a most interesting book on “The Reform of the Law.” The main suggestion which the author and his collaborators have put forward is the establishment of a Ministry of Justice on the continental model tenable by experienced lawyers whose sole function would be to consider problems of law reform and to see that these reforms would eventually be converted into statute law. The author then discusses briefly under the following chapter headings, various reforms in the law:—The management of the Courts and their practice and procedure—Constitutional and Administrative law—Civil liberties—The law of Contract and Tort—Industrial law—The law of property—Leaseholds—Family law—Criminal law—Revenue law, and Legal Education.

It would be impossible to mention all the reforms advocated; a selection must then be made in the hope of interesting members in this most absorbing subject. The author refers scathingly to the obsolete doctrine of common employment (abolished in England in 1948) and strongly stresses the advantages of codification. In considering the law of evidence, the author stresses that the system evolved was excellent in its day but its continued use involves much unnecessary expense and delay, particularly in England, where jury actions in civil cases have been reduced to a minimum. The rule excluding secondary evidence of documents and the hearsay rule are particularly criticised. A plea is made that the English Court of Appeal should be the final Court of Appeal and that the House of Lords as a judicial tribunal should be abolished.

The controversial suggestion is made that the

distinction between the two branches of the legal profession should be abolished—solicitors being given the right of audience in all courts and barristers who are now in practice being allowed as in Australia to join firms of solicitors. The abolition of Senior Counsel is also urged. There are severe criticisms about the heavy costs (in England) of being admitted as a solicitor. It is pointed out that the fact that apprentices have to maintain themselves without engaging in any other employment for three years, causes hardship to those who have to live on a modest income. It is urged that the payment of premiums to solicitors by apprentices should be abolished and the English Law Society is urged to publish lists of solicitors who are willing to accept articled clerks without a premium. State maintenance grants should be awarded on a competitive basis.

The most important functions of the suggested Ministry of Justice would be to scrutinise carefully all Statutory Instruments issued by other Departments. The establishment of special administrative tribunals is recommended, such as Special Rent Tribunals or the Labour Court, because the Courts are not well fitted to deal with cases involving specialised knowledge. Administrative tribunals should always sit in public, with an *ipso facto* right of appeal and they must always state the grounds for their decisions. The repeal of the Public Authorities Protection Act, 1893, is recommended. In refusing certificates of naturalisation to aliens the Minister should specifically state on what grounds he does so.

In Common Law the contractual rules as to consideration, innocent representation and mistake require complete revision, and those relating to contracts of infants, wagers and joint contracts are in a most confused and unsatisfactory state. In tort, the technical distinction between invitees, licensees and trespassers should be abolished. In criminal law the distinction between felonies and misdemeanours should be removed. The McNaghten rules as to criminal insanity are severely criticised; it is proposed that the illogical verdict of “guilty but insane” should be abolished and should be replaced by a verdict of “not guilty on the ground of insanity,” with a right of appeal against it. It is suggested that to constitute murder, the act causing death must merely be done with intent to kill.

The system of legal education in England is severely criticised; no practical experience of the law is involved in securing the barrister’s qualification. Bar examinations are alleged to be passed without any attempt at a profound study of the subjects; the subjects seem narrowly conceived.

It is stressed, however, that the Law Society gives a much more adequate legal training to solicitors. In the University Law School it is said that the drive of law teaching is towards protecting the dead practices of the past against the imperative needs of the present. Professors of Law are said to be largely ignorant of foreign experience and to suffer from complacency. Following our Law Society's unanimous recommendation of a few years ago, stressing the urgent need of law reform in this country, it is hoped that these few examples will whet the appetites of members to read this most absorbing book, particularly as several measures of law reform will, it is hoped, be introduced shortly.

C. G. D.

THE REGISTER

Section A.

REQUIRED Law Clerk with competent knowledge of Conveyancing and Probate work, or young qualified Assistant. Reply, giving detailed particulars of education, experience and salary expected to Allen & Halpin, Solicitors, Church Street, Cavan.

WANTED a Law Clerk, Probate, Conveyancing, Land Registry, Costing knowledge essential. References. Full remuneration. Pleasant country seaside town. Apply Box No. A.131.

Section C.

WANTED to purchase—body corporate incorporated in Ireland on or before the 15th October, 1947, including a Society registered under the Industrial and Provident Societies Act. Please send particulars to Joseph Gleeson, McGrath, Baldwin & Co., Solicitors, 34/35 Dame Street, Dublin.

LEGAL LITERATURE OF THE MONTH

A selection of articles from periodicals.

- Law Times*, June 1st.—“Property passing under illegal Contract; “Limitation of Actions”; “Defective Endorsement of Pleadings.”
- June 8th.—“Directors and Employment Abroad.” “Vendor and Purchaser.” “Greenwood v. Turner (1891) 2 ch. Orders.”
- June 15th.—“Effect of Disclaimer of Leaseholds in Bankruptcy.”
- June 22nd.—“Contracts ousting the Jurisdiction of the Court”; “The

Modification of Investment clauses on the Execution of Special Powers of Appointment.”

June 29th.—“Words Ejusdem Generis”; “Assents by Personal Representatives in their own favour.”

The Solicitor, June—“The Mortgagor's Power to grant Leases.” “Conversion by Innocent Agents.” “Position of Weekly Tenants under the Landlord and Tenant Act.” “Curtilage of a Dwelling House.”

Solicitors' Journal, June 2nd.—“Trusts for Poor Relations—re Scarisbrick.”

June 9th.—“Warning to Owners paying Rates for Tenant.” “Re Scarisbrick—some conclusions.” “Compensation for Goodwill—The Qualifying Period.”

June 16th.—“A Moneylender's Rights under a Mortgage.” “Statutory Tenant's Illegitimate Family.”

June 23rd.—“The Incorporation of Documents into Wills.” “Solicitor's lien on Mortgagor's Deeds.” “Unauthorised Alterations to Controlled Premises.”

June 30th.—“Defences to Actions on Bills.”

OBITUARY

MR. CHARLES O'BRIEN, solicitor, died at his residence, 145 Strand Road, Merrion, Dublin, on the 8th December, 1950.

Mr. O'Brien served his apprenticeship with the late Mr. Thomas F. Monks, solicitor, 16 Bachelor's Walk, Dublin, was admitted in Trinity Sittings, 1899, and practised at 54 Dawson Street, Dublin, until his retirement in 1936.

MR. WILLIAM E. G. LLOYD, solicitor, died at his residence, 6 Pembroke Park, Dublin, on the 5th January, 1951.

Mr. Lloyd served his apprenticeship with the late Mr. Henry Francis Stephens, solicitor, 43 Dawson Street, Dublin, was admitted in Trinity Sittings, 1898, and practised at Dame Street until his retirement in 1917.

MR. WILLIAM J. CRAIG, solicitor, died at Glen Carrig, 78 Sandymount Road, Dublin, on the 21st June, 1951.

Mr. Craig served his apprenticeship with the late Mr. William O'K. White, solicitor, Edenderry, was admitted in Trinity Sittings, 1925, and practised at Clonbullogue, Co. Kildare.

MR. EDWIN M. LLOYD, solicitor, died at a private Nursing Home on the 4th July, 1951.

Mr. Lloyd served his apprenticeship with the late Mr. Frederick Kennedy, solicitor, 4 Lower Ormond Quay, Dublin, was admitted in Hilary Sittings, 1903, and practised as senior partner in the firm of Messrs. Edwin M. Lloyd & Paul Tighe, 103 St. Stephen's Green, Dublin.

MR. GERALD A. G. BYRNE, solicitor, died at his residence, Abbeyview, Coliemore Road, Dalkey, Co. Dublin, on the 5th July, 1951.

Mr. Gerald A. G. Byrne served his apprenticeship with the late Mr. Gerald Byrne, solicitor, 7 Lower

Ormond Quay, was admitted in Hilary Sittings, 1907, and practised as Gerald Byrne & Co., 7 Lower Ormond Quay.

PROCEEDINGS AGAINST SOLICITORS

By order of the Chief Justice dated 22nd June, 1951, Edmund P. Condon, Solicitor, Ballyshannon was suspended from practice for a period of six months from the date of the order, having been found guilty of professional misconduct on a report of the Statutory Committee.

EXAMINATIONS AUTUMN 1951.

Examination Date	Entries accepted until
Intermediate Sept. 10th	August 20th
Final do.	do.
Preliminary Sept 11th	August 21st
First & Second Irish Sept 28th & 29th	Sept. 7th

Grand Jury, was elected in 1911. Since 1911, he has practiced in Grand Jury & Co. v. Lower Grand Jury.

PROCEEDINGS AGAINST SOLICITORS

The order of the Chief Justice dated 22nd June 1911, in relation to the practice of solicitors, was suspended for a period of six months from the date of the order, having been found guilty of professional misconduct on a report of the Law Society.

EXAMINATIONS AUTUMN 1911.

Examination Date
 Preliminary Sept. 18th & 20th
 First & Second Irish Sept. 21st & 22nd
 Final do. do.
 Final do. do.
 Final do. do.

... ..

LEGAL LITERATURE OF THE MONTH

... ..

Mr. William J. Carr, solicitor, died at his residence, 14, Marlborough Road, Dublin, on the 10th June, 1911.

Mr. Carr served his apprenticeship with the late Mr. William O'R. White, solicitor, and practised at the office of Mr. White, 1911, and practised at the office of Mr. Carr, 1911.

Mr. Carr was a member of the Law Society, and was a member of the Law Society of Ireland.

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ORITUARY

Mr. Charles O'Brien, solicitor, died at his residence, 14, Marlborough Road, Dublin, on the 10th December, 1911.

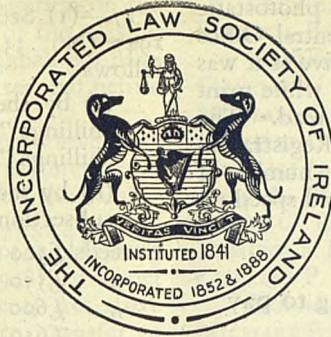
Mr. O'Brien served his apprenticeship with the late Mr. Thomas J. Meehan, solicitor, and practised at the office of Mr. Meehan, 1911, and practised at the office of Mr. O'Brien, 1911.

Mr. O'Brien was a member of the Law Society, and was a member of the Law Society of Ireland.

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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

ROGER GREENE

Vice-Presidents

NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary

ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

JULY 26th. The President in the Chair. Also present: Messrs. Arthur Cox, Patrick R. Boyd, William J. Norman, John R. Halpin, Derrick M. Martin, James J. O'Connor, Christopher E. Callan, John F. Foley, Gerald J. O'Donnell, Thomas A. O'Reilly, Henry St. J. Blake, Joseph Barrett, James R. Quirke, John J. Sheil, Maurice M. Power, Seán Ó hUadhaigh, Reginald J. Nolan, Dermot P. Shaw, John J. Nash, Patrick F. O'Reilly.

The following was among the business transacted:—

Government Loans—Commission

The Council considered the terms of conversion of Government loans. The circular issued by the Bank of Ireland on instructions from the Department of Finance states that commission will be allowed to bankers, stockbrokers and financial houses who return applications for amounts of stock bearing their stamps on behalf of client or customers. Solicitors who complete and return applications on behalf of

clients are not allowed commission. On a report from a Committee it was decided that the Secretary should write to the Department of Finance asking that in future issues of Government stocks, solicitors should be paid commission in the same manner as stockbrokers, bankers and other institutions when they make applications for stock on behalf of clients.

Land Registry

The Council considered proposed amendments to the Land Registration Rules affecting the issue of certified copies of folios and other documents. It was reported to the Council that in future when an application is made to a local registry for a certified copy of a folio the request is to be transmitted to the Central Office where a photostatic copy will be prepared. It was decided to inform the Land Registration Rules Committee that the Council are opposed to any alterations in the rules or practice which will make the local registries less accessible to solicitors or reduce the facilities provided by those offices and that, in the view of the Council, the local registries are

an essential part of the system of registration of title. It was also decided to urge that when photostatic copies of folios are issued from the Central Office they should be positive rather than negative as it was found in practice that the negative with white print on a black background is difficult to read. The Society's representative on the Land Registration Rules Committee was instructed to make a number of other suggestions in order to facilitate and speed up the working of the Central Office.

Professional Etiquette—Undertaking to pay Costs

AB was instructed by a client to act for her in litigation. At a certain stage in the proceedings the client withdrew the instructions and retained CD, who wrote to AB for the papers. AB estimated his costs at 15 guineas and replied that on receipt of a cheque for that amount from CD he would hand over the papers. The client lodged 15 guineas with CD who wrote to AB suggesting that the latter should hand over the papers on CD's undertaking to pay the sum of 15 guineas, subject to taxation if the client required it. AB declined to hand over the papers except in exchange for a cheque for his costs. The client subsequently died and AB maintained that as CD had received the sum of 15 guineas for the specific purpose of paying AB's costs he could not appropriate it for any other purpose. On a report from a Committee the Council expressed the opinion that as AB had not accepted CD's undertaking before the client's death it had lapsed, and that CD is under no professional obligation to pay the sum of 15 guineas to AB.

Resignation from the Council

The Council accepted with regret the resignation of Mr. John J. Bolger who has served since November, 1942. The Secretary was directed in writing to accept Mr. Bolger's resignation, to express the appreciation of the Council of his services to the profession and their regret at losing him as a colleague. Mr. Ralph Walker of the firm of Hayes & Sons, Dublin, was co-opted from the supplemental list to fill the vacancy.

Law Clerks Joint Labour Committee

It was decided to submit to the Minister for Industry and Commerce the name of Mr. Gerald J. O'Donnell of Ennis as one of the Society's representatives on the Committee to fill the vacancy caused by the death of the late Mr. Patrick McGrath of Nenagh.

STAMP DUTIES—FINANCE ACT 1951

17.—(1) Section 13 of the Finance (No. 2) Act, 1947 (No. 33 of 1947), is hereby amended as follows:

(a) by the substitution for "two pounds ten shillings" in sub-section (1) of "one pound ten shillings."

(b) by the substitution for the table set out in subsection (3) of the following table:—

Exceeds £500 and does not exceed £550	...	£	5	10
" £550 "	"	"	"	"
" £600 "	"	"	"	"
" £650 "	"	"	"	"
" £700 "	"	"	"	"
" £750 "	"	"	"	"
" £800 "	"	"	"	"
" £850 "	"	"	"	"
" £900 "	"	"	"	"
" £950 "	"	"	"	"
" £1,000 "	"	"	"	"

(2) A reference in any statutory provision to subsection (1), subsection (3) or subsections (1) and (3) of section 13 of the Finance (No. 2) Act, 1947, shall, where appropriate, be construed as a reference to the said subsection (1), subsection (3) or subsections (1) and (3) (as the case may require) as amended by this section.

(3) This section shall come into operation on the 1st day of August, 1951, or the date of the passing of this Act, whichever is the later, and shall not have effect with respect to any instrument executed before such coming into operation.

18.—(1) Section 24 of the Finance Act 1949 (No. 13 of 1949), is hereby amended as follows:

(a) by the substitution for "two pounds ten shillings" in subsection (1) of "one pound ten shillings."

(b) by the substitution for the table set out in subsection (3) of the following table:—

Exceeds £500 and does not exceed £550	...	£	5	10
" £550 "	"	"	"	"
" £600 "	"	"	"	"
" £650 "	"	"	"	"
" £700 "	"	"	"	"
" £750 "	"	"	"	"
" £800 "	"	"	"	"
" £850 "	"	"	"	"
" £900 "	"	"	"	"
" £950 "	"	"	"	"
" £1,000 "	"	"	"	"

(2) A reference in any statutory provision to subsection (1), subsection (3) or subsections (1) and (3) of section 24 of the Finance Act, 1949, shall, where appropriate, be construed as a reference to the said subsection (1), subsection (3) or subsections (1) and

(3) (as the case may require) as amended by this section.

(3) This section shall come into operation on the 1st day of August, 1951, or the date of the passing of this Act, whichever is the later, and shall not have effect with respect to any instrument executed before such coming into operation.

19.—(1) This section applies to every conveyance or transfer and every lease (whether a conveyance, transfer or lease executed before or after the passing of this Act) of a house in respect of which a grant has been or will be made under section 16 of the Housing (Amendment) Act, 1948 (No. 1 of 1948), or under section 6 of the Housing (Amendment) Act, 1950 (No. 25 of 1950), being a conveyance, transfer or lease—

(a) which under the enactments in force immediately before the passing of this Act would have been proper to be charged with stamp duty by reference to subsection (1) or subsection (3) of section 13 of the Finance (No. 2) Act, 1947 (No. 33 of 1947), or subsection (1) or subsection (3) of section 24 of the Finance Act, 1949 (No. 13 of 1949), and

(b) which is to a person—

(i) who is the person to whom the said grant has been or will be paid, or

(ii) who is a member of the public utility society to which the said grant has been or will be paid,

as the case may be.

(2) Section 13 of the Finance (No. 2) Act, 1947, and sections 24 and 25 of the Finance Act, 1949, shall not apply and shall be deemed never to have applied to any instrument to which this section applies and, where the amount of duty paid in respect of any such instrument exceeds the amount which would have been chargeable if those sections had not been enacted, the excess may be repaid.

(3) An instrument to which this section applies and which is stamped at a rate less than the rate which, but for the provisions of this section, would be chargeable by reference to subsection (1) or subsection (3) of section 13 of the Finance (No. 2) Act, 1947, or subsection (1) or subsection (3) of section 24 of the Finance Act, 1949, as may be appropriate, shall be deemed not to be duly stamped unless the Revenue Commissioners have expressed their opinion thereon in accordance with section 12 of the Stamp Act, 1891.

LIST OF NEW MEMBERS FOR 1950-51

The following have joined the Society :—

E. ROUGHAN BANIM, 7 Upper Ormond Quay.

EDWARD JOSEPH BARRETT, 3 Lower O'Connell St.
CHRISTOPHER J. R. BEATTY, 62-63 Dame Street,
Dublin.

PATRICK BEGLEY, 9 Lauderdale Terrace, Bray, Co.
Wicklow.

CHARLES H. BROWNE, Sligo.

MICHAEL J. BUGGY, Kilkenny.

MICHAEL D. CARLOS, Strokestown, Co. Roscommon.

WILLIAM L. CARROLL, Kells, Co. Meath.

JOHN A. DILLON, 10 Clare Street, Dublin.

BARRY G. DONNELLY, Athy, Co. Kildare.

EDMUND S. DOYLE, The Elms, Bridgetown, Wexford.

CHARLES P. FORDE, 35 South Great George's Street,
Dublin.

MICHAEL E. HANAHOE, 13 Parliament Street, Dublin.

JAMES MCD. KERR, 13 Bachelor's Walk, Dublin.

JAMES D. KIERNAN, 11 Stephen's Green, Dublin.

THELMA KING, 15 St. Stephen's Green, Dublin.

MICHAEL LARKIN, Roscommon.

GERARD J. LYONS, 15 Eden Quay, Dublin.

FLORENCE G. MACCARTHY, Loughrea, Co. Galway.

JAMES B. MACGARRY, 16 Talbot Street, Dublin.

COMHGHALL M. U. MACGUILL, 32 Molesworth St.,
Dublin.

MALEISA MACFIONNLAOICH, 3 Inns Quay, Chancery
Place.

HERBERT E. ST. G. MCCLENAGHAN, 11 Ely Place,
Dublin.

LIAM D. MCGONAGLE, 34 Upper O'Connell Street,
Dublin.

STEPHEN J. McDONOGH, Tuam.

WILLIAM DESMOND McEVOY, Enniscorthy, Co. Wex-
ford.

OLIVER A. MACKLIN, Athleague, Roscommon.

PHILIP T. MEAGHER, Portlaoighise, Co. Laoighis.

JOHN R. NOONAN, Athboy.

BRIAN L. J. O'BRIEN, 88 South Mall, Cork.

PATRICK H. O'DOHERTY, Stranorlar, Co. Donegal.

D. G. O'DONOVAN, Limerick.

MICHAEL O'MEARA, Nenagh.

JOHN M. O'SHEA, Killarney, Co. Kerry.

MICHAEL M. PHELAN, Fethard, Co. Tipperary.

PATRICK QUINN, Market House, Dundalk, Co. Louth.

JOSEPH E. N. QUIRK, Carrick-on-Suir, Co. Tipperary.

ANDREW F. RYAN, 18 St. Andrew Street, Dublin.

RICHARD RYAN, 11 St. Stephen's Green North,
Dublin.

JAMES J. SHEERIN, Boyle, Co. Roscommon.

PATRICK J. SKEHAN, 34 Lower Abbey Street, Dublin.

ALFRED M. SMITH, Cavan.

JAMES TOUHY, 11 Wellington Quay, Dublin.

BRENDAN J. WALLACE, 1 Dame Street, Dublin.

KEVIN J. WALSHE, 140 St. Stephen's Green, Dublin.

VINCENT WALSH, 6 Cavendish Row, Dublin.

JOHN P. WARD, Raphoe, Co. Donegal.

DANIEL A. WHITE, 1 Lower Ormond Quay, Dublin.

APPOINTMENTS

MR. SÉAN Ó hUADHAIGH of 51 Dawson Street, Dublin, has been appointed Solicitor to the Attorney General.

MR. JOHN J. MACKEN, Solicitor, Mullingar, has been appointed Coroner for Co. Westmeath.

MR. MARTIN KELLY, Solicitor, Kilkenny, has been appointed County Registrar for Carlow.

ADMISSIONS AS SOLICITORS

From 1st August, 1950 to 31st July, 1951

<i>Name</i>	<i>Served Apprenticeship to</i>	<i>Name</i>	<i>Served Apprenticeship to</i>
BARRETT, EDWARD JOSEPH, "Ashley," Clyde Road, Dublin.	THOMAS P. ROBINSON, 3 Lower O'Connell Street, Dublin.	LAMBE, MICHAEL D., Main Street, Swinford, Co. Mayo.	MICHAEL JOSEPH EGAN, Castlebar, Co. Mayo.
BRADSHAW, WILLIAM E. T. Bonnybrook, Blanchardstown, Co. Dublin.	TERENCE DE VERE WHITE, 98 St. Stephen's Green, Dublin.	LEECH, MICHAEL JOSEPH, Elmfort, Castlereagh, Co. Roscommon.	Served Apprenticeship to JOHN J. WALSH, Kiltimagh, Co. Mayo.
CALLANAN, KEVIN J., Craughwell, Co. Galway.	MARK F. CONROY, Galway.	LUCAS, MICHAEL, 176 Kincora Road, Clontarf, Dublin.	MAURICE DE L. STAUNTON, Castlereagh, Co. Roscommon.
CASEY, TIMOTHY J., Terrace, Glin, Co. Limerick.	The late ROBERT M. KIERAN, 12 Clare St., Dublin and JOHN A. C. KIERAN, 12 Clare Street, Dublin.	McCLENAGHAN, H. E. St. G., "Upton," Willow Bank, Dun Laoghaire, Co. Dublin.	ALEXANDER J. McDONALD 116 Grafton Street, Dublin.
CLEAR, KENNETH FRANCIS, 53 Dartmouth Square, Dublin.	JOSEPH J. LITTLE, 64 Dawson St., Dublin.	McCORMACK, PATRICK J., Tipperary, Co. Tipperary.	SAMUEL R. C. HEMPHILL, 11 Ely Place, Dublin.
COYLE, THOMAS MARY L., Stranorlar, Co. Donegal.	The late VINCENT P. DUFFY, Stranorlar, Co. Donegal.	McGONAGLE, LIAM D., 225 Clontarf Road, Dublin.	WILLIAM F. D'ARCY, Tipperary.
CUNNINGHAM, AUGUSTINE I., Hickey's Hotel, Templemore, Co. Tipperary.	The late THOMAS G. QUIRKE, 15 South Frederick Street, Dublin and JAMES R. QUIRKE, 15 South Frederick Street, Dublin.	MACGUILL, C. M. U., Dundalk, Co. Louth.	The late C. MCGONAGLE, 34 Upper O'Connell Street, Dublin and THOMAS K. O'CONNOR, 4 Upper Ormond Quay, Dublin.
DOYLE, EDMUND STAFFORD, The Elms, Bridgetown, Co. Wexford.	DAVID D. MACDONALD, 19 Upper Merrion Street, Dublin.	MARSHALL, JAMES, 111 Cooley Road, Dublin.	MATTHEW C. MULLEN, Dundalk, Co. Louth.
FAGAN, EDWARD A., 81 Cabra Road, Dublin.	JAMES FAGAN, 58 Parnell Square, Dublin.	MOORE, MATTHEW F. J., Garr, Rhode, Co. Offaly.	LIAM TRANT MCCARTHY, 4 Chancery Place, Dublin
FORDE, CHARLES PATRICK, 119 Furrypark, Raheny, Dublin.	PATRICK C. MOORE, 35 South Gt. George's Street, Dublin.	MOLONEY, GERALD J., 70 South Mall, Cork.	The late GERALD J. MOLONEY 70 South Mall, Cork and JOHN F. MOLONEY, 70 South Mall, Cork.
GALLAGHER, MARY P., Tyrconnell Street, Donegal.	FRANCIS GALLAGHER, Donegal.	MOORE, MATTHEW F. J., Garr, Rhode, Co. Offaly.	EDWARD MOONEY, 15 Westmoreland Street, Dublin.
GRACE, JOSEPH J., 10 Ballybricken, Waterford.	DESMOND R. COUNAHAN, Waterford.	MURPHY, PATRICK URBAN, Ballinrobe, Co. Mayo.	PATRICK JOSEPH DURCAN, Castlebar, Co. Mayo.
GREENE, EDWARD MICHAEL, Eagle Mount, Limerick.	MARTIN C. TYNAN, Limerick.	NOONAN, CORNELIUS JAMES, "St. Kynan's," Rathkeale, Co. Limerick.	MAURICE F. NOONAN, Rathkeale, Co. Limerick.
HEGARTY, JUSTIN J., Castletown Berhaven, Co., Cork.	GEORGE M. HEGARTY, Castletown Berhaven, Co. Cork.	NOONAN, LOUIS, Navan, Co. Meath.	THOMAS D. NOONAN, Navan, Co. Meath.
HUGHES, JOSEPH J., 65 Pembroke Road, Ballsbridge, Dublin.	JOSEPH M. HUGHES, 31 Dame Street, Dublin.	NOONAN, PATRICK JOSEPH, Mitchelstown, Co. Cork.	THOMAS F. O'KEEFE, Mitchelstown, Co. Cork.
HYNES, BRIDGET MARY, Chapel Street, Castlebar, Co. Mayo.	JOHN CHRISTOPHER GARVEY, Castlebar, Co. Mayo.	O'CARROLL, EAMON, 28 High Street, Kilkenny.	The late JOHN W. BUGGY, Kilkenny and MICHAEL JOHN BUGGY, Kilkenny.
KERR, JAMES McDERMOTT, 1 Maretimo Terrace, Blackrock, Co. Dublin.	PEADAR COWAN, 67 Dame Street, Dublin.	O'DOHERTY, HELENA B. A., Elphin, Co. Roscommon.	PATRICK O'DONNELL, Dungloe, Co. Donegal.
		O'DOHERTY, PATRICK H., Elphin, Co. Roscommon.	JOHN KELLY, Elphin, Co. Roscommon.
		O'DOHERTY, RONALD, H. C., Buncrana, Co. Donegal.	HUGH C. O'DOHERTY, Buncrana, Co. Donegal.
		O'MAHONEY, MARY B. P., 8 Charlemont Road, Clontarf, Dublin.	JOHN J. TIMONEY, Tipperary.
		O'REILLY, BRENDAN O. M., 58 St. Patrick's Road, Drumcondra, Dublin.	NOEL REID, 3 Palace Street, Dublin and CHARLES T. DENROCHE, 32 Nassau Street, Dublin
		QUINN, PATRICK, Castlemount, Dundalk, Co. Louth.	PATRICK J. KENNEDY, Dundalk, Co. Louth.

REEDY, JOHN C.,
Connaught St., Birr, Co.
Offaly.

REILLY, PHILIP PATRICK,
Ballyjamesduff, Co.
Cavan.

ROGERS, EDWARD RICHARD,
Navan, Co. Meath.

ROSS, JOHN NATHANIEL,
Crossroads, Sandford,
Co. Dublin.

RYAN, ANDREW FRANCIS,
"Hampden," Tyrconnell
Road, Inchicore, Dublin.

RYAN, RICHARD,
53 Garville Avenue,
Rathgar, Dublin.

SHEEHY, JOHN PATRICK,
La Verna, Wilton Road,
Cork.

SHEERIN, JAMES J.,
34 Upper Ormond Quay,
Dublin.

SHEIL, PHILIP,
Riversdale, Bushy Park
Road, Rathgar, Dublin.

SIMON, JOSEPH DOMINIC,
15 High Street, Galway.

SKEHAN, PATRICK JOSEPH,
8 Castle Drive,
Sandymount, Dublin.

TAYLOR, FRANCIS E. A.,
Camlagh, Church Road,
Greystones, Co.
Wicklow.

TUOHY, JAMES,
33 Jones' Road, Dublin.

WALLACE, BRENDAN JOSEPH,
Portnashangan House,
Mullingar, Co.
Westmeath.

WHITE, DANIEL A.,
34 New Street, South,
Dublin.

WOODS, JAMES PATRICK,
19 Howth Road,
Clontarf, Dublin.

The late JOHN J. KENNEDY,
Birr, Co. Offaly and
REDMOND O'REGAN,
Skibbereen, Co. Cork.

PATRICK CUSACK,
Ballyjamesduff, Co.
Cavan.

BARRY STEEN,
Navan, Co. Meath.

JOHN D. HOLLINGER,
13 Molesworth Street,
Dublin.

JAMES F. KENT,
18 St. Andrew Street,
Dublin.

JAMES R. RYAN,
9 Harcourt, Street,
Dublin.

MICHAEL POWELL,
48 Grand Parade, Cork.

JAMES J. O'CONNOR,
34 Upper Ormond Quay,
Dublin.

The late HENRY SHEIL,
46 Fleet Street, Dublin.
and GEORGE SWEETMAN,
46 Fleet Street, Dublin.

HENRY MACDERMOT,
Galway.

The late A. D. O'RIORDAN,
34 Lower Abbey Street,
Dublin and SEAN D.
CONNOLLY,
21 Parliament Street,
Dublin.

RAYMOND A. FRENCH,
52 Dame Street,
Dublin.

ROGER GREENE,
11 Wellington Quay,
Dublin.

JOHN E. WALLACE,
Mullingar, Co.
Westmeath.

DUDLEY WALSH,
1 Lower Ormond Quay
Dublin.

JOSEPH KEARNEY,
Tullamore, Co. Offaly.

O'Ceallaigh, Brendan O'Flynn, Richard Ryan, B.A.
(Ex-Auditor) (ex-officio).

The following awards were made :—Oratory : Incorporated Law Society's Gold Medal, Patrick C. Kilroy, B.A.; Society's Silver Medal, Mervyn H. Taylor; Special Certificate, Charles Hennessy. Legal Debate (President's Gold Medal) : Patrick C. Kilroy, B.A.; Society's Silver Medal, John F. X. Campbell. Impromptu Speeches (Vice-President's Gold Medal) : Patrick C. Kilroy, B.A.; Silver Medal, John Phelan. Irish Debate—Society's Gold Medal : Donal B. O'Connell; Society's Silver Medal, Sean O'Kelly. First Year Speeches : Society's Silver Medal, Donal B. O'Connell.

EXAMINATION RESULTS

At examinations held on the 29th and 30th days of June, 1951 under the Legal Practitioners' (Qualification) Act, 1929, the following passed the examinations :—

First Examination in Irish

Max William Abrahamson, John J. Cooke, Clodna Mary Cussen, Vincent Patrick Fagan, Robert B. Haythornthwaite, Michael D. D. Heather, Gordon Alan Henderson, Martin Stephen Keaveney, John Burgess Lawson, Michael A. Noonan, Brian J. G. O'Connor, Eugene Thomas O'Shea, James Julian O'Sullivan, Arthur J. O'Leary.

17 Candidates entered : 14 passed, 3 failed.

Second Examination in Irish

Eileen Anne Brennan, Francis P. Byrne, John F. X. Campbell, Simon D. J. Comer, Patrick J. Cusack, Cahir F. M. Davitt, Eileen de Burca, Dermot A. J. Devlin, Michael F. Flanagan, Francis B. Geary, Joseph Griffin, Francis G. Keane, Kevin P. Loftus, Charles J. Markey, Patrick O'R. Markey, Mary Noone, Thomas Finbarr O'Reilly, Jasper R. N. Swanton, Mervyn H. Taylor, Patrick E. Thornton.

25 Candidates entered : 20 passed, 5 failed.

LECTURES—1951-52

COURSE A. Mondays and Thursdays, 2.15 p.m., commencing Thursday, 11th October.

COURSE B. Tuesdays and Fridays, 2.15 p.m., commencing Friday, 12th October.

COURSE C. Mondays, 3.30 p.m., Wednesdays, 2.15 p.m., commencing Wednesdays, 10th October.

LECTURER IN REAL PROPERTY AND EQUITY

On a report from the Court of Examiners the Council have appointed Mr. Hyman Tarlo, B.A., LL.B. (T.C.D.), as lecturer in Real Property and Equity as from Michaelmas Sittings, 1951.

SOLICITORS' APPRENTICES' DEBATING SOCIETY

The Solicitors' Apprentices' Debating Society elected the following Executive Committee for 1951-52 : Auditor—Patrick C. Kilroy, B.A.; Correspondence Secretary—Mervyn H. Taylor; Record Secretary, Donal B. O'Connell; Treasurer—Patrick O'R. Markey; Committee, Charles Hennessy, Sean

MICHAELMAS SITTINGS, 1951

The Law Term will commence on Wednesday, 10th October.

INDEX OF STATUTORY INSTRUMENTS

RECEIVED by the Society pursuant to the Statutory Instruments Act, 1947. The last list was printed in the Society's Gazette for February, 1951.

AGRICULTURE, LANDS AND FISHERIES

SUBJECT MATTER AND REFERENCE NUMBERS.

Agricultural Wages—Minimum rates—187/1951, 188/1951.
Agricultural Workers' (Holidays), Act, 1950—230/1950.
Butter—117/1951, 118/1951, 119/1951, 120/1951, 173/1951, 175/1951, 176/1951, 177/1951, 221/1951.
Cheese (Levy)—247/1951.
Eggs—114/1951, 235/1951.
Fertilisers—263/1950.
Fisheries Act, 1925 (Regulations)—199/1951.
Flour, Wheaten Meal and Bread—124/1951, 145/1951, 231/1951.
Flour, Wholesalers' Licences—124/1951, 145/1951.
Land Purchase Acts Rules, 50/1951.
Pigs, unsuitable types—193/1951.
Poultry Hatcheries Regulations—186/1951.
Rabbits—113/1951.
River Foyle Licence Duty—47/1951.
Salmon and Trout, Register of sales and purchases—199/1951.
Shannon Fisheries closing of free gaps—37/1951.
Turbarry Rights—40/1951.
Undersized Sea Fish—44/1951.
Wheat—233/1951, 236/1951.

COMMODITIES, GOODS AND SERVICES.

SUBJECT MATTER AND REFERENCE NUMBERS.

Acid Calcium Phosphate—72/1951, 249/1951.
Bacon—82/1951, 131/1951.
Binder Twine—62/1951, 96/1951.
Biscuits—80/1951.
Bread—123/1951, 231/1951.
Butter—108/1951, 115/1951, 116/1951, 117/1951, 130/1951, 174/1951, 178/1951, 179/1951.
Candles—56/1951.
Catering Undertakers—244/1951.
Cheese—246/1951.
Cigarettes (American and Canadian)—244/1951.
Cocoa—223/1951.
Condensed Milk—192/1951.
Currants and Raisins—142/1951.
Custard Powders—141/1951.
Dried Figs—271/1950.
Fish (Tinned)—141/1951.
Fruit (Dried)—141/1951.
Gas Charges, Drogheda—203/1951.
Gas Charges, Sligo—161/1951.
Gas Fund Contribution—78/1951.
Intoxicating Liquor—234/1951.
Jams and Marmalades—91/1951.
Kerosene—76/1951, 209/1951.
Lead (Scrap)—152/1951.
Maize Meal—42/1951.
Margarine—93/1951.
Meat—63/1951, 216/1951.
Milk—101/1951, 102/1951, 214/1951, 215/1951.
Milk Prices, Cork—99/1951, 104/1951, 172/1951, 210/1951, 213/1951.

Milk Prices, Dublin—98/1951, 103/1951, 171/1951, 211/1951.
Milk Prices, Louth—105/1951, 212/1951.
Milling Offals—41/1951.
Motor Spirit—75/1951, 122/1951, 208/1951.
Oat Meal—94/1951, 217/1951.
Peas and Beans—206/1950, 185/1951.
Pork—81/1951.
Potatoes—86/1951, 87/1951.
Prices and Charges Standstill (Amendment)—42/1951, 49/1951, 52/1951, 79/1951, 80/1951, 86/1951, 110/1951, 141/1951, 143/1951, 165/1951, 184/1951, 217/1951.
Sausages—79/1951.
Sewing Thread—194/1951.
Soap and Detergents—165/1951, 166/1951.
Soda Crystals (Washing Soda)—151/1951.
Standard Specification Orders: Concrete Land Drainage Pipes—46/1951.
Sugar—273/1950.
Sulphate of Ammonia—110/1951.
Table Jellies—141/1951.
Timber—57/1951, 160/1951.
Tyres and Tubes (Brazilian)—244/1951.
Waste Paper—143/1951, 144/1951.
Wheat and Wheaten Products—39/1951.

CONTROL OF IMPORTS AND EXPORTS

SUBJECT MATTER AND REFERENCE NUMBERS.

Apples—88/1951.
Brushes, Brooms and Mops—146/1951, 147/1951, 148/1951.
Electric Filament Lamps—121/1951.
Grouse Export Prohibition—92/1951.
Hats, Caps, Hoods and Shapes—149/1951, 237/1951.
Laminated Springs—54/1951, 248/1951.
Metal Screws—150/1951.
Partridge—92/1951.
Pheasant—92/1951.
Poultry—112/1951.
Rabbits—112/1951.
Sheep Skin—85/1951.
Silk Hose—219/1951.
Sparking Plugs—84/1951.
Sugar—106/1951.
Tyres and Tubes—180/1951, 181/1951, 182/1951, 183/1951.
Waste Paper—51/1951.
Wheaten Flour Substitutes—97/1951.
Wool and Worsted Woven Tissues—220/1951.

COUNTY AND TOWN MANAGEMENT

SUBJECT MATTER AND REFERENCE NUMBER.

Ballydesmond, Co. Cork—138/1951.
Kingwilliamstown, Co. Cork—Change of Name—138/1951.
Labourers (Ireland) Order, 1912, Rule 47 Revocation—202/1951.
Local Government (Dublin) Temporary Act, 1948 (Continuance)—170/1951.
Local Officers (Gaeltacht) (Amendment)—227/1951.
Local Officers (Irish Language), Amendment Regs.—225/1951.

CUSTOMS AND EXCISE EMERGENCY AND OTHER DUTIES.

SUBJECT MATTER AND REFERENCE NUMBERS.

Abrasives—100/1951.
Blades for Saws—133/1951.
Coal—71/1951.
Death Duties, payment in securities—201/1951.
Fertilizers—263/1950.
Hydrocarbon Light Oil—125/1951.

Miscellaneous Articles, supervision of customs duties—
74/1951.
Paper, Paperboard, Cloth, etc.—100/1951.
Saws—133/1951.

EDUCATION

SUBJECT MATTER AND REFERENCE NUMBERS

Children Act 1941 (Section 21) Regs.—61/1951.
Cork City School Attendance Committee—260/1950.
Dublin City School Attendance Committee—259/1950.
Dún Laoghaire School Attendance Committee—261/1950.
Reformatories and Industrial Schools, Fees payable by Local
Authorities—61/1951.
Secondary Teachers Superannuation Scheme, 1950—48/1951.
Waterford City Schools Attendance Committee—262/1951.

ELECTIONS.

SUBJECT MATTER AND REFERENCE NUMBERS.

Dail Eireann (General Election)—134/1951.
Dail Eireann (Polling Cards)—135/1951.
Electoral (Amendment) Order—242/1951.
Returning Officers' Charges—140/1951.
Seanad Elections, Returning Officers' Charges in University
Constituencies—200/1951.

EMPLOYMENT REGULATION AND CONDITIONS OF EMPLOYMENT.

SUBJECT MATTER AND REFERENCE NUMBERS.

Aerated Waters Joint Labour Committee—127/1951.
Agricultural Wages—187/1951, 188/1951.
Agricultural Workers' Holidays—230/1950.
Brush and Broom Joint Labour Committee—163/1951.
Button Making Joint Labour Committee—126/1951.
Creameries Joint Labour Committee—239/1951.
Food Preserving Trade—139/1951.
Furniture Trade Apprenticeship Committee—219/1950.
Handkerchief and Household Piece Goods Joint Labour
Committee—36/1951.
Labour Court Appointment of Workers Members—195/1951.
Law Clerks Joint Labour Committee—230/1951.
Match Manufacturing Industry—90/1951.
Messengers Joint Labour Committee—129/1951, 204/1951.
Packing Joint Labour Committee—189/1951.
Paper Box Joint Labour Committee—68/1951, 153/1951.
Pharmaceutical Employees' Association Deposit—22/1951.
Shipping Crew Accommodation—95/1951.
Shirt Making Trade—136/1951.
Shops, Hours of Trading—197/1951, 243/1951.
Sugar Confectionary Trade—139/1951.
Tailoring—167/1951.
Trade Union, Deposits—22/1951.
Turf Industry—154/1951.
Waste Material Reclamation—190/1951.
Womens' Clothing and Millinery—128/1951.

FINANCE AND CENTRAL GOVERNMENT.

SUBJECT MATTER AND REFERENCE NUMBERS.

Census, Unemployment Assistance—45/1951.
Coinage Act, 1950 (Commencement)—111/1951.
Coinage Dimensions and Designs—137/1951.
Death Duties, Payment in Securities—201/1951.
Dividends of Gas Undertakers—238/1951.
Exchange Control—60/1951, 162/1951, 240/1951.
Garda Siochana, Pay—196/1951.
Garda Siochana, Retirement—132/1951.
Garda Siochana, Allowances—206/1951.
Government Loans (Conversion)—191/1951.
National Health Insurance Fund (Investment of Surplus Sums),
Regs.—240/1951.

Secondary Teachers' Superannuation—48/1951.
Statistics (Census of Population)—73/1951.
Statistics (Census of Production)—58/1951.

HARBOURS, RIVERS AND HYDRO-ELECTRIC SCHEMES

SUBJECT MATTER AND REFERENCE NUMBERS

Dungarvan Harbour Rates—198/1951.
Limerick Harbour Works—168/1951.
Maintenance of Harbours (E.P.O. No. 352) Revocation—
272/1950.
Waterford Harbour Works—66/1951.

HEALTH

SUBJECT MATTER AND REFERENCE NUMBERS

Codeine—55/1951.
Nurses Act 1950 Adaptation of Rules—222/1951.
Nurses Board Establishment—164/1951.
Poisons (Ireland) Act 1870—Additional Poisons Order—
55/1951.
St. Margaret of Cortona Hospital—77/1951.
Strychnine—55/1951.
Westmoreland Lock Hospital—77/1951.

HOUSING

SUBJECT MATTER AND REFERENCE NUMBERS

Housing (New Houses) Regulations—267/1950.

JUSTICE, EXTERNAL AFFAIRS AND DEFENCE

SUBJECT MATTER AND REFERENCE NUMBERS

Canadian Citizens (Irish Citizenship Rights)—89/1951.
Civil Defence—Appropriate Minister—67/1951.
Diplomatic and Consular fees (Amendment) Regulations—
205/1951.
District Court (New Areas) Variation Orders—268/1950,
64/1951, 70/1951, 156/1951, 169/1951.
Garda Siochana, Allowances—206/1951.
Garda Siochana, Pay and Retirement—132/1951, 196/1951.
High Court Rules 1951—224/1951.
Labourers (Ireland) Order 1912—202/1951.
Land Purchase Acts Rules 1951—50/1951.
Land Registration Rules, 1951—226/1951.

MISCELLANEOUS

SUBJECT MATTER AND REFERENCE NUMBER

Game Preservation Act 1930—92/1951, 228/1951.
Game Birds Protection (Pheasants, Partridges, Woodcock,
Quail), 83/1951.
North Bull Island, Dollymount—83/1951.
Wild Birds, County Mayo—43/1951.
Recognised Coursing Clubs—228/1951.

POSTS AND TELEGRAPHS

SUBJECT MATTER AND REFERENCE NUMBERS

Foreign Post Amendment Warrant—59/1951.
Inland Post Amendment Warrant.
Money Order Amendment Regulations.
Postal Order Amendment Regulations.
Wireless Telegraphy—232/1951.

SOCIAL SERVICES

SUBJECT MATTER AND REFERENCE NUMBERS

National Health Insurance Rules—201/1951.
National Health Insurance Fund—240/1951.
Public Assistance General Regulations (Burial)—69/1951.
Racing Board Employees—209/1950.
Unemployment Assistance, Employment Periods—53/1951,
157/1951.

TRANSPORT AND TRAFFIC

SUBJECT MATTER AND REFERENCE NUMBERS

Air Navigation fees, Personnel Licensing—65/1951.
Carriage of Wheat—245/1951.
Customs, Free Airport—Extension of Laws—60/1951. 240/1951.
Great Northern Railway Company (Ireland) Loan £200,000—107/1951.
Road Vehicles (Additional Index Mark)—229/1951.
Shipping Crew Accommodation—95/1951.
Turf Development Act 1946, Transport Works—202/1950, 203/1950.

THE REGISTER

Section A.

WANTED Conveyancing Clerk for large city office. Apply with full particulars, stating experience and salary required to—Box No. A132.

Experienced Law Clerk

REQUIRED for Solicitor's Office 20 miles from Belfast. Experience in Conveyancing and Land Registry Practice essential. Salary £5 per week increasing according to experience and ability. Applications (with copy references) to Box No. A133.

Section C.

FOR SALE:—English and Empire Digest complete, with all cumulative supplements up to and including 1950. Apply W. E. O'Brien & Co., Solicitors, Mitchelstown, Co. Cork.

LIBRARY

THE Library will be closed for extensive alterations and repairs during the month of September. The Librarian will facilitate members who wish to borrow books urgently, provided they send him a letter to that effect.

LEGAL LITERATURE OF THE MONTH

A selection of articles from periodicals.

Law Times, July 6th.—“Completion and Income Tax”—“Easements by implied reservations—in *re Webb*.”
July 13th.—“Costs in remitted actions”—“Council of Law Society—opinions on conveyancing matters.”
July 20th.—“Evidence”; “Anticipated proceedings”—The Leasehold Property (Temporary Provisions) Act, 1951.”
July 27th.—“Rectification of register”; “Punishment for motoring offences.”
August 3rd.—“The dual aspect of misrepresentation.”
Solicitors' Journal, July 7th.—“Solicitors—Trustees of charitable institutions—rights of charging.”
“The Leasehold Property Act, 1951—I.”
July 14th.—“Wives' rights in property

in joint names”; “The Leasehold Property Act, 1951—II”; “Annual General Meeting of the Law Society.”
July 21st.—“Covenants in mortgage instruments”; “The Leasehold Property Act, 1951—III.”
July 28th.—“Costs in criminal and magisterial proceedings—I”; “Adoption of children”; “Originating summonses for construction of written documents—parties costs”; “Agents and illegality.”
August 4th.—“Infants settlements”; “Costs in criminal proceedings”; “Rent control”; “Widow's charter.”
August 11th.—“Liability for the making up and repair of highways”; “Report of the Committee on intestates' succession—I”; “Rent control and onus probandi”; “Solicitors' entertainment expenses allowed for income tax purposes (Bentleys' Stokes & Lowless *v. Bertson*).”
The Solicitor, July—“Attornment clause in mortgage deeds”; “Misrepresentation by agents”; “Some recent problems in the conflict of laws”; “The prevention of crimes.”
August.—“Implied reservation of easements *re Webb*”; “Liability of agents for breach of warranty of authority”; “Strict liability in nuisance?”; “The Leasehold Property Act, 1951.”
Law Society's (London) Gazette, January—“Law reporting—the need for improvement”; “A Solicitor's office—discharge of work and avoidance of wasted effort.”
March—“Special General Meeting”; “Another solicitor's office”; Solicitors' undertakings.
April—“Parliamentary procedure”; “Royal Commission on the taxation of profits and income”; “Solicitor's office—some further notes”; “Statute Law Committee.”
May—“On starting a practice”; “Taxation of trading profits—Report of the Tucker Committee.”
June—“The President's address to students”; “Taking an articulated clerk.”

July—"Solicitor's mortgage charges";
"Solicitors' Practice Rules, 1936—
The Evill Case."

HIGH COURT RULES, 1951 (S.I. 224/1951).

THE effect of these rules made by the Superior Courts Rules Committee on the 27th July, 1951, is to increase the fees payable to Commissioners for Oaths and to increase the amounts allowed to solicitors for attending a High Court or Supreme Court action.

Commissioners for Oaths may henceforth charge :

For taking every Oath, Declaration or Averment ...	3/-
For marking each exhibit ...	1/6
Not to exceed in all £1.	

The minimum fee for attending on the hearing or trial of any cause or matter before a High Court Judge with or without a jury for each day of hearing more than one, remains unchanged at £1 5s. per day. The maximum fee has been increased from £3 18s. 9d. to £5 5s. per day, and the requirement that special grounds must be shown in support of a fee exceeding £1 5s. has been abolished. In addition, the Master may henceforth allow reasonable actual travelling expenses (heretofore this was not provided for). This order will shortly be obtainable from the Stationery Office.

LAND REGISTRATION RULES, 1951 (S.I. 226/1951).

THE effect of these rules is that henceforth a Land Certificate may be issued in a form which shall incorporate a photostatic positive facsimile of the Land Registry folio. A copy will shortly be obtainable at the Stationery Office—price 2d.

PRESIDENT'S VISIT TO AMERICA

THE PRESIDENT has been invited to address the 74th annual meeting of the American Bar Association, to be held in New York, September 17/21, 1951.

The President has also been invited to address the Standing Committee on Legal Aid Work of the Association of the Bar of the City of New York at its annual luncheon on Thursday, September 20th.

CORRESPONDENCE

8 SOUTH GREAT GEORGE'S STREET,
DUBLIN.

11th August, 1951.

DEAR MR. PLUNKETT,

I wish to express, through you, my thanks to the President and Council, and the members of the Incorporated Law Society, for their assistance and co-operation, so generously and readily given, towards my election to the Senate.

I fully appreciate the great help given to me by so many of my fellow solicitors, and I feel that my success has been, in no small way, due to them.

It is a great pleasure to me, too, to have found that our profession recognised that we should have a representative in the Senate.

I desire, also, to thank you personally for your most helpful interest and work.

Yours sincerely,
P. F. O'REILLY.

LAW CLERKS JOINT LABOUR COMMITTEE. (S.I. 230/1951).

THE Labour Court hereby gives notice that it has made an Employment Regulation Order, effective as from Friday, 17th August, 1951, providing for increased rates of remuneration for, and regulating the conditions of employment of workers in relation to whom the Law Clerks Joint Labour Committee operates.

REGISTRATION OF TITLE ACTS, 1891 AND
1942.

NOTICE

Folio 463

COUNTY CARLOW

Registered Owner: JAMES T. YOUNG

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above named Registered Owner.

Any such notification should state the grounds on which the Certificate in question is being held.

Dated the 28th day of August, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of James T. Young to 180a. 3r. 7p. of the lands of Ballenkillen situate in the Barony of Idrone East and County of Carlow, being the lands comprised in said Folio.

REGISTRATION OF TITLE ACTS, 1891 AND
1942.

NOTICE

Folio 2601 COUNTY CORK

Registered Owner: DANIEL MAHONEY

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated the 28th day of August, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Daniel O'Mahoney to 10a. 1r. op. of the lands Knockbrack (Parish of Rahan) situate in the Barony of Fermoy and County of Cork being the lands comprised in said Folio.

REGISTRATION OF TITLE ACTS, 1891 AND
1942.

NOTICE

Folio 33123

COUNTY GALWAY

Registered Owner: THOMAS GILL

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds in which the Certificate in question is being held.

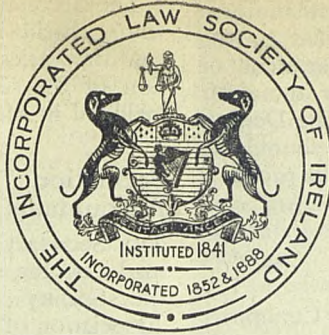
Dated this 28th day of August, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Thomas Gill to 22a. 1r. 6p. of the lands of Ballymarcahaun situate in the Barony of Kiltartan, and 18a. 2r. op. of the lands of Tullira situate in the Barony of Dunkellin both in the County of Galway being the lands comprised in said Folio.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President

ROGER GREENE

Vice-Presidents

NIALL S. GAFFNEY
FRANCIS J. GEARTY

Secretary

ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

OCTOBER 4TH. In the absence of the President, Mr. Gaffney, Vice-President, took the chair. The following were also present: Messrs. Francis J. Gearty, James R. Quirke, John J. Nash, Thomas A. O'Reilly, John J. Sheil, Seán Ó hUadhaigh, John R. Halpin, Daniel O'Connell, George A. Overend, Patrick R. Boyd, James J. O'Connor, Ralph J. Walker, John Carrigan, William J. Norman, Desmond R. Counahan, Louis E. O'Dea, Henry St. J. Blake, Arthur Cox, Gerald J. O'Donnell, Reginald J. Nolan, Dermot P. Shaw.

The following was among the business transacted:—

Vote of Sympathy

THE meeting passed in silence a vote of sympathy with the relatives of the late Dr. K. C. Bailey, F.T.C.D., one of the Society's Special Examiners.

New Member of the Council

THE Chairman welcomed Mr. Ralph Walker, a

new member of the Council, and Mr. Walker returned thanks.

Donegal Solicitors' Association

THE Council considered a report of the Committee on correspondence with the Donegal Solicitors' Association, in which that Association asked the Council to take steps to prevent solicitors in Northern Ireland, who are not entitled to practise in the Republic, from acting on behalf of clients resident in County Donegal. The Association gave particulars of a number of cases in which Northern Ireland solicitors had acted for vendors and purchasers on the sale and purchase of land in County Donegal. It was decided to invite representatives from the Bar Associations of counties adjoining the Border to discuss the matter with the Committee of the Council with a view to deciding what action, if any, should be taken.

Circuit Court Rules Committee

MR. SEÁN Ó HUADHAIGH was re-appointed as one of the Council's representatives on the Committee for a further period of five years.

International Sales of Goods

THE Council considered a report on a draft uniform law for international sales of goods sent to the Society for observations by the Department of External Affairs. It was ordered that the draft report should be approved and sent to the Department, and that the Secretary in writing should say that the Council approve in principle of the proposal of a draft uniform law.

Delays in the Probate Office

THE Council considered a report from a Committee on the subject of the delays in issuing grants of probate and letters of administration. The report stated that there is considerable cause for complaint on account of the unsatisfactory method of producing sealed and certified copies of grants of probate and letters of administration for the purpose of obtaining grants in England. It was ordered that the President and the Secretary should seek an interview with the Minister for Justice in order to obtain an improvement in the position.

OCTOBER 25TH. The President in the Chair. Also present: Messrs. Niall S. Gaffney, Vice-President; John Carrigan, William J. Norman, Henry St. J. Blake, John R. Halpin, Thomas A. O'Reilly, James R. Quirke, Daniel O'Connell, John J. Dundon, Maurice M. Power, Seán Ó hUadhaigh, Louis E. O'Dea, Arthur Cox, Reginald J. Nolan, Dermot P. Shaw, Desmond Mayne, Derrick M. Martin, Joseph Barrett, Joseph P. Tyrrell, Desmond R. Counahan, Gerald J. O'Donnell, Ralph J. Walker, James J. O'Connor, Patrick F. O'Reilly, Patrick R. Boyd, John J. Sheil.

The following was among the business transacted:—

Unauthorised Practice by Unqualified Person

THE Council considered a report from a Committee on a case in which the owner of a cottage held under the Labourers Act, 1936, agreed to sell his interest for a sum of £45. An agreement between the parties, which purported to operate as a conveyance of the vendor's interest, was prepared by an auctioneer, who received the sum of 10/- for his services. At the time when the agreement was signed the vendor was under notice to quit, and the purchaser after entering into the agreement was ejected. It was ordered that the Secretary should institute proceedings against the unqualified person for the penalty prescribed by the Conveyancers (Ireland) Act, 1864.

Entries in Foreign Law Directories

THE Secretary was directed to write to solicitors whose entries in the English and Scottish and other law directories contravene the recent recommendation of the Council on the subject matter to be included in such entries.

Formation of Limited Companies by Accountants

THE Secretary stated that representations had been made to the Institute of Chartered Accountants, the Society of Incorporated Accountants, the Association of Certified and Corporate Accountants, and the Association of Practising and Commercial Accountants, on the subject of the preparation of memoranda and articles of association and the formation of limited companies, and that satisfactory replies had been received from the Society of Incorporated Accountants and the Association of Certified and Corporate Accountants. The matter is still under consideration by the Council of the Institute of Chartered Accountants.

SOLICITORS' NOTEPAPER

THE Council wish to publish the following recommendations for the guidance of the profession on the subject of the propriety or otherwise of using certain words and descriptive matter on solicitors' office newspaper:

- (1) Where a solicitor engaged in private practice acts also for the State, or as solicitor for a public body such as a local authority, there is no objection to a statement that he so acts on his office notepaper used exclusively for the business of the State or the public body concerned. Such a statement is normally in the form of a caption such as "State Solicitor," "Solicitor for Minors," "County Solicitor," or "Solicitor for the X County Council."
- (2) It is not in accordance with professional etiquette that the names of clients for whom a solicitor acts should be printed on notepaper used for correspondence not on their business. Consequently captions of which those mentioned above are examples should not be printed on correspondence written for other clients. Examples of other captions to which the rule applies are the words, "Coroner for County X," or a statement that the solicitor acts for bodies such as the Automobile Association, the N.S.P.C.C. or an insurance company. These are merely examples of the kind of

notepaper headings which would be open to objection, and the rule applies to others of an analogous kind.

- (3) It is not in accordance with professional etiquette to use such descriptions as "Agents for the X Insurance Company," "Insurance Agent," "House Agent," "Estate Agent," "Referee under the Unemployment Insurance Acts," or a statement that the solicitor undertakes a particular class of business. Such statements on a solicitor's notepaper can reasonably be regarded as advertising.
- (4) There is no objection to the words "Notary Public," or "Commissioner for Oaths" (including such an office for a foreign country) on general office notepaper, but a solicitor whose commission has expired without renewal should not use such a description. A solicitor's degree or degrees of a recognised University may also be printed after his name. The use of the words "Land Agent" (but not "House Agent" or "Estate Agent") is permissible. A solicitor who is on the Register of Parliamentary Agents may use the words "Parliamentary Agent" on his general notepaper.

BAR ASSOCIATIONS

FOLLOWING the appeal sent out by the President for the formation of Bar Associations in May last, meetings of local solicitors were held in County Offaly and County Roscommon. It is understood that a meeting will be held in County Longford to promote an Association. An Association has now been formed in County Roscommon, and the following are the Officers and Committee:

President: Mr. P. J. Neilan, Senior.
Chairman: Mr. Francis X. Burke.
Vice-Chairman: Mr. James T. Claffey.
Treasurer: Mr. Oliver Macklin.
Hon. Secretary: Mr. John Kelly.

The other members of the Committee are: Messrs. Sean Flanagan, William Tormey, P. J. Flynn, and C. E. Callan.

SOLICITORS' GOLFING SOCIETY

THE Autumn Meeting of the Golfing Society at Portmarnock Golf Club on Thursday, the 4th October, was favoured by excellent weather conditions.

It was disappointing, in the circumstances, to find only thirty-three solicitors attending to play for the numerous prizes, which included the Incorporated

Law Society's magnificent Challenge Cup, as well as a very nice decanter and glasses and a fitted leather toilet set.

The attendance at the Annual General Meeting, and at the Dinner which followed, was even more disappointing, for there were no more than thirty solicitors present at this function to support the Captain—Mr. Kevin Burke. The Dinner proved, nevertheless, a most enjoyable function, and the presentation of the prizes was followed by a musical evening.

The winners of the prizes were as follows:

Law Society's Cup and President's Prize, J. Bolton (8), 73. Ryan Cup and Golfing Society's Prize, K. Burke (14), 74. Best Gross, D. Lynch (4), 78. Best Net First Nine, J. McCarroll, 33. Second Nine, J. Gilmartin, 35.

At the Annual General Meeting concern was expressed by those present at the failure of the general body of solicitors to support the Society's fixtures, and it was decided that a special appeal should be made through this *Gazette* to all solicitors, who are in any way interested in golf, to come along to the Society's meetings, notice of which will, in future, appear in the issue of the *Gazette* immediately preceding the relevant date. Meanwhile, it would be a help if the Secretary of the Society (Basil Doyle) could be supplied with the names of any solicitors who would like to have direct notice of the various competitions.

The officers for the year 1952 were elected as follows:—

Captain, Mr. R. E. Felton.
Hon. Secretary, Mr. Basil Doyle.
Treasurer, Mr. J. Barrett.

Committee, Messrs. Kevin Burke, Jos. Tyrrell, G. J. O'Donnell (Ennis), D. P. Shaw, W. A. Menton.

DOCUMENTS OF HISTORICAL VALUE

DURING the War, when the campaign for salvage of waste paper was in full swing, an appeal was made by advertisement and radio, and in some cases by letter, to solicitors who contemplated disposing of old deeds, rentals, letters and other family papers for pulping, to communicate with the National Library before so doing. As a result of this appeal a number of valuable collections, particularly rentals, were saved from destruction.

Recently attention has been drawn to some isolated cases of such papers, etc., being jettisoned as waste without first ascertaining whether they might be of value to historical or genealogical research workers.

An appeal is made to all custodians of documents, rentals and ledgers, of a date prior to 1870, to let the Keeper of Manuscripts, National Library, know before any such be scrapped, and to inform him of anything of interest of this nature. The National Library has already a large collection of family archives and is anxious to acquire more, whether by gift or purchase, or on long loan. Some solicitors have already helped greatly in this way. It is hoped that further progress will be made in this direction as the result of this notice.

FORGED CODICIL

A DUBLIN solicitor, who had drawn a will for an old-standing client, received by post shortly after the client's death in August, 1950, a document which purported to be a codicil to the will. The document was written in a rather illiterate fashion, and the suspicions of the solicitor were aroused as to its genuineness. He sent the papers to the police, who, after making inquiries, stated that they were certain that the so-called codicil was written by an elderly person who was not responsible for her actions. On a previous occasion the papers in a similar matter had been submitted to the Attorney-General, who had directed that on the facts submitted to him, a prosecution should not be instituted. It seems that the person in question frequently utters documents of this nature, and a local firm of solicitors has received numerous inquiries from Ireland and England on the subject. The Probate Officer is aware of the identity of the person in question and has received a number of similar documents. The utterer of these forgeries is apparently prompted to indulge in this peculiar hobby by reading the Preliminary Notice to Creditors in the newspapers. A solicitor who receives a testamentary document of a suspicious nature would be well advised to show it in the first instance to the Probate Officer to ascertain whether it is the work of the person in question.

CONTEMPT OF COURT

To attempt to deceive the court by disguising the true nature of the claim by the indorsement on a specially indorsed writ is a contempt of court.

A solicitor was instructed by a client to bring an action against bookmakers for money alleged to be owed by them to the clients on bets. The client, Weisz, insisted that the action be brought, although he knew it was not maintainable under the Gaming Acts, in the hope that the threat of publicity would induce the bookmakers to pay, or, if they did not, for the purpose of "showing them up."

Accordingly, a specially indorsed writ was issued against the bookmakers by which the money was claimed to be due on an account stated. No account had been stated, as the solicitor well knew. Weisz did not know of the terms of the indorsement. The solicitor throughout had acted on the advice of counsel.

HELD by the Divisional Court (Lord Goddard, C.J.; Hilbery and Devlin, J.J.) that the solicitor had committed a contempt of Court because the indorsement on the writ was fictitious, and was designed to conceal from the Court the true nature of the claim; but that Weisz had not committed a contempt, for to bring an action prohibited by the Gaming Act, 1945, although an abuse of the process of the Court, was not of itself a contempt, even though it were brought to put pressure on the bookmakers, or to "show them up" as the client was not responsible for the terms of the indorsement on the writ.

Per Lord Goddard, C.J.—The very fact that on many previous occasions resort has been had to this particular form of indorsement in cases which are brought simply for the recovery of money won at betting or gaming is what gives importance to this motion for attachment for contempt. It is time that this practice should be stopped, and in no uncertain manner. It is in our opinion beyond question that to disguise a cause of action so as to conceal its true nature when in truth it is one prohibited by Statute is a contempt. It is necessary to emphasise that the contempt in this case lies not in bringing an action forbidden by the Gaming Acts, but in bringing it as a feigned issue so as to conceal its true nature from the Court.

(*Rex v. Weisz*—*ex parte* Hector McDonald, Ltd. 1951 2 K.B. 611.)

SOLICITOR-MORTGAGEE INTEREST

A SOLICITOR who was one of the executors of a mortgagee refused, on the mortgagor's giving notice to redeem, to part with the title deeds to the property, claiming a lien for moneys which he himself had personally advanced. His claim to the lien was dismissed by the Court of Appeal in proceedings in a redemption action (See *Gazette*, February, 1951, p. 51). During the action, the necessity for which was the sole cause of delay in payment of the mortgage moneys, the solicitor took a transfer of the mortgage from the other executors, and became sole mortgagee.

HELD by Danckwerts, J. that, in spite of the delay in redemption which was caused by the unsustainable claim advanced by the mortgagee-

solicitor he was, nevertheless, entitled to interest on the capital sum from the date of the notice to redeem (14th December, 1943) until the date of payment off. But he was not entitled to the general costs of the action, for the delay in the redemption was entirely due to his own wrong claim. Each party would have to bear their own costs.

(*Barrett v. Gough, Thomas* (No. 3) 1951 T.L.R. Vol. II. 106.)

ENTERTAINMENT EXPENSES

Rule 3 of the Rules applicable to Cases I and II of Schedule D to the Income Tax Act, 1918, provide:—

“In computing the amount of . . . profits . . . no sum shall be deducted in respect of: (a) any disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the . . . profession . . .”

For expenses to be laid out “wholly and exclusively” for the purpose of a profession within the meaning of the above rule, they do not have to be necessary for the purposes of the profession, provided they are laid out wholly for that purpose and for no other.

Mr. Dulanty, Solicitor, a partner in the plaintiff firm, had expended a sum of £539 in the year 1949–50 in entertaining clients to lunch or dinner on occasions when professional advice was given and charged for in the ordinary way. The firm’s office was in the city, and some of the entertaining was done at a neighbouring restaurant. A number of clients resided in the West End of London, and they were entertained in that district. It was generally convenient for the partners to hold personal consultations at lunch time, as they were then free for general work in the office at other times. The Special Commissioners disallowed the claim that this sum of £539 should be deducted as business expenses, and plaintiffs appealed to the High Court.

HELD by Roxburgh, J. that the expenses thus incurred by solicitors in entertaining clients at meals for the purpose of professional interviews in respect of which fees are charged, and at which no persons are present except the solicitor and the clients, are not excluded as deductions by the Rule. The expense is none the less deductible, because the solicitor’s own lunch is included, since his attendance is an essential part of the transaction.

Per Roxburgh J.—Expenditure on hospitality, coupled with advice for which a fee is charged, looks to me like expenditure for a professional purpose. The partner who attended and lunched was an essential element in the transaction. The

advice could not have been given, and the fee could not have been earned if the partner had not attended. Obviously, if the client is to be given lunch, business would not be promoted if the partner should sit by eating and drinking nothing. The appeal should be allowed, and the assessment should be reduced by the sum claimed, £539.

(*Bentley, Stokes & Lawless v. Beeson*, 1951 T.L.R. Vol. II 592.)

EXAMINATION RESULTS

At examinations held on the 28th and 29th days of September under the Legal Practitioners (Qualification) Act, 1929, the following passed the examinations:—

First Examination in Irish

Owen Binchy, John Francis Buckley, John Paschal Dillon, Naoise P. Gantly, Gabriel F. Haughton, Thomas Barrington Jellett, Patrick Bernard Kelly, James F. Kenny, Timothy Bernard McEniry, Frank Mahony, George V. Maloney, Thomas Aloysius Maloney, John Molan, Anthony Gerard Moylan, Walter B. O’Donoghue, Catherine Mary Ryar, Patrick J. M. Ryan, Michael Aloysius Staines, Diarmuid Proinsias Teevan, Desmond Paul Windle.

Twenty-five candidates entered; 20 passed; 5 failed.

Second Examination in Irish

Henry W. Burleigh, Michael Joseph Harnett, John V. Kelly, Thomas P. Kelly, Edward P. King, John Brendan O’Flynn, Patrick J. O’Gara, David R. Pigot.

Twelve candidates entered; 8 passed; 4 failed. The remaining candidates are postponed.

Intermediate Examination

At the Intermediate Examination for apprentices to solicitors, held on 10th and 11th days of September, the following passed the examination:—

Passed with Merit: 1. Donal B. O’Connell. 2. Norbert P. Colbert. 3. Bryan J. Maguire. 4. Desmond T. Breen. 5. Mary E. Reihill. 6. Patrick F. Treacy.

Passed: Ignatius F. Branigan, Gerald B. Coulter, Martin J. Curran, Edward J. Dillon, Charles W. R. Fay, Patrick C. Kelly, Finbarr McCarthy, John M. O’Connor, John E. Russell, Dominic B. Spelman, Francis A. Walsh, Elizabeth M. Wright.

Twenty-seven candidates entered, 18 passed, 8 failed, 1 did not attend.

The remaining candidates are postponed.

Final Examination

At the Final Examination for apprentices to solicitors, held on the 10th, 11th and 12th days of September, the following passed the examination, and their names are arranged in order of merit:—

1. Mary C. C. O'Mahony. 2. Donal G. Binchy. 3. Patrick J. O'Driscoll. 4. James Cawley. 5. Dermot F. Jones. 6. Cahir F. M. Davitt. 7. Mervyn H. Taylor. 8. Patrick J. Creagh. 9. Eunice D. J. Spendlove. 10. Jasper H. Swanton. 11. Michael C. O'Driscoll. 12. Francis P. Byrne. 13. Michael J. Harnett. 14. Henry Kelly. 15. Patrick J. O'Gara. 16. John F. X. Campbell. 17. Michael Kenefick. 18. Cecil Lavery. 19. Mary A. B. M. E. Callery. 20. Una O'Higgins. 21. Timothy F. J. O'Toole. 22. Joseph Griffin. 23. Myles C. Murphy. 24. James H. Mackey. 25. Michael K. O'Driscoll. 26. Teresa B. Whelan. 27. Daniel M. F. Molloy. 28. Dermot J. A. J. Devlin. 29. Patrick J. Conway.

Thirty-five candidates entered, 29 candidates passed, 6 failed.

The remaining candidates are postponed.

The Council has awarded Silver Medals to Mary C. C. O'Mahony, Donal G. Binchy, Patrick J. O'Driscoll, and James Cawley, and a Special Certificate to Dermot F. Jones.

Scholarships, 1951

THE Findlater Scholarship was awarded to Liam Desmond McGonagle who served his apprenticeship with the late Mr. Christopher McGonagle, 34 Upper O'Connell Street, Dublin, and Mr. Thomas K. O'Connor, 4 Upper Ormond Quay, Dublin.

The Overend Final Examination Scholarship (Real Property and Conveyancing) was awarded to Mary C. C. O'Mahony who served her apprenticeship with Mr. T. C. Gerard O'Mahony, 32 Molesworth Street, Dublin.

LEGAL APPOINTMENTS

MR. MYLES GAVAGAN has been appointed Chief Examiner of Title in the Irish Land Commission. Mr. Gavagan was admitted in Trinity Sittings, 1936, and was until recently principal Assistant Solicitor in the Office of the Solicitor to the Irish Land Commission.

THE REGISTER

Register B

Solicitor (lady), at present employed, desires position with Dublin firm. Box B153.

Section C

FOR SALE—Butterworth's Encyclopaedia of Forms and Precedents. Complete. Box No. C 129.

JAMES ANTHONY, RATHSTEWART, ATHY,
CO. KILDARE.

Will any person who holds, or may know of the existence of, any Will or testamentary document made by the above-named, who died on the 8th September, 1951, please communicate with the undersigned as soon as possible. :— M. M. Halley, Solicitor, 5 George's Street, Waterford.

WILL SOUGHT

KATHLEEN MARY WRIGHT (nec O'Hara), wife of Major A. E. Wright, late of 68 Cowper Road, Dublin, and other addresses around Dublin, deceased. Will any person having information as to the preparation or whereabouts of any Will of the above-named deceased, please communicate with the undersigned. Information is also sought as to documents or share certificates held on her behalf. Brennan & Brennan, Solicitors, 1 College Street, Dublin.

REGISTRATION OF TITLE ACTS, 1891 and 1942

NOTICE

Folios 6393 and 6394

COUNTY CORK

Registered Owner: DENIS O'CONNELL.

An application has been made by the registered owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named registered owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 16th day of November, 1951.

JOSEPH O'BYRNE,

Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Denis O'Connell to 48a. 3r. 21p. of the lands of Annakisha North, situate in the Barony of Fermoy and County of Cork, being the lands comprised in said Folio 6393.

Land Certificate of Denis O'Connell to 43a. 2r. 16p. of the lands of Annakisha North and oa. 1r.

3op. of the lands of Clenor South situate in the said Barony and County, being the lands comprised in Folio 6394.

NOTICE

Folio 10067 COUNTY TIPPERARY
Registered Owner: MICHAEL KEOGH

An application has been made by the registered owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named registered owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 16th day of November, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of Michael Keogh to 27a. 3r. 5p. of the lands of Kilnacash, 6a. 2r. 29p. of the lands of Grange South, 43a. or. op. of the lands of Grange North, and 2a. 1r. 14p. of the lands of Grange South, situate in the Barony of Clanwilliam and County of Tipperary, being the lands comprised in said Folio.

NOTICE

Folios 3164: 5146 COUNTY TIPPERARY
Registered Owner: JOHN CLERIHAN

An application has been made by the registered owner to the Registrar for the issue of Certificates of title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, have been lost or inadvertently destroyed. The Registrar of Titles will issue duplicate Certificates unless he is notified within 28 days from the date of this Notice that the said Certificates of Title are still in existence and in the custody of some person other than the above-named registered owner. Any such notification should state the grounds on which the Certificates in question are being held.

Dated this 16th day of November, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO.

Land Certificate of John Clerihan to 9a. or. 10p. of the lands of Ballyanny Upper situate in the Barony of Lower Ormond and County of Tipperary, being the lands comprised in said Folio 3164, and Land Certificate of John Clerihan to 22a. 1r. 35p. of the lands of Grange Upper, and 4a. 2r. 30p. of the lands of Ballyanny Upper, both situate in the Barony of Ormond Lower and County of Tipperary, being the lands comprised in said Folio 5146.

OBITUARY

MR. WILLIAM SHAW, Solicitor died on the 31st July, 1951.

Mr. Shaw served his apprenticeship with the late Mr. N. C. Caruth, Ballymena, was admitted in Hilary Sittings 1910 and practised at Ballymena, Co. Antrim.

MR. J. LAURENCE R. HASTINGS, Solicitor died on the 13th October, 1951.

Mr. Hastings served his apprenticeship with Mr. Joseph I. Donaghy, 142 Royal Avenue, Belfast, was admitted in Trinity Sittings 1912 and practised at Magherafelt.

MR. B. LESLIE WINSLOW, Solicitor died on the 1st September, 1951.

Mr. Winslow served his apprenticeship with the late Mr. Joseph Alexander, was admitted in Trinity Sittings 1893 and practised at Enniskillen.

MR. PATRICK J. COLLINS, solicitor died on the 19th October, 1951.

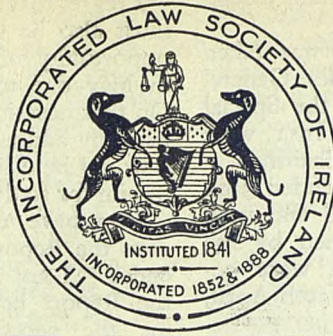
Mr. Collins served his apprenticeship with Mr. John Henry Collins, Newry, was admitted in Hilary Sittings 1916 and practised at Newry.

MR. JOHN FOLEY, Solicitor, died at his residence, Wayside, Bagenalstown, Co. Carlow on the 11th October, 1951.

Mr. Foley served his apprenticeship with the late Mr. Paul A. Brown, Solicitor, Carlow, was admitted in Hilary Sittings 1916 and practised at Bagenalstown.

MR. WILLIAM RAMAGE, Solicitor, died at Fermanagh County Hospital on the 6th November, 1951.

Mr. Ramage served his apprenticeship with the late Mr. Robert A. Ross Todd, Solicitor, Ballyshannon, was admitted in Trinity Sittings 1906 and practised at Ballyshannon under the style of Lipsett & Ramage.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
ARTHUR COX

Vice-Presidents
DESMOND R. COUNAHAN LL.D.
GERALD J. O'DONNELL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT

MEMBERS are reminded that Certificates for the year to end 5th January, 1953, should be taken out and duty paid thereon not later than 5th February, 1952. A "late" Certificate, i.e., stamped after 5th February, 1952, must be produced to this Society within one month of stamping and will be effective for the purpose of taxation of costs only from date of stamping.

THE PRESIDENT AND VICE-PRESIDENTS

MR. ARTHUR COX, of Dublin, has been elected President of this Society for the coming year, Dr. Desmond R. Counahan, of Waterford, and Mr. Gerald J. O'Donnell, of Ennis, have been elected Vice-Presidents.

ORDINARY GENERAL MEETING

A General Meeting of the Society was held in the Library, Solicitors' Buildings, Four Courts,

Dublin, on Thursday, 22nd November, 1951, the President, Mr. Green, in the Chair.

The following members signed their names as being present: Messrs. Joseph Barrett, Henry St. J. Blake, Patrick R. Boyd, John Carrigan, Desmond R. Counahan, Arthur Cox, Niall S. Gaffney, Roger Greene, John R. Halpin, John L. Kealy, John J. Nash, William J. Norman, Daniel O'Connell, James J. O'Connor, Louis E. O'Dea, Gerald J. O'Donnell, Thomas A. O'Reilly, George Gordon Overend, Maurice M. Power, James R. Quirke, Dermot P. Shaw, John J. Sheil, Joseph P. Tyrrell, Ralph J. Walker, Derrick M. Martin, Reginald J. Nolan, Arthur G. Ardagh, John B. McCann, K. M. Meares, George A. Overend, R. D. English, John P. King, Reuben J. Dodd, Patrick J. Walsh, Mrs. Dorothea M. O'Reilly, Samuel Hayes, R. W. R. Johnston, M. J. Kenny, Francis J. Dunne, Desmond Moran, W. Boyle Fawsitt, John Maher, Denzil O'Donnell, Denis Greene, D. O'Donovan, Sean A. O hUadhaigh, Gerard M. Doyle, Roderick J. Tierney, Charles J. Joyce, Alfred E. Walker, Rowland H. S. Healy,

Patrick C. Moore, Hugh O'Donnell, T. Desmond McLoughlin, James Tuohy, Dermott Curran, Joseph P. O'Connell.

The notice convening the Meeting was taken as read. The Minutes of the Ordinary General Meeting held on 17th May, 1951 and the Special General Meeting held on 29th May, 1951 were read, confirmed and signed by the Chairman.

The audited Accounts for the year ended 30th April, 1951, were unanimously adopted and with the consent of the meeting were signed by the Chairman. Messrs. Kevans & Sons were re-appointed Auditors for the year to end 30th April, 1952.

The Secretary read the report of the Scrutineers of the Ballot for the election of the Council and Provincial Delegates for the year to end on the day before the date of the Ordinary General Meeting in November, 1952. The report stated that for the Office of Provincial Delegate the following had been returned unopposed:—

Ulster, Derrick M. Martin; Munster, John J. Dundon; Leinster, Reginald J. Nolan; Connaught, Christopher E. Callan.

The foregoing were declared duly elected.

The report further stated that the following had been elected as the thirty-one Ordinary members of the Council and Supplemental list, having received the number of votes placed after their respective names:—

RESULT OF COUNT

1. Arthur Cox, 435; 2. Henry St. J. Blake, 429; 3. William J. Norman, 418; 4. Daniel O'Connell, 416; 5. Joseph Barrett, 408; 6. Dermot P. Shaw, 404; 7. Patrick R. Boyd, 403; 8. Patrick F. O'Reilly, 398; 9. John Carrigan, 395; 10. Joseph P. Tyrrell, 392; 11. Thomas A. O'Reilly, 390; 12. James J. O'Connor, 389; 13. Seán Ó hUadhaigh, 379; 14. Niall S. Gaffney, 361; 15. John J. Sheil, 356; 16. John J. Nash, 351; 17. Louis E. O'Dea, 350; 18. Francis J. Gearty, 349; 19. Desmond R. Counahan, 347; 20. John R. Halpin, 344; 21. Roger Greene, 344; 22. James R. Quirke, 339; 23. Gerald J. O'Donnell, 330; 24. William S. Huggard, 329; 25. Desmond J. Mayne, 320; 26. George G. Overend, 312; 27. Maurice M. Power, 297; 28. Ralph J. Walker, 295; 29. Francis J. Lanigan, 280; 30. John L. Kealy, 277; 31. Cuthbert J. Furlong, 255. *Supplemental list in case of vacancies*: 32. John B. McCann, 229; 33. John Maher, 228; 34. Raymond French, 223.

The President declared the result of the election in accordance with the Scrutineers' report.

The President in moving the adoption of the report said:—

“LADIES AND GENTLEMEN,

I regret that my opening address to the profession must also be my swan song. I did not have an opportunity of addressing the half-yearly meeting in May due to my absence in the United States. On that occasion Mr. Niall Gaffney, Vice-President, read my address to the meeting of the Society and I would here like to acknowledge my indebtedness to him for so doing.

You have now had in your hands for some days the Report of the Council for the year just ended. I am sure you have all had time to read the Report before the meeting and this will save me the necessity of going into in detail the various matters with which it deals.

OBITUARY

Since the Ordinary General Meeting of the Society in May last some of our brothers have been taken from us. The profession is poorer by the deaths of Aylward R. O'Connor, Henry D. Keane, Denis J. Bergin, Robert Macredy, John W. Simpson, John J. Rea, George C. Lepper, Charles O'Brien, William E. C. Lloyd, William J. Craig, Edwin M. Lloyd, Gerald A. G. Byrne, Patrick McGrath, William Ramage, John Foley, William Shaw, J. Laurence, R. Hastings, B. Leslie Winslow, Patrick J. Collins.

Another loss which the profession will sustain is the resignation of Mr. George Acheson Overend from the Council. Mr. Overend has served on the Council for very many years and has been an outstanding figure at its Council table. President in 1942, Mr. Overend has been a tireless worker on the Council since the day he joined it. Those members of the Society who have never worked on the Council can never realise the tremendous amount of time and energy which Mr. Overend devoted to the profession as a whole over a period of years. It gives me great pleasure to ask you to show by your acclamations your gratitude to Mr. Overend who, now retiring, is being succeeded by his son, Mr. Gordon Overend.

I know that every President likes to feel that he lays down the chain of office feeling that he has made some little extra contribution to the work of the Society for the year. I think the Annual Report will show that your Council has not been idle. In fact, it is difficult for anybody who is not a member of the Council to appreciate the very considerable volume of work which passes through the hands of the Council and its sub-Committees during the year. Not all of it can be recorded in the Annual Report nor referred to in a President's speech and when I tell you that last year's President, Mr. Norman, attended over 103 meetings durin

his term of office it will give you some indication of what is done, especially when you remember also that the work is not confined to Council or Committee meetings alone. The volume of work now reaching the Council has grown to such proportions that your Council has deemed it necessary to re-organise its work by delegating a greater number of decisions to sub-Committees than has been the practice heretofore. This new system will operate as from to-day and it is hoped will lead to a more efficient discharge of the Society's work and the Council's duties. Finally, let me emphasise that the Council is your Council. It is elected by the members each year and the members of the Society expect, quite properly, to receive adequate service and support on the many problems confronting solicitors. The converse, however, is also true and the Council should feel itself entitled to rely at all times on the complete co-operation and support of the members of the profession in the carrying out of the Council's duties. Neither of us could progress without the other. Accordingly, in asking for this support, I would also ask the profession to send to us from time to time their views and suggestions for the improvement of the affairs of the profession.

As you will have seen from the Annual Report during the course of the year I received two invitations to visit the United States. One, in May, to speak at the Annual Dinner of the Eire Society of Boston and to address a number of Bar Associations, the other, in September, where your President was invited to represent the Society at the Annual Meeting of the American Bar Association in New York. Speaking as President of the Society I should like to tell you that the visits could not have been more successful in any way. No greater honour or courtesy could have been paid to this Society than was, in fact, paid during the course of the visits and I would like to take this opportunity of publicly acknowledging on behalf of the Incorporated Law Society of Ireland, the great honours and courtesies bestowed by the American Bar Association on the Society at its General Meeting last September. A detailed description of my visit will appear in the *Gazette*.

LIBRARY :

This is probably the first occasion on which some of you have the opportunity of seeing our new library. Cramped conditions in the office and the old library compelled the Council to decide on a change the result of which you see to-day. The Council has made, and is making, every effort to bring the library completely up-to-date and

members will find many new and useful books on the shelves. Sometimes the Library Committee finds itself in a difficulty. The price of law books is extremely high, running up to £7 a volume, and whilst the Committee is anxious to maintain an adequate library, cost is an important factor and it would be of considerable help to the Library Committee in considering the purchase of new books if members could send to us from time to time their views or suggestions for the improvement of the library.

SOLICITORS BILL :

This is the usual hardy annual which has been referred to at every half-yearly meeting of the Society for the last seven years. The Council has kept constant pressure on the Minister for Justice over the past twelve months, and the Secretary, and I saw him no later than Monday last. I cannot pretend to you that the meeting was entirely satisfactory. The Bill has been with the Government since 1944 and during the last seven years there has been a constant procession of Presidents and deputations to various Ministers urging on the Government the desirability of introducing our Bill. I am afraid that our interview on Monday last was just a repetition of many which has taken place over the years. This time, however, we can hold out a tiny gleam of light to the profession. The Minister informed me that it was his sincere hope and wish to introduce the Bill during the Session starting after Christmas and with normal progress it should become law twelve months hence. You may well ask me to explain to you the cause of the seven years delay. I am unable to do so as the Minister himself could only account for it by saying the Bill was under examination.

DELAYS IN GOVERNMENT DEPARTMENTS :

During this interview with the Minister for Justice we drew his attention to the increasing delays in the Probate Office. The delay in issuing Grants of Probates and Letters of Administration is now some seven weeks. Up to a few years ago Grants issued in seven days and although the volume has increased slightly within the last few years, such increase cannot be held to justify the delays to which the profession and the public are now subjected.

Unfortunately the profession suffers directly from such delays as clients are wont to blame solicitors for delay which can directly be traced to Government offices. It frequently happens that these delays are the causes of serious financial loss to the public as in the present unsettled state of the Stock Exchange, the buying or selling of

securities is frequently delayed for over two months, due to delays in issuing Grants of Probate or Administration, registration of which is, of course, necessary to free securities registered in deceased client's names. It is only proper that the public as a whole should appreciate the reason for the delay and losses referred to. The Minister acknowledged that there had been delays in recent months but undertook to have the matter speedily examined with a view to introducing improvements, and I have no doubt that he will do so.

LAW REFORM :

In my address, in May last, I referred to the Company Law Reform Committee, on which Committee we are represented by Mr. Overend and Mr. Cox, and to Law Reform generally. The latter is being dealt with, I understand, by a section of the Attorney General's Office dedicated to this task. I should like to have been in a position to tell you something of the activities of these two bodies but unfortunately no information has yet been received by the Council as to their activities.

It was, indeed, refreshing during my recent visit to the United States to find a new Law Centre opened by New York University dedicated to legal research, for the purpose of Law Reform. In New York the view is taken that the ordinary practitioner is too busy to give adequate time to the necessary research, the sections of Government are too narrow in concept to give adequate treatment and that the matter is one primarily for the Universities, where students, post-graduate and otherwise, are used for the purposes of the necessary research preliminary to formulating proposals subsequently to be considered and approved at higher level. It may well be that the law schools of Dublin University and University College, Dublin and the law student of the King's Inns and our own apprentices could be utilised to do a useful amount of spade-work for the Law Reform Committees and at the same time improve their own legal education. This Society would like to see a more widely based approach to the reform of outmoded laws and the codification of existing legislation—it is a pressing matter but this Society is powerless in the matter.

SOLICITORS' REMUNERATION :

In my last speech I referred to the very unsatisfactory position of solicitors' remuneration. I hope that I can tell you with confidence that better times lie ahead. As the matter is still *sub judice* I feel I cannot say more, but New Year, even though Leap Year, may bring fresh hope to *even* those of us who are securely wed.

CENTENARY YEAR :

Next year will also mark the centenary of this Society. A Committee is considering whether celebrations should be held to mark the event. If the Council approves the Committee's views and it is found possible to hold appropriate celebrations I hope that the fullest possible support will be given by the profession.

SUPERIOR COURTS RULES COMMITTEE :

Under the Courts of Justice Act, 1936 the President for the time being is *ex-officio* a member of this Committee which devotes its time to the making and altering of Rules of Court. My year of service on this Committee has brought home to me, forcibly, the impossibility of this Society, or the President, making any really useful contribution to the work of the Committee. The President is only a member for the year. It takes him some little time to acclimatise himself to the workings of the Committee and just as soon as he is sufficiently *au fait* to start making a worthwhile contribution his year of office expires and a new President finds himself in a similar predicament.

As you will appreciate many of the Rules concern points of practice and solicitors rather than Barristers ought to have a special knowledge of procedure, as carrying through an action in its preliminary stages and up to trial and the office work connected therewith, are primarily matters for solicitors. The Bar is primarily concerned with what happens at trial, whereas solicitors are concerned with pre-trial procedure, and the impact of a complicated system of procedure is felt by the solicitor in his office expenses and by the public in the delays of reaching trial.

I personally think it is most important that the profession should be represented permanently on the Committee by at least two solicitors with a detailed knowledge and experience of Court procedure and I would like to see the Society apply for an appropriate amendment in the Courts of Justice Act, 1936, to bring this about.

RELATIONS WITH THE BAR :

As you would expect our relations with our cousins at the Bar are excellent in every respect. There is a matter, although a delicate one, to which I feel I should refer, having regard to the degree of interest which now exists in the solicitors' profession on this subject.

Not so very long ago it was possible to conduct a High Court action with a Junior and Senior Counsel. Nowadays what amounts to an invariable practice has grown up of retaining two Senior Counsel in almost every case. Solicitors are finding

it difficult to explain to their clients why it is necessary to have three barristers retained, and paid fees, in a case when frequently only one is in attendance in Court. This is a matter which I feel merits the serious consideration of the solicitors' profession and the Bar. I am quite sure a solution can be found which will be satisfactory both to the Bar and solicitors, profession and more satisfactory to litigants.

BAR ASSOCIATIONS :

Finally, I would like to deal with a matter in which I have taken a special interest during the year, namely, the strengthening of Bar Associations. It is said that a chain is as strong as its weakest link and I think it is true to say that the effectiveness of the work of the Council of this Society is determined to a great extent by the support and help which it receives from local Bar Associations. Bar Associations can be the backbone of our profession. If these Associations are strong and active the profession can resist pressure that may be brought on it no matter from what quarter. Weak Associations can leave us open to attacks. I would ask those of you who may read this speech in the Annual Report to read between the lines of this statement. I am glad to say that there has been a strengthening in the position of Bar Associations in the last twelve months. Existing Associations have improved their organisations, whilst in parts of the country where Bar Associations have not existed up to this new ones have been formed. Bar Associations can deal with many matters promptly on the spot which if otherwise referred to the Council of their Society may somewhat lose effect by the passage of time. Direct local discipline is more effective than discipline by remote control and enables you to stamp out locally abuses which some members of the public attempt to perpetrate on the profession. Again I would ask you to strengthen your local Bar Associations in every way possible and to continue to send to the Council your suggestions for the improvement of the affairs of the Society as a whole."

The motion for the adoption of the Report was seconded by Mr. Niall S. Gaffney, Vice-President. After Mr. T. D. McLoughlin, Desmond Moran and Desmond R. Counahan had spoken to it the motion for the adoption of the report was put to the meeting and carried unanimously.

Mr. Henry St. J. Blake proposed and Mr. Patrick R. Boyd seconded the adoption of the following motion:—"That the following members of the Society be appointed as the Society's representatives on the Nomination Committee for the Cultural and

Educational Panel pursuant to the Seanad Electoral (Panel Members) Act, 1947, Section 22 :—Arthur Cox, Francis J. Gearty, Patrick F. O'Reilly, James R. Quirke, John J. Sheil. The motion was put to the meeting and carried unanimously.

It was decided that an Ordinary General Meeting of the Society should be held on 27th November 1952.

Mr. Overend proposed a vote of thanks to Mr. Roger Greene for his distinguished services to the Society as President during the past year. The motion was carried with acclamation. The President replied and the meeting terminated.

MEETINGS OF THE COUNCIL

NOVEMBER 8TH. The President in the Chair—also present, Messrs. Arthur Cox, Reginald J. Nolan, Seán Ó hUadhaigh, Joseph P. Tyrrell, Daniel O'Connell, James R. Quirke, Thomas A. O'Reilly, George A. Overend, John J. Sheil, Patrick F. O'Reilly, Patrick R. Boyd, James J. O'Connor, Ralph J. Walker, Desmond R. Counahan, William J. Norman, John Carrigan, Joseph Barrett.

The following was among the business transacted :—

Admission of Barrister-at-Law

ON a report from the Court of Examiners the Council decided that a Barrister-at-law who had practised at the Irish Bar for two periods, together aggregating five years, having spent the intervening period abroad in the British Legal Colonial service, was of five years standing at the Bar for the purpose of admission as a Solicitor under Section 29 of the Solicitors' (Ireland) Act 1898.

Police Reports

MEMBERS wrote complaining of the practice in certain districts whereby a fee of 5/- is required for a copy of a Police report. They stated that in many cases the reports when received turned out to be of little value and suggested that the Minister should be asked to prescribe the charges on a folio basis. The Council decided that it would be inexpedient to make any representations on the matter.

Amalgamation of Practices

ON a report from a Committee the Council decided that where a firm of Solicitors acquired several other firms, there was no objection to the inclusion in small type on their business notepaper of the names of the firms so acquired.

Examinations, etc. New Regulation

THE Council made the following additional Regulation :—

44A. The Council shall have power in their discretion to delegate, either in whole or in part, to the Secretary or acting Secretary, their powers under Regulations 15 and 44, provided that any person aggrieved by any decision shall be entitled to have the matter referred to the Council.

Applications under Section 18

THE Secretary reported that in six cases the Chief Justice had made orders under Section 18 exempting the applicants from the Society's Preliminary Examination and that in one case the application had been refused.

NOVEMBER 22ND. The President in the Chair. Also present, Messrs. Niall S. Gaffney, Vice-President; Daniel O'Connell, James R. Quirke, Dermot P. Shaw, John J. Sheil, Maurice M. Power, Desmond R. Counahan, Joseph P. Tyrrell, Joseph Barrett, Patrick R. Boyd, Louis E. O'Dea, Reginald J. Nolan, Thomas A. O'Reilly, John L. Kealy, John R. Halpin, James J. O'Connor, John J. Nash, Derrick M. Martin, Gerald J. O'Donnell, George G. Overend, Ralph J. Walker, William J. Norman, John Carrigan, Henry St. J. Blake, Arthur Cox.

The following was among the business transacted :—

Solicitors' Remuneration General Orders, 1884-1947

THE Council received draft Solicitors' Remuneration General Order 1951 made under Section 2 of the Solicitors Remuneration Act 1881 and communicated to the Society pursuant to Section 3 of the Act. It was decided to return the draft Order with observations and suggestions in accordance with Section 3.

General Meeting and Election of Council, 1952

The following dates were appointed :—

ORDINARY General Meetings, 15th May, 1952 and 27th November, 1952; final date for receipt of Nominations for the Council, 20th October, 1952; Ballot for the Council, 20th November, 1952.

Probate Office

THE President reported that accompanied by the Secretary he had been received by the Minister for Justice and had made representations on the state of business in the Probate Office and other matters arising from it. The Minister had stated that the

matter is at present under investigation and that every effort is being made to end the present unsatisfactory position.

Solicitors Bill

THE President reported that accompanied by the Secretary he had been received by the Minister for Justice and the Secretary of the Department. Urgent representations had been made on the subject of the Bill. The Minister had promised that the Bill will be introduced during the coming Parliamentary Session.

PARLIAMENTARY DEBATES

Dail Eireann, 15th November, 1951

Solicitors Bill

MR. Hession asked the Minister for Justice if he will take all appropriate steps for the immediate introduction of the Solicitors Bill; and if there are any circumstances which may prevent him from doing so, whether he will indicate what they are.

Minister for Justice (Mr. Boland) :—Apart from the careful examination which the scope and complexity of this Bill necessitates, there is no impediment to its introduction. I hope to be in a position to introduce the Bill in the course of the next session.

WEDNESDAY, 21ST NOVEMBER, 1951 :—To ask the Minister for Finance if he has yet had an opportunity of considering the case made in column 212, volume 126 of the Official Reports dated 20th June, 1951, for the inclusion of solicitors in the list of those entitled to commission on conversion of Government loans and whether such case was subsequently supported by representations from the Council of the Incorporated Law Society of Ireland.

—Gerard Sweetman.

Reply

THE question of the payment of commission to solicitors in connection with the issue of Government loans has been considered. Representations were made by the Council of the Incorporated Law Society in the matter. It was not possible, however, to accede to these representations for reasons conveyed to the Council.

NEW SOLICITORS

Presentation of Certificates of Admission

AT a ceremony which took place in the Society's Library on 22nd November, 1951, the President presented Certificates of Admission to Solicitors whose names had been enrolled during the past six

months. Before presenting the Certificates the President said :—

LADIES AND GENTLEMEN—

This is a very important day in the lives of many of the young ladies and gentlemen whom we are about to honour and congratulate to-day. Their days of apprenticeship are over and to-day they take a step into a new world, they become Solicitors of the Supreme Court of Justice in Ireland and accept all the rights, duties and responsibilities that go with entry into such a distinguished profession. That the President of this Society supported by the Council is here to-day to hand them their Parchment Certificates is evidence of the fact that they will receive a warm welcome into the ranks of the profession.

Most of you will find as you progress in your profession that the things of real and abiding value are those which have stood the test of time and the judgment of men over the years. Never forget that you have entered a profession which is founded on traditions which have been handed down through the centuries. The outstanding tradition of this profession is one of service to our clients. A client's interest must ever and always be put before one's own personal interest as a Solicitor. If ever you should find a conflict of interest between the client's and your own there is only one course open to you and that is the honourable one.

The concept of professional service is particularly important in our profession where clients trust us daily with their family secrets, their reputation, their money and frequently the decision of a Solicitor in reference to his client's affairs can make or mar the future and fortunes of large groups of people. This is a noble and honourable profession and its future now lies in the hands of you who are assembled here to-day.

As times passes you will be confronted by problems both personal and on behalf of clients and find yourselves in situations which are undreamt of here to-day. Every practising Solicitor has had to face them in greater or lesser degree. When that day comes, as come it will, if there is just one piece of advice which I could give you to remember always when you are in a difficulty it is :

This above all ; to thine own self be true ;
And it must follow as the night the day
Thou can't not then be false to any man.

Certificates were subsequently presented to the following :—

Binchy, Donal G.—Silver Medal ; Gallery, Mary A. B. M. I. ; Cawley, James—Silver Medal ; Creagh,

Patrick J. ; Davitt, Cahir F. M. ; Jones, Dermot F.—Special Certificate ; Kenefick, Michael ; Loftus, Kevin Patrick ; Lucas, Michael ; McCormack, Patrick J. ; Margetson, Ernest J. ; Matthews, Desmond ; Murphy, Myles C. ; O'Driscoll, Michael C. ; O'Driscoll, Michael K. ; O'Reilly, Thomas Finbar ; O'Mahony, Mary C. C.—1st place October, Overend Scholarship, Silver Medal ; O'Toole, Timothy F. ; Pigot, David R. ; Rogers, Edward R. ; Taylor, Francis E. A.—1st place April, Special Certificate.

The ceremony was attended by relatives and friends of the new Solicitors.

A VISIT TO THE AMERICAN BAR ASSOCIATION

Extract from Report of the President

AFTER I had addressed the Annual General Meeting of the State of New Jersey Bar Association in June last Mr. Cody Fowler, President of the American Bar Association, personally invited me to return to New York in September to address the American Bar Association. The Council agreed that, as President, I should accept the invitation.

I travelled to America, with Mrs. Greene, on the *Ile de France* arriving at New York on the 13th September where I was greeted at the quayside by Mr. Garth Healy, Irish Consul General in New York. I stayed for the duration of the meeting in the Waldorf Astoria as the guest of the American Bar Association.

As the forty-eight States of America, are in fact, separate States just as Ireland, England, France, each State has its own separate legal system, laws and judiciary. In addition, of course, over all there is the Federal system of laws and each State has its own Federal Bench separate and apart from the State Bench. Each State and each County in the State has its own Bar Association. These facts are well known but I merely restate them because sometimes the full significance of the separation of States is not readily appreciated until one sees it in operation.

In some States every practising lawyer must be a member of the Bar Association and this they call an Integrated Bar. In other States this does not apply. By our standards a noteworthy point is that the judiciary take a very active part in the Bar Associations ; attending, speaking, and voting with, the ordinary practitioners. Some judges are appointed by the Governor of the State, others are elected by popular vote for periods of from 7 to 14 years. Most of the judges and great numbers of the practitioners take a very live and active

part in their local or State Bar Associations which are virile active bodies.

Over all is the American Bar Association. The American Bar Association was described by Chief Justice Hugh Kennedy as follows, shortly after his return from addressing that body in 1928 :

“As most of your readers know, the American Bar Association, which has been in existence now for fifty years, is probably the greatest professional organisation of lawyers in the world. Its membership drawn from the vast area of the United States, runs into something approaching thirty thousand. Each year it draws the widely scattered body of American lawyers into close communion at a convention organised on a magnificent scale, when social intercourse is promoted, while the many problems agitating the professional mind at the moment are discussed in learned and inspiring papers and debates. It has been the excellent practice of the Association for many years past to establish or maintain contacts with lawyers abroad by entertaining representative guests of honour, who are invited to address the Association. In particular, great lawyers from Great Britain have, year after year, brought to these meetings fresh draughts from the springs of the English Common Law, the source from which the United States have so largely drawn the principles of their Laws and procedure. Lord Russell of Killowen, Lord Haldane, Lord Buckmaster, Lord Shaw, Lord Cave, Lord Birkenhead, Lord Hewart, and others, have in turn made notable contributions to the proceedings of the Association.”

Those who are interested in learning something more of the American Bar Association will find an excellent full length article of which the foregoing is an extract, written by the Honourable Hugh Kennedy, at page 302 *et seq.* of the *Irish Law Times and Solicitors' Journal* for the year 1928, Vol. 62. The membership of the American Bar Association is now double that of Chief Justice Kennedy's time, and the Annual General Meeting lasts six days instead of three in 1928.

Although, strictly speaking, not connected in any way with the affairs of the American Bar Association, the opening function which I attended was held on Saturday, September 15th, and was so timed to coincide with the forthcoming week of the A.B.A. This function was the opening of the new building (a magnificent Georgian Colonial building) known as the Vanderbilt Hall Law Centre, attached to New York University. Arthur T. Vanderbilt, the present Chief Justice of the State of New Jersey, and former Dean of the Law School of New York University is an outstanding lawyer in the United States and a strong advocate of law

reform. Whilst Dean of the Law School of New York University he initiated and carried through a project for the erection of a Law Centre devoted not alone to the education of law students in the University but to research into the Science of Law. During his speech at the opening ceremonies Chief Justice Vanderbilt made the point that in America the enactment and administration of law has failed to keep pace with the demands of Society. In a magnificent speech he analysed the present position of the law in the United States as a whole and its shortcomings, and made suggestions to bring the enactment and administration of law up to the needs of Society. One of his many interesting points was that the necessary research preliminary to the modernisation of the U.S. legal system, including codification of laws, etc., was essentially a matter for the law schools. He pointed out that the ordinary practising lawyer, although willing to help and advise, could not possibly devote the amount of time that would be necessary whilst the State was either unable or unwilling to handle the problem competently.

The opening ceremony at the Vanderbilt Hall took the form of two symposia, one held in the morning and the other in the afternoon. Amongst the speakers and the subjects they discussed were the following :

1. “Humanities and the Law” : Earl J. McGrath, United States Commissioner of Education ; Huntingdon Cairns, Secretary and General Counsel National Gallery of Art ; James Burnham, Professor of Philosophy, New York University.
2. “The Natural Sciences and the Law” : Detlev W. Bronk, President of the John Hopkins University ; President of the National Academy of Sciences ; Frederick L. Hovde, President, Purdue University ; William R. Dennes, Dean, Graduate School, University of California.
3. “The Social Sciences and the Law” : C. W. Kiewitt, President, University of Rochester ; J. William Fulbright, United States Senator from Arkansas ; William A. Wachenfeld, Associate Justice, Supreme Court of New Jersey ; Murray Seasongood of the Ohio Bar.
4. “Leadership and the Law” : Chester Barnard, President of Rockefeller Foundation ; Alfred Driscoll, Governor of New Jersey ; Carrol Shanks, President, Prudential Insurance Co. of America.

The status of this function can be gauged by the fact that the Chief Justices from all of the forty-eight States attended for this opening ceremony and, in addition, a large number of members and guests due to attend the A.B.A. meeting, com-

mencing the following Monday, were also present. Chief Justice Vanderbilt very kindly invited me to sit on the platform with the speakers. This gesture was only one of the many courtesies extended to me during the following six days.

That Saturday evening a banquet, under the auspices of New York University, was held in the ballroom of the Waldorf Astoria at which some 1,500 guests attended. Present as principal guests were the Chief Justices of the forty-eight States, Sir Raymond Evershed, the Master of the Rolls from England, Sir Leslie Holmes, President of the Law Society of England, Sir Godfrey Vick, Chairman of the Bar Council of England, Mr. Gordon Gollings, K.C., President of the Canadian Bar Association and a number of Presidents of legal bodies from India, Mexico, Cuba and a number of the South American States. The Master of the Rolls was the guest speaker of the evening. At the back of the stage were four large flags of United States, Ireland, Great Britain and Canada.

On Sunday morning Mass of the Holy Ghost was celebrated in St. Patrick's Cathedral, 5th Avenue, at which His Eminence Cardinal Spellman presided. His Grace, Most Rev. Fulton J. Sheehan preached the Sermon. This Mass, which was sponsored by the Catholic Lawyers' Guild, was regarded as the principal religious service of the week and, accordingly, was attended by many non-Catholic lawyers in New York for the meeting, including the President of the A.B.A.

(To be continued.)

OBITUARY

MR. WILLIAM J. CONCANNON, Solicitor, died at Seamount Nursing Home, Galway, on 27th November, 1951.

Mr. Concannon served his apprenticeship with the late Mr. Joseph A. Glynn, Solicitor, Tuam, and Mr. John Quinn, Solicitor, Tuam, was admitted in Hilary Sittings, 1920 and practised at Tuam, Co. Galway.

MR. PATRICK COLL, Solicitor, died at his residence, Carrig-na-Chattan, Sandycove, Dublin on the 27th November, 1951.

Mr. Coll served his apprenticeship with the late Mr. Edward Fitzgerald, Solicitor, 20 St. Andrew Street, Dublin, was admitted in Trinity Sittings, 1901. He was appointed Assistant Treasury Solicitor in 1906 and Treasury Solicitor in 1920. On the setting up of the State he became Solicitor to the Department of Finance until his retirement in 1944, when he practised at 30 Lower Ormond Quay, under the style of Frederick Croskery & Son.

THE REGISTER

Register "B"

Solicitor with Capital requires position town or country, with prospects, experienced in all branches of work. Box B. 154.

REGISTRATION OF TITLES ACT, 1891 and 1942

NOTICE

FOLIO 4967, COUNTY CORK

REGISTERED OWNER : THOMAS CROWLEY

AN Application has been made to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 22nd day of December, 1951.

JOSEPH O'BYRNE,

Registrar of Titles.

Land Registry,
Central Office,
Chancery Street, Dublin.

SCHEDULE ABOVE REFERRED TO

LAND Certificate of Thomas Crowley to 6a. 1 r. 31p. of the lands of Moneygaff West, situate in the Barony of Carbery East (West Division) and County of Cork, being the lands comprised in said Folio.

REGISTRATION OF TITLE ACTS, 1891 and 1942

NOTICE

Folio 439

COUNTY MEATH

Registered Owner : RICHARD O'CONNOR

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate

specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 22nd day of December, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Richard O'Connor to 44a. 2r. 38p. of the lands of Coolnahinch situate in the Barony of Kells lower and County of Meath, being the lands comprised in said Folio.

NOTICE

Folio 12848

COUNTY CORK

Registered Owner: DENIS J. O'SULLIVAN

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 22nd day of December, 1951.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Denis J. O'Sullivan to 83a. 2r. 3p. of the lands of Knockeenbwee Upper and five undivided north parts of other part of the lands of Knockeenbwee Upper containing 80a. 3r. 38p.

situate in the Barony of Carbery West (East Division) and County of Cork, being the lands comprised in said Folio.

RECENT LEGAL LITERATURE

- Law Times*, August 24th—"Service out of the Jurisdiction—Vilkovici Horn *v.* Korner" — "Guardianship and Maintenance of Infants Act, 1951."
August 31st—"Legal Aid—First Report of Law Society."
September 7th—"Statutory Nuisance—Terms of Abatement—I" "Rent Restriction—Moodie *v.* Hosegood."
September 28th—"The Courts and Contracts—British Movietone News Ltd. *v.* London and District Cinemas Ltd."
October 12th—"The Jury during the Hearing — Some Recent Irish Decisions" — "Particulars before Discovery: Ross *v.* Blakes Motors Ltd."
October 19th—"Burdens and Presumptions in Criminal Law"— "Damage in Contributory Negligence Act, 1945: Drinkwater *v.* Kimber."
October 26th—"Grant to a Single Administrator."
November 1st—"Gifts Mortis Causa" of Bank and Post Office Deposits."
November 9th—"Personal Duties and the Employment of Skilled Persons Cassidy *v.* Ministry of Health."
Solicitors' Journal, August 11th—"Liability for the Making-Up and Repair of Highways"—"Procedure for Writs: Duration and Acceptance of Service"—"Report of Committee on Intestate Succession—I."
August 18th—"Statute Barred and Unbarred"—"Intestate Succession Committee—II." "Controlled Premises sub-let furnished."
August 25th—"Tactical Matters of Procedure."
September 1st—"More about Declarations." "Attornment Clauses: Portman *v.* Young."
September 8th—"Police Methods of Identification" — "The Use and Abuse of Summary Judgment."

September 15th—"Misrepresentation by Agents"—"Judgment on Admission of Facts"—"Rent Default as a Ground for Possession."

September 22nd—"Liability for Trespass"—"Compensation for Improvements."

September 29th—"Covenants to pay Income"—"Payments in Connecticut with Company Shares."

October 6th—"Discovery."—"Registered Land: Rectification of Register."

October 13th—"Accidents in Parks and Swimming Baths"—"Documents privileged from Production"—"Safe Custody of Wills."

October 20th—"Moneylenders' Duty to carry on Business"—"Recent Death Duty Decisions—I"—"Preparation for Trial".

October 27th—"Recent Death Duty Decisions—II"—"Procedural Errors and Amendments."—"Control: Protection of Sub-Tenants."

November 3rd—"New Tenancy of Shop: Reasonable Rent."

November 10th—"The Rule in *Andrews v. Partington* (1791)."—"Law Society—Harrogate Conference—Reports of Committees."

November 17th—"Cruelty to Children"—"Registration of Agreements for Leases."

November 24th—"Charging and Garnishee Orders"—"Meaning of Widowhood in Testamentary Gifts."

The Solicitor September—"Powers in the Nature of Trusts"—"Conditions of Sale at Auctions and their Exclusion"—"Landlord and Tenant Act Reports."

October—"The Reform of the Law of Intestate Succession"—"Warranties by Third Parties"—"The position of Rent Tribunals in subsequent proceedings"—"Controlled Properties and Premiums."

November—"The Exclusion of undisclosed principals"—"Appeals from Courts of Summary Jurisdiction by way of Case Stated."

The Law Quarterly Review, July—"English and Irish Secret Trusts" (Sheridan)—

"Recent Developments in Estoppel" (Wilson)—"The Revocation of Testamentary Appointments on Marriage" (Mitchell).

October—"The Statutes Revised, 1950" (Carr)—"The Rent Acts and the Invention of new Doctrines" (Megarry)—"Share Values and Premiums" (Hornsey).

The Modern Law Review, July—"The Relation between Commercial Law and Commercial Practice" (Devlin J.)—"Protection of Justices" (Sheridan)—"Compulsion, Coercion and Criminal Responsibility" (Griffiths)—"The Indorsement of Cheques" (Smart).
October—"Re Polemis" (1921) (Lord Wright)—"Reform of the Criminal Law" (Wilkinson).

EXAMINATIONS, 1952.

<i>Examination</i>	<i>Date</i>	<i>Last date for lodging notice</i>
First Irish	1st February	11th January
Second Irish	1st and 2nd February	11th January
Preliminary	31st March and 1st April	10th March
Final	31st March, 1st and 2nd April	10th March
Intermediate	19th and 20th May	28th April
First Irish	27th June	6th June
Second Irish	27th and 28th June	6th June
Final	8th, 9th and 10th September	18th August
Intermediate	8th and 9th September	18th August
Preliminary	9th and 10th September	19th August
First Irish	26th September	5th September
Second Irish	26th and 27th September	5th September

LECTURES, HILARY SITTINGS, 1952

COURSE A lectures will commence on Monday, 14th January, at 2.15 p.m.

COURSE B lectures will commence on Friday, 11th January, at 2.15 p.m.

COURSE C lectures will commence on Monday, 14th January, at 3.30 p.m.

The following is a list of the names of the members of the Board of Directors of the American Bar Association, as of January 1, 1952. The names are listed in alphabetical order of their last names.

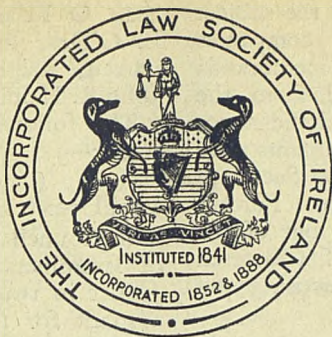
EXAMINATIONS, 1952.

State	Date	Place
Alabama	July 1-2	Montgomery
Arizona	July 1-2	Phoenix
Arkansas	July 1-2	Fayetteville
California	July 1-2	San Francisco
Colorado	July 1-2	Denver
Connecticut	July 1-2	Hartford
Delaware	July 1-2	Dover
District of Columbia	July 1-2	Washington
Florida	July 1-2	Tallahassee
Georgia	July 1-2	Atlanta
Idaho	July 1-2	Boise
Illinois	July 1-2	Chicago
Indiana	July 1-2	Indianapolis
Iowa	July 1-2	Des Moines
Kansas	July 1-2	Topeka
Kentucky	July 1-2	Lexington
Louisiana	July 1-2	Baton Rouge
Maine	July 1-2	Portland
Maryland	July 1-2	Baltimore
Massachusetts	July 1-2	Boston
Michigan	July 1-2	Lansing
Minnesota	July 1-2	St. Paul
Mississippi	July 1-2	Jackson
Missouri	July 1-2	St. Louis
Montana	July 1-2	Helena
Nebraska	July 1-2	Lincoln
Nevada	July 1-2	Reno
New Hampshire	July 1-2	Manchester
New Jersey	July 1-2	Trenton
New Mexico	July 1-2	Santa Fe
New York	July 1-2	Albany
North Carolina	July 1-2	Raleigh
North Dakota	July 1-2	Bismarck
Ohio	July 1-2	Columbus
Oklahoma	July 1-2	Oklahoma City
Oregon	July 1-2	Portland
Pennsylvania	July 1-2	Harrisburg
Rhode Island	July 1-2	Providence
South Carolina	July 1-2	Columbia
South Dakota	July 1-2	Spearhead
Tennessee	July 1-2	Nashville
Texas	July 1-2	Austin
Vermont	July 1-2	Montpelier
Virginia	July 1-2	Richmond
Washington	July 1-2	Olympia
West Virginia	July 1-2	Charleston
Wisconsin	July 1-2	Madison
Wyoming	July 1-2	Cheyenne

LECTURES, HILARY SITTINGS, 1952.

The following is a list of the names of the lecturers who will be giving lectures during the Hilary sittings in 1952. The names are listed in alphabetical order of their last names.

The following is a list of the names of the members of the Board of Directors of the American Bar Association, as of January 1, 1952. The names are listed in alphabetical order of their last names.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
ARTHUR COX

Vice-Presidents
DESMOND R. COUNAHAN LL.D.
GERALD J. O'DONNELL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT

IF you have not already taken out and stamped a Registrar's certificate you should do so immediately. The final date for stamping certificates in time will be 5th February, 1952. A late certificate must be produced to the Society for noting within one month of stamping. Failure to comply with the statutory requirements of stamping and, where necessary, production of stamped certificates will render them invalid for the purpose of taxation of costs.

MEETINGS OF THE COUNCIL

NOVEMBER 29TH, 1951. Mr. Greene and subsequently Mr. Cox in the Chair. The following were also present: Messrs. James J. O'Connor, George G. Overend, Ralph J. Walker, William J. Norman, Henry St. J. Blake, Patrick R. Boyd, John J. Sheil, John R. Halpin, Cuthbert Furlong, Daniel O'Connell, John L. Kealy, Thomas A. O'Reilly, James R. Quirke, Joseph Tyrrell, Desmond R. Counahan, Joseph Barrett, Patrick F. O'Reilly, John Carrigan, William S. Huggard.

The following was among the business transacted:—

Election of President and Vice-Presidents

By ballot in accordance with the bye-laws Mr. Arthur Cox was elected President of the Society for the year 1951-52 and Messrs. Desmond R. Counahan and Gerald J. O'Donnell were elected Vice-Presidents.

Government loans—commission

THE Secretary reported that he had been received by Dr. McElligott, Secretary, Department of Justice, who had informed him that the Minister is not willing to make provision for payment of commission to solicitors applying on behalf of clients for allotment of new Government stock.

Formation of limited liability companies by accountants

THE Secretary read letters received from the Institute of Chartered Accountants, the Association of

Certified and Corporate Accountants and the Society of Incorporated Accountants in reply to the representations made by the Society on the subject of the formation of limited liability companies and the preparation of articles and memoranda of association. The replies received from the Society of Incorporated Accountants and the Association of Certified and Corporate Accountants were satisfactory and it was ordered that the Secretary should write to thank those bodies. Further representations are being made arising out of the replies received from the Institute of Chartered Accountants and the Association of Practising and Commercial Accountants.

DECEMBER 13TH, 1951. The President in the Chair. Also present: Messrs. Desmond R. Counahan and Gerald J. O'Donnell, Vice-Presidents, Dermot P. Shaw, Joseph P. Tyrrell, John J. Nash, Daniel O'Connell, James R. Quirke, John R. Halpin, Roger Greene, William J. Norman, John L. Kealy, James J. O'Connor, Francis J. Lanigan, George G. Overend, Ralph J. Walker, John Carrigan, Patrick R. Boyd, Thomas A. O'Reilly, Derrick M. Martin, John J. Sheil, Joseph Barrett.

The following was among the business transacted:—

Ennis Urban District Council—Costs under the Small Dwellings (Acquisition) Acts

THE Secretary read a letter received from Mr. Bryan McMahan, Law Agent to the Urban Council, enclosing copy of a resolution, stated to have been passed at a meeting of that Council, to the effect that the Council should resign in a body unless the Law Agent agreed to accept a fixed fee of £5 5s., or £6 6s., for each mortgage to secure an advance made under the Act. Inaccurate and defamatory statements concerning Mr. McMahan had been made at the meetings of the Urban Council on a number of occasions. It was decided that the Secretary should write to the County Manager protesting against the attacks made on the Law Agent and requesting that the County Manager should not permit misleading and inaccurate statements by Councillors to remain unanswered. It was decided to inform the County Manager that the Incorporated Law Society of Ireland and the County Clare Solicitors' Association fully support Mr. McMahan.

JANUARY 10TH, 1952. The President in the Chair. Also present: Messrs Desmond R. Counahan and Gerald J. O'Donnell, Vice-Presidents, John Carrigan, John L. Kealy, Francis J. Lanigan, James J. O'Connor, Reginald J. Nolan, Derrick M.

Martin, Roger Greene, Joseph P. Tyrrell, Thomas A. O'Reilly, James R. Quirke, Francis J. Gearty, Seán O hUadhaigh, Desmond J. Mayne, Louis E. O'Dea, John J. Nash, John J. Sheil, Joseph Barrett, Ralph J. Walker, George G. Overend, John R. Halpin, Patrick R. Boyd.

The following was among the business transacted:—

Legal text books

THE Council considered a report from the Court of Examiners which stated that the Minister for Justice in 1939 appointed a Committee to consider a grant for the publication of legal text books. The Committee made a report in 1945 and the Department of Finance subsequently sanctioned a subsidy of £7,500 towards the publication of three text books. No further progress has been made towards the publication of these books. It was decided that the President and Secretary should seek an interview with the Secretary, Department of Justice, to discuss the matter.

Costs of leases

THE Council was asked on an agreed statement of facts to decide what costs should be paid by a lessee to a lessor in the following circumstances—AB agreed to lease 8½ acres of land to the Minister for Lands for ten years at the yearly rent of £57 1s. 3d. It was afterwards agreed that the rent should be commuted to a single payment of £500. By deed dated 6th November, 1950, AB demised the land to the Minister for ten years in consideration of £500 (receipt acknowledged). No rent was fixed but the document contained a number of covenants appropriate to a lease. An abstract of title was furnished and mortgagees of the lessor joined in the deed. The Council decided that as the parties had agreed to treat the document as a lease the capital sum of £500 was the estimated present value of a rent of £57 1s. 3d. for ten years. On this assumption the costs for which the lessee was liable were Abstract of Title, £5 18s. 11d., (detailed items under Schedule 2;) costs of mortgagee joining, £1 11s. 6d.; scale fee on lease at rack rent, registered land, £9. If the lease is registered in the Registry of Deeds by the lessor's solicitor, £3 extra.

The Council was asked to decide on an agreed statement of facts the costs payable by the lessee to the lessor under the following circumstances—The lease was made pursuant to an Order of the Circuit Court under Part 3 of the Landlord and Tenant Act, 1931. It was agreed that the rent fixed under Part 3 is less than the rent in the open market. The lessor's solicitor contended that

because of this the rent is not a rack rent. The lessee's solicitor contended that the rent is a rack rent (*See* Opinion No. 77, Calendar 1951, p. 489). On a report from a Committee, Council decided that the rent fixed by the Court under Part 3 of the Landlord and Tenant Act, 1931, *inter partes* is not necessarily a rack rent. A rack rent is defined as the full annual value of the premises or near it. (Ex parte Connolly 1900, I., I.R.6., and in re Sawyer & Wythall 1919, 2 Ch. 333.) The Council have already decided (Opinion 77) that the permitted rent under the Increase of Rent Acts is a rack rent within the meaning of S.R.G.O. 1884, Schedule 1, part 2. The position under the Increase of Rent Acts is distinguishable from that under the Landlord and Tenant Act 1931, Part 3. In the former case the maximum rent is controlled by statute for all landlords and tenants of the property. In the latter case the fair rent is fixed by the Court between a particular landlord and a particular tenant.

Superior Court fees

A Committee was set up by the Minister for Justice to revise the fees in the Supreme Court and High Court and Messrs. Arthur Cox and Seán O hUadhaigh were appointed as the Society's representatives. By a majority (Messrs Cox and O hUadhaigh dissenting), the Committee prepared a draft report the general effect of which is that Court fees will be doubled and in some cases, trebled. Furthermore the fees payable in bankruptcy matters which are assessed on the value of the property realised have been increased by raising the rate. It was decided that the Society's representatives should send in a minority report drawing attention to the fact that the rate of *ad valorem* fees has been raised although the value of property on which they are assessed has substantially increased since 1939, suggesting that *ad valorem* fees should not be increased, and that the maximum increase in respect of fixed fees should be 50 per cent. over pre-war.

Business cards

MEMBERS enquired whether it is permissible to use a business card with the address and telephone number of the firm and the names of the partners. The Council expressed the opinion that there is no objection to a card not designed or used as an advertisement.

Leases from building companies—Company's solicitor acting for lessee

ON a complaint made by a client to the Society the Council expressed the following opinion—

(a) It is undesirable that a solicitor who has an interest in a building company should act for lessees from the Company; (b) The Council was asked to say whether a solicitor who has an interest in a building company and obtains instructions from clients introduced by the company is guilty of touting or improperly soliciting business. In the opinion of the Council the answer to this question depends on the circumstances. If the solicitor has a small or nominal interest in the company, the fact that he acts for lessees introduced by the company will not raise the presumption that he is soliciting business. If, however, the solicitor has a large or controlling interest as owner, shareholder, or partner, and habitually acts for lessees from the company such action might *prima facie* raise a presumption of touting, but this would depend upon the facts proved if the case were brought before the Statutory Committee.

Registration of English and Scottish Grants by limited companies

MEMBERS act for companies incorporated in the Republic of Ireland who have English shareholders. In the past where the holding of a deceased English shareholder was the sole asset in Ireland they advised the company to register an English or Scottish grant, accompanied by a letter from the Revenue Commissioners stating that no duty was payable. Following the raising of the level of exemption from death duties from £100 to £2,000, they ask for the opinion of the Council as to whether a solicitor for a company should advise his clients to register an English or Scottish grant where the property does not exceed £2,000 in value, and the Estate Duty Office certifies that no duties are payable. The Council decided to reply that the advice which a solicitor gives to a client must depend upon the facts in each case and the solicitor's judgment on those facts. In the past it has been customary for companies, presumably acting on their solicitors' advice, to accept and register English and Scottish grants where the total value of the property in the country was trivial and no death duties were payable. It is not, however, desirable, either in the interests of the public or of the profession, that solicitors acting for companies should advise them to register foreign grants of probate or administration except in cases where the value of the assets in the Republic is trivial. Apart from the question of death duties the law of wills and intestate succession is not identical in Ireland, England, and Scotland. In the opinion of the Council where there is any substantial property in this country the will or intestacy should be proved.

CENTENARY OF SOCIETY'S CHARTER, 1852

THE Society was founded in 1841 and received a Charter in 1852. Owing to the war, it was impossible to celebrate the foundation of the Society in a fitting manner in 1941. The President of Ireland has graciously informed the Council that he will give a Garden Party at Arus an Uachtarain on May 28th for the members of the Society and their wives and distinguished guests. The Council intend to hold other functions on May 27th and 28th and a circular with full information will be sent out either with this issue of the *Gazette* or shortly after it.

STATUTORY COMMITTEE

THE following members of the Council have been appointed by the Chief Justice to be the members of the Statutory Committee for the year to end 23rd November, 1952: Chairman, Roger Greene; Henry St. J. Blake, Patrick R. Boyd, Arthur Cox, William J. Norman, Daniel O'Connell, James R. Quirke.

COURT OF EXAMINERS

CHAIRMAN, James R. Quirke; John R. Halpin, Desmond J. Mayne, John J. Nash, Thomas A. O'Reilly, Seán O hUadhaigh.

STANDING COMMITTEES

Legislation and Privileges Committee

CHAIRMAN, Joseph P. Tyrrell; Henry St. J. Blake, Patrick R. Boyd, Niall S. Gaffney, Daniel O'Connell, James J. O'Connor, Thomas A. O'Reilly, Seán O hUadhaigh, George G. Overend.

Court and Offices Committee

CHAIRMAN, Joseph Barrett; Patrick R. Boyd, Francis J. Gearty, John R. Halpin, Senator O'Reilly, Maurice M. Power, Ralph Walker, Dermot P. Shaw, John J. Sheil.

Finance Committee

CHAIRMAN, Senator O'Reilly; John Carrigan, Roger Greene, William S. Huggard, Desmond J. Mayne, John J. Nash, Thomas A. O'Reilly, George G. Overend, James R. Quirke.

Gazette Committee

CHAIRMAN, John Carrigan; Joseph Barrett, Cuthbert J. Furlong, John L. Kealy, Francis J. Lanigan, James J. O'Connor, Louis E. O'Dea, John J. Sheil, Joseph P. Tyrrell.

The President, Vice-Presidents and the last President are *ex-officio* members of the Standing Committees, and the Court of Examiners.

INCORPORATED LAW SOCIETY OF NORTHERN IRELAND

MR. Henry J. Catchpole has been elected President for the year 1951-52. The following are the extraordinary members of the Council of this Society: Henry J. Catchpole, Alexander S. Merrick, George Murnaghan, Charles McLaughlin, James C. Taylor.

SOUTHERN LAW ASSOCIATION

MR. Timothy A. Buckley has been elected President of the Association for the year 1951-52. The following are the extraordinary members of the Council of this Society: Cornelius J. Daly, John F. Foley, Edmund Hayes, Joseph Morrissey.

PROCEEDINGS OF THE OIREACHTAS

Dail Eireann, 21st November, 1951.

MR. Gerard Sweetman asked the Minister for Justice whether he was aware of the grave shortage of text books on many aspects of Irish law, and whether he would undertake to take steps to provide adequate text books by giving grants for the purpose to the Benchers of the King's Inn or the Incorporated Law Society or otherwise.

The Minister replied—"In January, 1947, following an investigation of the matter by a Committee of Inquiry, I had the Incorporated Council of Law Reporting informed that a sum of £7,500 would be made available as a subsidy towards the cost of producing legal text books which would cover much the same ground as 'Wylie', 'Carleton', 'Babington' and 'O'Connor's Justice of the Peace'. The scheme which had been suggested by the Committee of Inquiry provided that the Incorporated Council would assume responsibility for the nomination of editors and the general supervision of the editorial work. The offer to provide a subsidy on the basis indicated still holds."

Dail Eireann

December, 5th 1951

County Council Solicitors' Fees

MR. O'Hara asked the Minister for Local Government if he would state the present scale of fees payable to County Council solicitors and authorised by his Department under the Small Dwellings

(Acquisition) Acts and if it is proposed to reduce such fees and thereby encourage the building of more houses.

Mr. Smith: I am not empowered by the Small Dwellings Acquisition Acts to authorise a scale of fees to be charged by solicitors of local authorities for their services. My Department has, however, been in consultation with the Incorporated Law Society with a view to securing modification of such fees in appropriate cases. The Incorporated Law Society is considering the matter and I understand that they hope to be in a position shortly to express the detailed views of the profession. In the meantime certain modifications of fees have been made in particular cases.

Mr. O'Hara: Is the Minister aware that the solicitors referred to are already in the employment of the various County Councils and are in receipt of salaries and would he not consider making representations to the Incorporated Law Society with a view to preventing this overcharging on the part of solicitors?

Mr. Smith: I thought I told the Deputy I was in fact in consultation with the Incorporated Law Society.

Mr. Hickey: If a local authority is paying a salary to their legal adviser and an individual takes a property from that particular local authority, is it competent for the solicitor who is the legal adviser to the local authority to do the necessary legal work?

An Ceann Comhairle: That is a separate question.

Mr. Smith: I think it is a different kind of case from the one referred to by Deputy O'Hara. He is thinking in terms of small farmers who would apply under the Act.

A VISIT TO THE AMERICAN BAR ASSOCIATION

(continued)

On Monday morning, 17th September, 1951, the first session of the General Meeting of the American Bar Association opened and the programme continued right through until the following Saturday, six days as opposed to three during Chief Justice Kennedy's 1928 visit. Four thousand, two hundred lawyers registered for the week. Hear Chief Justice Kennedy once again:

"The American Bar Association is far from being a merely convivial or social gathering of professional brethren, though the foreign guest may be pardoned for harking back with some enthusiasm to that side of its programme which has made for him a brilliant and happy memory. In the crowded

ranks of the Association are included numbers of men of great learning and scholarship, men of wide and varied experience, professional, judicial, and educational, and men in touch with every phase of the national life, of men intensely concerned with the national problems, and with the part played by the legal profession in public affairs and full of eager anxiety that the profession shall fill worthily the big public rôle which belongs to it by virtue of its special training and experience. Throughout the year many committees and commissions are engaged, under the authority of the Association, upon the examination of innumerable current problems, drafting Bills, framing proposals and forming and stating opinion. The reports of these many-sided activities are offered to the Annual Convention and considered, and, in many cases, important action is taken upon them. I cannot, within the compass of a short article like this, attempt to survey all the subjects."

The programme was divided into six meetings of the General Assembly and approximately fifty committee meetings during the course of the week. The documentation included a miniature newspaper published daily. I set out hereunder just a few of the many items discussed at committees or on which papers were delivered during the week.

"Public Relations and Press Releases; Routine Work of Bar Association Offices; How to Maintain and Increase Membership in Voluntary Associations—Fund Raising Ideas; Co-ordination of Local Bar Associations with State Associations; Legal Institutes; Association Publications and Bulletins; Proposed Commercial Code; Government Control of Business; Problems of the Business Lawyer; Food, Drug and Cosmetic Law; Discussion of Uniform State Food, Drug and Cosmetic Laws; Discussion of International Uniformity in Food, Drug and Cosmetic Law between United Kingdom, Canada and United States; Discussion of Major Drug Law Problems; Report on Proposed Uniform Commercial Code; The Protection of Individual Rights and Government Security in time of stress; Aviation Criminal Law; International Criminal Law; Medico-Legal Examiners Act; Membership; Military and Naval Justice; Motion Pictures, Radio Broadcasting and Comics in relation to the Administration of Justice; Nominating Committee; Police Training and Administration; Problems of Juvenile Delinquency; Procedure, Prosecution and Defence; Scope and Program; Sentencing, Probation and Parole; Traffic and Magistrate Courts; The Responsibility of the Press, Radio and Television for Fair Criminal Trials."

In addition papers were read and discussion ensued on Municipal Law, Tax Law, Insurance

Law, Criminal Law, Real Property Probate and Trust Law, Patent Trademark and Copyright Law, etc.

As an invited guest I was concerned mostly with the sessions of the General Assembly. At these sessions, all of which I attended, I was invariably invited by the President of the A.B.A. to sit on the platform with him, an honour which I greatly appreciated.

At 9.30 p.m. on Wednesday evening, 19th September, the President's Reception was held and here I was invited to stand in the reception line with him to receive the guests. This was somewhat of a mixed blessing, as I soon realised after I had shaken the hands and greeted some 2,000 members and their wives and as each member and his wife, individually, asked for details of our Presidential chain of office.

On Wednesday, 19th September, I addressed the Legal Aid Society luncheon in the premises of the Bar Association of the City of New York, where I was seated on the left of the Chairman, the Lord Chancellor Viscount Jowitt being on his right. I made a short speech at this luncheon telling the Legal Aid Society that whilst we had no organised legal aid in this country, as they have in the United States and in England, that there was an acceptance on the part of every practising lawyer that no person should go in want of legal assistance due to lack of funds.

That afternoon I addressed the General Assembly of the American Bar Association, the subject of my address being the practice of law in Ireland. I commenced with a brief resume of the Brehon Laws, starting at the third century, the fact that we had a live legal system in Ireland in those days came as a surprise to nearly everybody, and developed into a general outline of legal practice and education in Ireland to-day. The Presidents from Mexico and Cuba asked for copies of my speech to reprint in their local Law Journals. A U.S. Congressman from Philadelphia also asked for a copy, to be placed by him on the Congressional Record in Washington D.C.

That evening, Thursday 20th September, the annual banquet of the A.B.A. was held. It was a sight which would be impossible to witness in Ireland. It was held in the ballroom of the Waldorf Astoria, which was packed, the members and their guests overflowing into the galleries, lounges and ante chambers adjoining the ballroom. Almost 3,000 sat down to dinner. Here again the very signal courtesy and honour which everywhere had been afforded to our Society during the course of the week was once more in evidence. When I came to my name card I discovered that your

President had been placed only three places away from the President of the A.B.A., the Chief Justice of the United States and Cardinal Spellman alone preceding me. On the President of A.B.A.'s other side was the guest speaker, the Lord Chancellor of England, Viscount Jowitt and beyond him some American lawyers whom I do not recollect.

The emphasis on the seating arrangements may seem laborious in a country where we do not attach too much importance to such matters. I mention it for the reason that in America, as indeed in most other countries, except Ireland, a very considerable amount of attention is paid to protocol. Placing is merely the yardstick by which we can measure the very great courtesy and honour accorded to this Society through the person of its President. Throughout the week Ireland received the "most favoured Nation" treatment; in fact it was not possible for the A.B.A. to extend any greater honour or courtesy to this country or our Society than was, in fact, extended by it.

At the end of the dinner the President of the A.B.A. announced that the Council of the Association had considered that afternoon the conferring of two honorary memberships of the American Bar Association and called on myself and the President of the Canadian Bar Association to come forward to receive our Certificate of membership. This was a very pleasant but unexpected surprise and as I had received no prior warning I had no opportunity to prepare a carefully polished impromptu.

At personal level the hospitality would tax the health and head of even the strongest President. During the week there were endless cocktail parties, lunches, etc., given by various legal groups, e.g., Women Lawyers' Association, Junior Lawyers' Association, Maritime and Aviation Lawyers' Group, etc. There was even a fashion show. I averaged five of these parties per day over and above the programmed items. Many of the leading firms in New York took suites in the Waldorf Astoria to entertain their legal correspondents from all over the U.S. We the visitors were pressed into service as decoy ducks on such occasions. The generosity and kindness which I received on all sides during the week is worthy of special note.

I am convinced, and it also represents the views of our diplomatic officials in the U.S., that a visit such as this can do nothing but good not alone to our Society but to the country as a whole. As will be seen from the programme in the Secretary's office, many of those who attended and spoke were from the most influential groups in the legal, commercial and political life of the United States. Many of them had gained their views on Ireland

from those who, unfortunately, had to leave this country in circumstances very different from mine. The American Bar Association is a very influential body and is in touch with all aspects of life in America at very high level. I strongly urge that in the interests of our Society and in the interests of the country as a whole we should maintain that connection and develop it in so far as it is possible to do so. It can be of tremendous value to us, and this value is not lost on other countries or Societies who sent their representatives merely to be present.

At the conclusion of the American Bar Association week I journeyed to Washington on an invitation to attend a complimentary dinner given in honour of Mr. Francis Matthews, the recently appointed American Ambassador to Ireland. This was again a very interesting function with the Attorney General, Mr. Howard McGrath, in the chair and several Cabinet Ministers also present. Our Ambassador, Mr. John Hearne, S.C., made an excellent speech which did him and his country full credit. President Truman was to have attended but was prevented from doing so at the last moment.

However, I met President Truman three days before this dinner. I attended his Press conference on Thursday afternoon and after it was taken into his private room where we chatted for a few minutes.

In making a report of this sort it is difficult to decide how much to include and how much to leave out. Probably I have not succeeded in assessing either position satisfactorily, but I ask the indulgence and sympathy of readers. To walk the tight wire of personal narrative is always delicate; the excessive use of the personal pronoun is unavoidable and can frequently be misconstrued. If I have slipped off the tight wire I seek understanding and consideration.

ROGER GREENE.

STATUTES PASSED BY OIREACTHAS, 1951

No.	Title	Signed by the President
1.	Tortfeasors Act, 1951	21st February, 1951
2.	Criminal Justice Act, 1951	21st February, 1951
3.	Imposition of Duties. (Confirmation of Orders) Act, 1951	6th March, 1951
4.	Rates on Agricultural Land (Relief) Act, 1951	6th March, 1951
5.	Meath Hospital Act, 1951	15th March, 1951
6.	Defence Forces (Temporary Provisions) Act, 1951	27th March, 1951
7.	Central Fund Act, 1951	27th March, 1951
8.	Court Officers Act, 1951	27th March, 1951

9.	Arts Act, 1951	10th May, 1951
10.	Collection of Taxes (Confirmation) Act, 1951	3rd July, 1951
11.	Imposition of Duties (Confirmation of Orders) Act, 1951	3rd July, 1951
12.	Government Loans (Conversion) Act, 1951	3rd July, 1951
13.	Agricultural Workers (Weekly half-holidays) Act, 1951	3rd July, 1951
14.	Trade Union Act, 1951	4th July, 1951
15.	Finance Act, 1951	11th July, 1951
16.	Social Welfare Act, 1951	17th July, 1951
17.	Post Office (Amendment) Act, 1951	17th July, 1951
18.	Local Loans Fund (Amendment) Act, 1951	17th July, 1951
19.	Telephone Capital Act, 1951	17th July, 1951
20.	Appropriation Act, 1951	31st July, 1951
21.	Freshwater Fisheries (Prohibition of Netting) Act, 1951	31st July, 1951
22.	Seeds and Fertilisers Supply Act, 1951	13th November, 1951
23.	Local Government (Remission of Rates) Act, 1951	13th November, 1951
24.	Imposition of Duties (Confirmation of Orders) (No. 3) Act, 1951	27th November, 1951
25.	Fishing Licences (Movable District) Act, 1951	18th December, 1951
26.	Expiring Laws Act, 1951	18th December, 1951
27.	Supplies and Services (Temporary Provisions) Continuance Act, 1951	19th December, 1951
28.	Grain Storage (Loans) Act, 1951	26th December, 1951
29.	Medical Practitioners Act, 1951	26th December, 1951
30.	Pharmacy Act, 1951	26th December, 1951

Private Act

No. 1 of 1952—Waterford (Extension of Harbour Limit, Harbour Works Order 1951) Confirmation Act, 1951.

PUBLIC LIFTS IN THE FOUR COURTS

FOLLOWING representations by the Society instructions have been given by the Department of Justice on the subject of the operation of the lifts in the Four Courts. The public lift in the East wing is operated by a messenger, and arrange-

ments have been made which will ensure constant attendance on this lift which will be available for the public. The lift in the West wing is automatic. In the past a notice was placed on the lift to the effect that it was not to be used in the absence of an attendant. This notice will be removed and persons wishing to use the lift may operate it themselves.

REGISTER A

ASSISTANT SOLICITOR required to conduct Provincial Practice. Apply stating salary and experience in office and Court work to—Box No. A.134.

SOLICITOR required to take charge of country office, South Eastern Circuit, 60 miles from Dublin. Good prospects. Reply Box No. A135.

REGISTRATION OF TITLE ACTS, 1891 and 1942

NOTICE

Folio 2425 COUNTY GALWAY

Registered Owner: JOHN ALBERT LAWLESS

An Application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 25th day of January, 1952.

JOSEPH O'BYRNE,
Registrar of Titles

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of John Albert Lawless to 11A. or. 11P. of the lands of Oldcastle situate in the Barony of Dunkellin and County of Galway, being the lands comprised in said Folio.

REGISTRATION OF TITLE ACTS, 1891 and 1942

NOTICE

Folio 7909 COUNTY LIMERICK

Registered Owner: WILLIAM MULCAHY.

An Application has been made by the Personal Representative of the Registered Owner to the

Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 25th day of January, 1952.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of William Mulcahy to 32A. 11. 15P. of the lands of Ballinlough situate in the Barony of Smallcounty and County of Limerick, being the lands comprised in said Folio.

REGISTRATION OF TITLE ACTS, 1891 and 1942

NOTICE

Folio 8294 COUNTY OFFALY

Registered Owner: JOHN BRIEN

An Application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

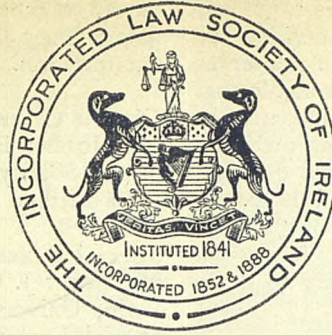
Dated this 25th day of January, 1952.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of John Brien to 9A. 31. 30P. and 3A. 11. 30P. of the Lands of Annaghbrack Glebe situate in the Barony of Ballyboy and County of Offaly, being the lands comprised in said Folio.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
ARTHUR COX

Vice-Presidents
DESMOND R. COUNAHAN LL.D.
GERALD J. O'DONNELL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT

If you have not already taken out and stamped your Registrar's certificate you should do so immediately. The final date for stamping certificates in time was 5th February, 1952. A late certificate must be produced to the Society for noting within one month of stamping and will be effective for the purpose of taxation of costs only from the date of such production.

MEETINGS OF THE COUNCIL

31ST JANUARY, 1952. The President in the Chair. Also present: Messrs. Desmond R. Counahan and Gerald J. O'Donnell, Vice-Presidents; Joseph P. Tyrrell, Joseph Barrett, Patrick F. O'Reilly, Patrick R. Boyd, James J. O'Connor, Ralph J. Walker, Reginald J. Nolan, Francis J. Lanigan, William J. Norman, Dermot P. Shaw, Niall S. Gaffney, James R. Quirke, John J. Sheil, Louis E. O'Dea, Derrick M. Martin, Thomas A. O'Reilly, Seán Ó hUadhaigh, George G. Overend, John Carrigan, John J. Nash.

The Council, standing in silence, passed a vote of sympathy with the relatives of the late Mr. Daniel O'Connell, Dundalk. Mr. O'Connell was a member of the Council for many years until his death and served as President in the year 1945-'46.

The following was among the business transacted:—

Signing of petitions by prisoners

A MEMBER was instructed by a prisoner under conviction and sentence to prepare a petition to the Minister for Justice for a remission of the sentence. When he attended at the jail with the petition he was told by the Governor that a rule had been made that prisoners might submit petitions prepared by themselves but not by third parties. The Secretary reported that he had been in correspondence on the subject with the Department, and read a letter from the Department stating that petitions prepared for prisoners by members of the public, including solicitors, may not be signed by the prisoner without permission from the Department, that in the case mentioned the petition

was prepared by a solicitor, and that, permission having been sought from the Governor, it was immediately granted. The Council decided to make no further representations in the matter as they were satisfied that it is not unreasonable that permission should be sought from the Department for the signing of such petitions, and that, provided that the permission is in the normal case granted, no injustice is likely to be caused. If, however, there were a general complaint of difficulty in the submission of petitions prepared by solicitors on behalf of prisoners it would be necessary to make further representations.

Mortgagor—inspection of title deeds

A MORTGAGOR informed the mortgagees' Dublin office that he intended to redeem the mortgage. The Dublin office obtained the title deeds from London and the mortgagor was duly informed and was asked for the name of his solicitor. The mortgagees' Dublin office subsequently wrote to their solicitor that the borrower would not redeem and asked him to return the deeds to London. The Dublin office asked their solicitor to name his fee which would be collected from the borrower. He named a sum of £1 11s. 6d. and the deeds were returned to London, without having been inspected by the borrower or any person on his behalf. The Council were asked to say whether the borrower was liable for the costs or any part thereof. In the opinion of the Council the borrower, having requisitioned the documents, was liable for the costs under Section 16 (1) Conveyancing Act 1881, although he did not attend to inspect them. As a matter of practice the Council were of opinion that a fee should not be charged against the borrower where documents are produced by solicitors acting for a bank, insurance company, building society, or other company carrying on the business of advancing money on mortgage.

Estate Duty on Stock Exchange securities

THE Council considered a motion proposing that the Society should seek amendment of the law relating to the assessment of estate duty and the issue of grants of representation such as will enable stock exchange and other wasting assets, standing in the name of a deceased person, to be sold without delay after the owner's death, either by means of an immediate limited grant secured by a revenue bond or the vesting of such assets and the proceeds thereof in a public trustee for this purpose, in advance of the assessment of such duty and of the issue of the general grant of representation. After a discussion in which disapproval was expressed of the proposal to have property vested in a public trustee

it was decided that the President and Secretary should seek an interview with the Head of the Estate Duty Office for the purpose of discussing the question.

Circuit Court Rules Committee

MR. JOSEPH P. TYRRELL was re-appointed as one of the Society's representatives on the Committee for a further term of five years.

Special Examiner, Preliminary Examination

MR. JOHN J. O'MEARA, M.A., D.Ph., Professor of Latin, University College, Dublin, was appointed Special Examiner in place of the late Dr. K. C. Bailey, F.T.C.D.

ERRATUM

Southern Law Association

IN the January issue of the Society's GAZETTE it was stated that Mr. Timothy A. Buckley had been elected President of the Association for the year 1951-52. This statement was an error. Mr. Cornelius J. Daly is President for 1951-52 and the extraordinary members on the Council of the Society are—Messrs. Timothy A. Buckley, Cornelius J. Daly, John F. Foley, Edmund Hayes, Joseph Morrissey.

FORMATION OF LIMITED COMPANIES—FUNCTIONS OF SOLICITOR AND ACCOUNTANT

FOLLOWING representations made by the Council of this Society to the Society of Incorporated Accountants in Ireland the following statement has been published in the issue of *Accountancy* for January, 1952.

“Irish Branch

The Council of the Society of Incorporated Accountants in Ireland has been in correspondence with the Incorporated Law Society of Ireland with reference to the preparation of memoranda and articles of association for companies. The Council is advised that a member of the Society of Incorporated Accountants in Ireland who prepared a memorandum of association and articles of association would not, by so doing, be infringing the law, but the Council is nevertheless of opinion that a member should not draft or settle the documents in final form, any suggestions he makes being

with a view to assisting the legal advisors responsible for putting them into legal form.”

The following notices were published in *The Accountants' Journal* by the Council of the Association of Certified and Corporate Accountants:—

“The Council of the Association, at a recent meeting, decided to draw attention to the fact that the preparation of articles of association and memoranda in company formation is essentially a legal task.

In view of this the Council advises members of the Association to remember that the drafting and settling of memoranda and articles of association of companies should be properly left to solicitors (*The Accountants Journal*, December, 1950).

We are authorised by the Council of the Association to publish the following notice in extension of that appearing under the same heading in the December, 1950, issue of the *Journal*, on page 292:—“At its meeting of November 14th, the Council decided that it was desirable to remind members that the drafting and settlement of memoranda and articles of association of companies should properly be left to solicitors. In view of enquiries since received from members the Council wishes to clarify the position as follows:—(a) The former statement was not intended to imply that there is any objection to a member's assisting a client in the formation of a company; (b) Nor is there any impropriety in his suggesting some or all of the contents of the memorandum and articles of association. On the contrary it is very desirable that he should advise on those clauses relative to accounts; (c) Although the Council understands that the preparation of memoranda and articles of association by a member would not be contrary to law, the Council is nevertheless of opinion that the drafting and settlement of these documents is a matter for the legal profession and that a member's participation therein should be restricted as above.”

(*The Accountants' Journal*, April, 1951.)

SOLICITORS' REMUNERATION GENERAL ORDER, 1951

THE following General Order was laid before Seanad Éireann on 19th December, 1951, and before Dail Éireann on 30th January, 1952. Section 6 of the Solicitors' Remuneration Act, 1881, as adapted, provides that any General Order under

the Act shall not take effect unless and until it has been laid before each house of the Oireachtas and one month thereafter has elapsed.

General Order

WE, the Body in that behalf authorised by Solicitors' Remuneration Act, 1881 as adapted by the Solicitors' Remuneration Act, 1881 (Adaptation) Order, 1946 made pursuant to the Adaptation of Enactments Act, 1922, do hereby, in pursuance and execution of the powers given to us in the said Statute as so adapted, and of all other powers enabling us in that behalf, make the annexed General Order.

1. This Order may be cited as the Solicitors' Remuneration General Order, 1951, and this Order and the Solicitors' Remuneration General Order, 1884, the Solicitors' Remuneration General Order (No. 1), 1920, the Solicitors' Remuneration General Order (No. 2), 1920, and the Solicitors' Remuneration General Order, 1947, may be cited as the Solicitors' Remuneration General Orders 1884 to 1951.

2. The scale of charges set forth in Schedule I Part II of the Solicitors' Remuneration General Order, 1884, as amended by the Solicitors' Remuneration General Order (No. 1), 1920, in so far as it affects the charges as to leases or agreements for leases at rack rent (other than mining leases or leases for building purposes, or agreements for the same) is hereby annulled save in respect of business completed before the 1st day of January, 1952, and there shall be substituted therefor in respect of all such business completed on or after the said date the scale of charges set forth in the Schedule hereto annexed. The remainder of Schedule I, Part II of the Solicitors' Remuneration General Order, 1884, as so amended shall remain in full force and effect.

3. Rule 11 of Part I, Schedule I Solicitors' Remuneration General Order, 1884, shall be rescinded as and from the 1st day of January, 1952.

4. The percentage increases in the remuneration of a solicitor set forth in Clause 4 of the Solicitors' Remuneration General Order, 1947, are hereby annulled save in respect of business transacted before the 1st day of January, 1952, and there shall be substituted therefor in respect of all business transacted on or after the said date the remuneration for which is authorised by Solicitors' Remuneration General Order, 1884, Clause 2 (c) as amended by the Solicitors' Remuneration General Order (No. 1), 1920 and Solicitors' Remuneration General Order,

1947, an addition of 55 per cent. calculated upon the amount of such authorised or regulated remuneration immediately prior to the 5th day of April, 1947.

5. The calculation of all solicitors' fees under the Solicitors' Remuneration General Orders, 1884-1951 shall be made to the nearest penny upwards or downwards.

6. This Order shall be read with the Solicitors' Remuneration General Order, 1884, the Solicitors' Remuneration General Order (No. 1), 1920, the Solicitors' Remuneration General Order (No. 2), 1920, and the Solicitors' Remuneration General Order, 1947, and shall be deemed to be incorporated therewith, and shall so far as inconsistent therewith alter or amend the same.

SCHEDULE

Scale of Charges as to Leases or Agreements for Leases at rack rent (other than mining leases or leases for building purposes, or Agreements for the same).

Lessors' Solicitors :—

For preparing, settling and completing lease and counterpart where the rent does not exceed £100.

£11 5s. per cent on the rental but not less in any case than £4 10s.

Where the rent exceeds £100, but does not exceed £500.

£11 5s. in respect of the first £100 of rent and £3 15s. per cent in respect of each subsequent £100 of rent or any part thereof.

Where the rent exceeds £500.

£11 5s. in respect of the first £100 of rent, £3 15s. in respect of each £100 of rent up to £500 and £1 10s. per cent in respect of every subsequent £100 or part thereof.

Lessees' Solicitor :

For perusing draft and completing. (No sum of less than £1 yearly rent to be taken into account in any case.)

One half the amount payable to the lessors' Solicitor but not less in any case than £3 5s.

In case the Lease is registered a charge of £3 to the Solicitor registering same.

Dated this 11th day of December, 1951.

SIGNED :

CONCHUBHAR A. MAGUIDHIR, Chief Justice.
CAHR DAVITT, President of the High Court.
ARTHUR COX, President, Incorporated Law Society of Ireland.

SOLICITORS' BENEVOLENT ASSOCIATION

THE Annual Meeting of the Solicitors' Benevolent Association was held in the Council Chamber of

the Law Society, Law Courts, Dublin. The following members were present: Mr. R. A. A. O'Brien, Chairman; Mr. Henry P. Mayne, Vice-Chairman; Mr. Arthur Cox, President of the Incorporated Law Society. Messrs. R. V. Judd, Charles Hyland, John S. G. Sealy, James J. Hickey, Sean O hUadhaigh, A. E. Walker, Mrs. Eugenie Houston, H. E. St. G. Clenaghan, James J. O'Connor, Raymond Henry, John J. Barry, D. B. Gilmore, John B. McCann, Rowland Healy, Arthur E. Ardagh, P. R. Boyd, R. D. English, J. P. King, D. McGillicuddy, Liam Cafferky, Henry P. Mayne, Eric A. Plunkett, Henry St. J. Blake, Benedict J. Daly, and Patrick Glynn, Secretary. The Secretary read the notice convening the meeting and the minutes of the last meeting were confirmed. The Chairman, Mr. R. A. O'Brien in moving the adoption of the report said that annual subscriptions were up by £73, but that the expenditure on grants and annuities paid during the year amounting to £171 10s. 3d., was also slightly up and would have been substantially higher but for the fact that vacant special annuities aggregating £367 had not been filled. It was essential that the income from members' subscriptions should be increased to ensure the continued stability and usefulness of the Association. Mr. O'Brien referred to the Social Welfare Act, 1951, which had been passed since the last Annual Meeting. A section in the Act provided that account should not be taken of assistance received from charitable organisations to an amount not exceeding £52 5s. a year for the purpose of the means test under the Old Age Pensions Acts. This provision was new and would be welcomed not only by the Solicitors' Benevolent Association but by all charitable organisations. He concluded by asking all members of the Association to obtain new members by personal approaches to solicitors who are not already members.

Mr. Arthur Cox, President of the Incorporated Law Society seconded and the Report was unanimously adopted. On the proposal of Mr. Rowland Healy seconded by Mr. Henry St. J. Blake the Directors were re-appointed. On the proposal of Mr. John B. McCann, Mr. Henry D. Hurley and Mr. Terence de Vere White were re-appointed Auditors. A vote of thanks to the Press was proposed by Mr. J. J. Hickey, seconded by Mr. Dermot McGillicuddy and passed unanimously. Mr. Henry P. Mayne moved that Mr. Arthur Cox should take the second Chair and proposed a cordial vote of thanks to the Chairman for his conduct of the Meeting and his work for the Association. This was seconded by Mr. D. B. Gilmore put to the meeting by Mr. A. Cox and passed with acclamation. This concluded the business.

SLANDER ACTION—SOLICITOR'S PRIVILEGE

Harris and Anor. v. Dennis

THE plaintiffs were a firm of London fire assessors and the defendant was a member of a firm of solicitors. The plaintiff firm had been engaged to assess loss arising from a fire in the premises of Mr. Henry Colk, draper, which involved the adjoining premises occupied by Mr. V. G. Anderson. Mr. Colk and Mr. Anderson consulted the defendant on a proposal that they should effect a mutual exchange of their respective premises. At an interview at which Messrs. Anderson and Colk were present the defendant was alleged to have said "Tell me Mr. Colk, who are your assessors?" Mr. Colk handed a card to the defendant who then spoke the following words complained of: "Harris? Harris? Harris and Co., Leopold Harris? Did he start the fire? How did you get this man?" Mr. Leopold Harris of the plaintiff firm had in point of fact been convicted and had served a term of imprisonment for fraudulent claims against insurance companies arising out of fires in London before the war. He brought an action claiming damages for slander arising out of the words alleged to have been uttered by the defendant. Mr. Justice Streetfield summing up for the jury referred to the case of *Minter v. Priest* (1930. A. C. 558) in which it was held that the privilege in the relation between solicitor and client must be interpreted within a very wide and generous ambit. As for malice, it was true that the defendant had not believed that the plaintiffs had started the fire in question. It was, he admitted, a cheap joke. There was no evidence of any unreasoning prejudice against the plaintiff and he had apologised for the words used. The jury found (a) That the defendant spoke the words complained of; (b) That the words were defamatory of the plaintiffs; (c) That the defendant was not under a duty to speak the words complained of; (d) That Mr. Anderson was present not in the capacity of a client or intending client of the defendant, but was present to assist Mr. Colk in giving instructions to the defendant; (e) That the words were not spoken maliciously; (f) Damages to the plaintiff, Harris, £100, to the plaintiff firm, £100. His Lordship giving judgment said that the question of law was whether the occasion was one either of absolute or of qualified privilege. In view of the finding of the jury there was no absolute privilege. As the jury had found that Mr. Anderson was present for the purpose of assisting Mr. Colk in instructing the defendant the words must have been spoken either in the course of giving these instruc-

tions or of giving an opinion on the instructions. In these circumstances his Lordship ruled that the case was one of qualified privilege and as there was no evidence of malice there must be judgment for the defendant.

(*The Times Newspaper.*)

LIBRARY ACQUISITIONS

Books received

Belfast and Ulster Directory, 1951. Benjamin—The Law of Sale of Personal Property, 8th edition, 1951. Brierly—The Law of Nations, 4th edition, 1950. Cambridge Law Journal, 1951. Carter—Solicitors' Book-keeping, 1951. Chalmers and Asquith—Outlines of Constitutional Law, 1922. Cheshire and Fifoot—Law of Contracts, 1949. Citrine—Trade Union Law, 1951. Conveyancer and Property Lawyer (Quarterly) from January, 1951. Dangerfield—Law of Rent Restrictions, 1951. Denning (Lord Justice)—Freedom under the Law, 1950. Dymond—Death Duties, 11th edition, 1951. Edwards—Compendium of Law of Property and of Conveyancing, 5th edition, 1922. Elman—The Law in relation to Partners, 1950. Elphinstowe—Covenants Relating to Land, 1946. English and Empire Digest—Replacement Volumes, 12, 30 and 31. Evans—Buying and selling a House, 1950. Everest and Strode—The Law of Estoppel, 1923. Field-Fisher—Animals and the Law, 1950. Garner—The Law of Sewers and Drains. Gavan-Duffy—The Senate in the Irish Constitution of 1937 (Thesis, 1947). Goodeve—Modern Law of Real Property. Gross—Criminal Investigation, 4th edition, 1950. Hanbury—Modern Equity, 5th edition, 1949. Harrison—Digest of Tax Cases, 6th edition, 1950. Hibbert—Leading Cases in Conflict of Laws, 1931. Hill—Complete Law of Housing, 4th edition, 1950. Holmes—The Common Law, 1991. Indermaur and Thwaite—Practical Conveyancing, 1920. International Who's Who—(Donation, 1947). Irish Catholic Directory, 1951. Jackson and Gossett—Investigation of Title, 6th edition, 1950. Jenks—Digest of English Civil Law, 2 vols., 4th edition, 1947. Jenks—History of Doctrine of Consideration, 1892. Jordan—Notes on Chancery Practice, 1949. Josling—Adoption of Children, 1950. Josling—Periods of Limitation, 1951. Koch—Double Taxation Conventions, 1947, Supplement, 1950. Law Quarterly Review (as from January, 1951). Legal Bibliography of British Empire—4th Supplement, 1950. Lindley—Law of Partnership, 11th edition, 1950. McFarlane—Motorists and the Law,

1951. Marshall—The Assignment of Choses—In—Action, 1950. Miley and King—Town and Regional Planning Law in Ireland, 1951. Modern Law Review (as from January, 1951). Morton—Report on Law of Intestate Succession, 1951. Mumford—Guide to Juvenile Court Law, 1950. Munkman—The Law of Quasi-Contracts, 1950. National University of Ireland Calendar, 1950. O'Sullivan—The Inheritance of the Common Law, 1951. Owen—Law relating to Weights and Measures, 1947. O'Neill's—Who's Who and Industrial Directory of Ireland, 1951. Parry—British Nationality, 1951. Patton—Affiliation Orders in Northern Ireland, 1925. Payne—Carriage of Goods by sea, 5th edition, 1949. Philips—Proving a Will, 1949. Phipson—Manual of Law of Evidence, 7th edition, 1950. Piesse and Smith—The Elements of Drafting, 1950. Pollock—County Court Notebook, 4th edition, 1951. Potter—History of Equity and Its Courts, 1931. Potter—Introduction to History of English Law, 1923. Preston and Colinvaux—The Law of Insurance, 1950. Rayden on Divorce—Two Supplements to 5th edition, 1951. Redgrave—Factories and Truck Acts, 17th edition and supplement, 1951. Ridges—Constitutional Law, 8th edition, 1950. Robinson—Conveyancing Costs, 1951. Robinson—Costs in Arbitration, 1950. Robinson—Probate and Administration Costs, 1951. Russell—Treatise on Crime, 7 vols, 10th edition, 1950. Samuels and Pollard—Industrial Injuries, 1946. Salmond on Torts—10th edition, 1945. Sandes—Criminal Law and Procedure in Eire, 3rd edition, 1951. Schwarzenberger—Manual of International Law, 1950. Scottish Law List, 1951. Seaborne—Law of Vendors and Purchasers, 9th edition, 1926. Shawcross and Beaumont—Air Law, 2nd edition, 1951. Statesman's Year Book, 1951. Stone—Law and Its Administration, 1915. Stone—The Province and Function of Law, 1950. Strahan—Law of Mortgages, 3rd edition, 1925. Strahan and Oldham—Law of Partnerships, 1921. Sutton and Shannon—Law of Contracts, 4th edition, 1949. Theobald on Wills—10th edition, 1947. Thom's Directory, 1950. Thompson—Points for Criminal Procedure, 1950. Treagus and Rainbiro—Butterworth's Treatise on Costs, 2 vols., 1951. Tristram and Coote—Probate Practice, 3rd Cumulative Supplement, 1951. Ulster Year Book, 1950. Underhill—Law of Trusts and Trustees—10th edition, 1950. Underhill—Law of Torts, 16th edition, 1949. University College, Dublin, Calendar, 1951-52. White (T. Blanco)—Copyright, 1949. White (T. Blanco)—Patents and Registered Designs, 1950. Whitaker's Almanack, 1952. Who's Who, 1951. Winter—Children and Young Persons under the Law, 1949. Williams (Glanville)—

Joint Torts and Contributory Negligence, 1951. Williams (Glanville) (ed)—Law Reform: a Symposium, 1951. Winfield—Textbook of Law of Torts, 5th edition, 1950. Winfield—Leading Cases in the Law of Torts, 1948. Yearly Practice of Supreme Court (Red Book), 1933. Young—Taxation Appeals.

THE REGISTER

Section A

VERY good Solicitors practice for sale in Western Town. Apply to W. J. Shannon & Co., Solicitors, 19 Upper Ormond Quay, Dublin.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

NOTICE.

Folio 1669

COUNTY TIPPERARY

Registered Owner: JOSEPH DELANEY

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 28th day of February, 1952.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Joseph Delaney to 105a. 2r. 14p. of the lands of Moanour situate in the Barony of Clanwilliam and County of Tipperary, being the lands comprised in said Folio.

NOTICE

Folio 10717

COUNTY LEITRIM

Registered Owner: THOMAS MCGOVERN

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 28th day of February, 1952.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Thomas McGovern to 21a. 3r. 20p. of the lands of Ardrum, situate in the Barony of Carrigallen and County of Leitrim, being the lands comprised in said folio.

NOTICE

Folio 14582

COUNTY LIMERICK

Registered Owner: ELLEN CASEY

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 25th day of February, 1952.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of Ellen Casey to 21a. 3r. 19p. of the lands of Ardkilmartin; 4a. 2r. 32p. of the lands

of Coolroe; 5a. or. 23p. of the lands of Ardkilmartin and 3a. 1r. 25p. of the lands of Ardkilmartin situate in the Barony of Kilmallock and County of Limerick which are the lands comprised in the said folio.

THOMAS E. F. BENNETT, M.A., LL.B.,
Solicitor,
Kilmallock,
Co. Limerick.

NOTICE

Folio 2453

COUNTY OF TIPPERARY

Registered Owner: WILLIAM BOHAN (JUNIOR)

An Application has been made by the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 25th day of February, 1952.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE ABOVE REFERRED TO

Land Certificate of William Bohan (Junior) to 4a. 3r. 25p. of the lands of Kilvilcorris situate in the Barony of Eliogarty and County of Tipperary which are the lands comprised in said Folio.

OBITUARY

MR. RORY C. FITZGIBBON, Solicitor, died at Mercers Hospital, Dublin, on 8th September, 1951.

Mr. Fitzgibbon served his apprenticeship with Mr. William McA. McCracken, Solicitor, formerly of 24 Ormond Quay and now of 94 Grafton Street, Dublin, was admitted in Hilary Sittings, 1942 and practised at 94 Grafton Street, Dublin and Killaloe, Co. Clare.

MR. PATRICK O'FLYNN, Solicitor, died at Prospect

House, Manorhamilton, Co. Leitrim, on 25th October, 1951.

Mr. O'Flynn served his apprenticeship with the late Sir James O'Connor, Solicitor, 118 St. Stephen's Green, Dublin, who subsequently became Lord Chief Justice of Ireland, was admitted in Hilary Sittings, 1903, and practised at Manorhamilton.

MR. GEORGE M. MEARES, Solicitor, died at the Meath Hospital, Dublin, on 26th December, 1951.

Mr. Meares served his apprenticeship with the late Mr. John Porter Harris, Solicitor, Killymurphy, Stewartstown, Co. Tyrone, was admitted in Trinity Sittings, 1894 and practised as senior partner in the firm of Messrs. White & Meares, Solicitor, 41 St. Stephen's Green, Dublin. He served on the Council from 1913 to 1916.

MR. RICHARD C. E. LONG, Solicitor, died on the 25th October, 1951 in Dublin.

Mr. Long served his apprenticeship with the late Mr. Henry B. Falconer, Solicitor, 9 Suffolk Street, Dublin, was admitted in Trinity Sittings 1897 and practised at Portarlinton.

MR. DANIEL O'CONNELL, Solicitor, died at his residence, 3 Seatown Gardens, Dundalk on the 18th January, 1952.

Mr. O'Connell served his apprenticeship with the late Mr. Michael C. Moynagh, Solicitor, Dundalk, was admitted in Hilary Sittings 1902 and practised at Dundalk as senior partner in the firm of Daniel O'Connell & Son. He was a member of the Council of this Society from 1924 to the date of his death. He was the Provincial Delegate for Leinster from

1931—1939, Vice-President for the year 1940—1941 and President of the Society for the year 1945—1946.

MR. JOSEPH KEARNEY, Solicitor, died at Clara Road, Tullamore on the 25th January, 1952.

Mr. Kearney served his apprenticeship with the late Mr. Thomas Conway, Solicitor, Tullamore, was admitted in Trinity Sittings 1922 and practised at Tullamore under the style of Conway & Carney.

MR. WILLIAM S. HUGGARD, Solicitor, died at Hume Street Nursing Home on the 1st February, 1952.

Mr. Huggard served his apprenticeship with the late Mr. Edward White, 16 Molesworth Street, Dublin, was admitted in Hilary Sittings 1911 and practised at Ballina, Co. Mayo. He was a member of the Council of this Society from the year 1939 to the date of his death and Vice-President for the year 1944—1945.

re : ALICE MARY HARGREAVE, DECEASED

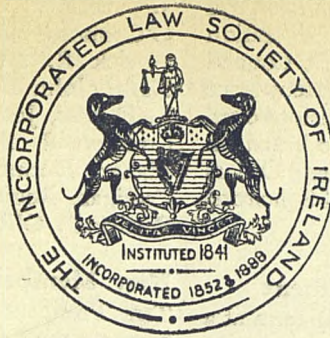
re : ALICE MARY MOORE, DECEASED

BARCLAYS Bank Limited (Trustee Department) of Cardiff, South Wales, the Trustees of the Will of William Simpson Marsh, Deceased, late of Penybedd, Pembrey, Carmarthenshire, who died on the 9th April, 1898, seeks information as to the descendants of Alice Mary Moore, a daughter of Robert Marsh and a sister of the said William Simpson Marsh, who was married first to a Mr. Hargreave and secondly to Frederick Moore and is believed to have lived in Ireland. Will anyone having knowledge of the whereabouts of such descendants please communicate with Wheeler & McCutcheon, Solicitors, 2 Wellington Place, Belfast.

CENTENARY OF THE SOCIETY'S CHARTER, 1852-1952.

With this issue of the Society's *Gazette* is enclosed a letter with a form of application for tickets for functions which will be held in Dublin on 27th and 28th May to celebrate the centenary. Members wishing to attend these functions are reminded that early application for tickets is essential. The subscription of £3 3s. includes invitations to wives of married members and a lady accompanying each unmarried member to the President's reception.

On the occasion of the Centenary the Council invite Bar Associations, firms and individual members to send in to the Secretary any information, books, or documents which would be of interest from the point of view of the history of the profession. The Council would be grateful to receive information as to the histories of old firms, biographical notes of past members of the profession, notes of cases of historical or social interest or old law books or documents of professional interest. A great deal of information of professional interest was lost when the Society's records were destroyed in 1922 and the Council would like to mark the Centenary by collecting such of it as may be still available.



THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
ARTHUR COX

Vice-Presidents
DESMOND R. COUNAHAN LL.D.
GERALD J. O'DONNELL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

21ST FEBRUARY, 1952. The President in the Chair. Also present: Messrs. Desmond R. Counahan and Gerald J. O'Donnell, Vice-Presidents, Henry St. J. Blake, Francis J. Gearty, James R. Quirke, Derrick M. Martin, John R. Halpin, James J. O'Connor, John B. McCann, Ralph J. Walker, John Carrigan, Cornelius J. Daly, Patrick R. Boyd, Joseph Barrett, William J. Norman, Reginald J. Nolan, George G. Overend, Christopher E. Callan, Maurice M. Power, Niall S. Gaffney, Seán Ó hUadhaigh, John J. Sheil, Francis J. Lanigan, Thomas A. O'Reilly, Dermot P. Shaw, John J. Nash.

The Council, standing in silence, passed a vote of sympathy with the relatives of the late Mr. William S. Huggard who was a member of the Council from 1939 to the date of his death and Vice-President for the year 1944-1945.

The following was among the business transacted:—

New member of the Council

THE President welcomed Mr. John B. McCann who came on the Council in place of the late Mr. Daniel O'Connell.

Costs where property is sold with goodwill

THE Council were asked to express an opinion on the costs chargeable where a solicitor acts for a vendor in the sale of premises, the purchase money being apportioned between the premises and goodwill. The question raised was whether the solicitor for the vendor is entitled to charge the scale fee on the entire purchase money being amount placed on the premises plus the amount set out for the goodwill. In the opinion of the Council goodwill may be either (a) adherent goodwill, such as the goodwill of a licensed premises, which attaches to the property, or (b) personal goodwill, such as the goodwill of a solicitor's practice which follows the owner. In *Whiteman Smith Motor Company v. Chaplin* (1934, 2 K.B.) Lord Justice Maugham described (a) as "cat good-

will" and (b) as "dog goodwill." In the case of "cat goodwill" the practice of the profession has been and is to charge the scale fee on the whole consideration including the value of the goodwill. The Council was of the opinion that this practice is in accordance with the law notwithstanding English decisions cited in costs text-books. These decisions are based on the English Solicitors' Remuneration General Orders the terms of which are different to those of Solicitors' Remuneration General Order, 1884.

Cost of lease and building agreement

A client took a lease of a site for a long term at a yearly rent of £22, and entered into a contract with a builder to build a residence on the site. The Council were asked to express an opinion as to the method of calculation of the costs of (a) a lease and (b) the building agreement. In the opinion of the Council (a) the costs of the lease should be drawn as costs of a long lease not at a rack rent, the fee being charged on the amount of the rent; (b) the charges for the building contract would be taxed in accordance with the old method as altered by Schedule 2 of S.R.G.O., 1884, as amended. The scale fee applicable to a purchase could not be charged in respect of the building price but, in the opinion of the Council, a bulk fee by way of instruction bearing some relation to the building price might reasonably be charged in addition to the item charges for drawing or approving of the building agreement. The measure of the solicitor's liability for damages for negligence or mistake would be the amount expended by the client and the item charges alone would not remunerate the solicitor for this responsibility.

Mortgage. Costs of solicitor for mortgagor and purchaser.

THE Council considered and adopted a report from Committee on the following question. Where a solicitor acts for a client who has to obtain a loan to enable him to complete a purchase, is the solicitor entitled to the full scale fee on the mortgage as well as the scale fee on the purchase price of the premises? The Committee was of the opinion that the solicitor for the mortgagor is entitled to the scale fee on the purchase and the scale fee on the mortgage. It would not however be undercutting to make a reasonable reduction in the amount of the mortgagor's solicitor's scale fee having regard to the fact that the purchase and mortgage are contemporaneous.

13TH MARCH, 1952. THE President in the Chair. Also present: Messrs. Desmond R. Counahan,

and Gerald J. O'Donnell, Vice-Presidents, William J. Norman, Derrick M. Martin, James J. O'Connor, Ralph J. Walker, John J. Sheil, Patrick R. Boyd, Francis J. Lanigan, John J. Nash, John B. McCann, John R. Halpin, James R. Quirke, Joseph P. Tyrrell, Thomas A. O'Reilly, Cuthbert J. Furlong, Maurice M. Power, John Maher, Dermot P. Shaw, Joseph Barrett, John Carrigan, Reginald J. Nolan, George G. Overend, Patrick F. O'Reilly.

New Member of the Council

THE President welcomed Mr. John Maher who came on the Council in place of the late Mr. William S. Huggard.

The following was among the business transacted:—

Solicitors' Remuneration Land Registration Rules, 1937, as amended.

On a report from a committee it was decided to apply to the Land Registration Rules Committee for the following amendments to the rules:—

- (a) Item charges under the old system as altered by Schedule 2 should be increased by 55 per cent. over the prewar scale instead of the present increase of 33½ per cent.
- (b) Rule 11 S.R.G.O., 1884, should be rescinded in its application to registered land.
- (c) Provisions similar to those of S.R.G.O., 1951, should be made in regard to a lease of registered land at a rack rent.
- (d) The scale fee on sales and purchases of registered land where equities have not been discharged should be a flat rate of 4 per cent. on the purchase money instead of the present rate of 4 per cent. on the first £1,000 descending to 15/- per cent. on the portion of the purchase price exceeding £10,000. The scale fee on sales and purchases of registered land, equities discharged, should be on a flat rate of 3 per cent. on the purchase money instead of the present sliding scale of 2 per cent. on the first £1,000 to 7/6d. per cent. on the portion of the purchase price exceeding £10,000.

The Secretary was directed to prepare the submission.

Formation of limited companies. Respective functions of solicitor and accountant.

THE Council considered the following circular letter from the Institute of Chartered Accountants proposed to be sent by the Institute to its members:—

"The Council has had under consideration the

question of the drafting of Memoranda and Articles of Association of Companies.

While the drafting of Memoranda and Articles of Association by a member of the Institute would appear not to be an infringement of the law, this work is properly the function of the legal profession and should be so regarded by members of the Institute.

There is no objection to a member assisting his clients in the formation of Companies and advising as to the content of the Memorandum and Articles of Association. The extent of this assistance and advice will depend on the member's knowledge of the particular circumstances of each case."

It was decided that the Secretary should write to the Institute of Chartered Accountants saying that the Council agree to the above draft circular and thanking the Institute.

SOLICITORS' REMUNERATION GENERAL ORDER 1951

QUERIES have been received from members about the above mentioned general order which was published in the February issue of the Society's GAZETTE. The following is a summary of the effect of the order.

1. It does not affect the fees on sales or purchases charged in the commission scale.

2. The item charges in detailed bills for letters, attendances, drawing and approving documents and other work included in schedule 2 Solicitors' Remuneration General Order, 1884, are increased by 55 per cent. over the prewar scale. *This increase is in substitution for the increases permitted in 1947.* Schedule 2 Solicitors' Remuneration General Order, 1884, covers all item charges other than those in court proceedings and criminal matters. For instance, the items dealing with the extraction of grants of probate and letters of administration are covered by the rules of the High Court. The letters, attendances and other work in the administration of an estate outside Court after representation has been raised are covered by the Solicitors' Remuneration General Order, 1884-1951.

3. The last mentioned increase of 55 per cent. over prewar applies to charges under the old system as modified by schedule 2 Solicitors' Remuneration General Order, 1884 (See page 470 of the 1951 Calendar).

The following is an example of the effect of the order on detailed charges: letter; 1939, 5/-; 1947, 5/-+25%=6/3d.; 1952, 5/-+55%=7/9d.; attendance, 1939, 10/-; 1947, 10/-+25%=12/6d.; 1952, 10/-+55%=15/6d.

4. The fee payable to the vendor's solicitor in respect of the Particulars Delivered Stamp is chargeable under the old system as modified by schedule 2. This fee was £1 10s. in 1914 and was increased to £2 5s. in 1920. It now becomes £3 9s. 9d. instead of £2 16s. 3d. which has been allowed since 1947.

5. Rule 11, part 1, schedule 1, Solicitors' Remuneration General Order, 1884, has been rescinded with effect from 1st January, 1951. This means that where land is taken under the exercise or threatened exercise of compulsory powers by the State or other authorised bodies, the costs of the solicitors both for the vendors and purchasers will be chargeable in accordance with the commission scale and not item by item. Solicitors may still, however, continue to charge itemised costs instead of the commission scale by serving the notice mentioned in paragraph 6, Solicitors' Remuneration General Order, 1884 (See page 438 of the 1951 Calendar) before undertaking any business.

6. The scale of charges for a lease at rack rent has been altered. Formerly the charge in respect of denominations of £100 not exceeding £95 was the same. There was no difference between the scale (£11 5s.) on £100 and £175. In future the fee will be calculated on the actual amount of the rent, e.g., the fee on a rent of £175 will be £14 18s. 3d. instead of £11 5s. These changes will be shown in the table B of the Society's Calendar for 1952.

7. On the construction of the relevant orders it is not clear whether the above mentioned charges apply to Land Registry costs. An amendment in the Land Registry rules is being sought. For particulars of the proposed amendments see the report of the meeting of the Council held on 13th March, 1952, printed at page 76 of this issue.

PROCEEDINGS AGAINST SOLICITORS

PURSUANT to an order by the Chief Justice the name of Joseph L. Reilly who formerly practised at Drogheda, Co. Louth has been struck off the roll of solicitors on a report from the Statutory Committee finding him guilty of professional misconduct.

INDEX OF STATUTORY INSTRUMENTS

RECEIVED by the Society pursuant to the Statutory Instruments Act, 1947. The last list was printed in the Society's Gazette for August, 1951.

AGRICULTURE, LANDS AND FISHERIES

SUBJECT MATTER AND REFERENCE NUMBER

Agricultural Wages (Female Workers)—1/1952.
Fisheries (Delegation of Ministerial Powers to Parliamentary Secretary)—292/1951.

Flax—scutching of—278/1951.
 Foot and Mouth Disease (Prohibition of Importation of Animals)—356/1951.
 Home-Grown Wheat (Percentage for 1952/53)—322/1951.
 Land Reclamation Rules—308/1951.
 Potato Root Eelworm—372/1951.
 Rabbits Storage Prohibition, 6c/1952.
 Shannon Fisheries (Closing of Free Gap)—383/1951.
 Tobacco (Areas for 1952)—360/1951.
 Wheat and Flour (Transfer of Ministerial Functions)—284/1951.

COMMODITIES, GOODS AND SERVICES

SUBJECT MATTER AND REFERENCE NUMBERS

Bacon and Pork—269/1951.
 Brewers Grains and Malt Combing—363/1951.
 Cigarettes—316/1951.
 Cinema Admission Charges—254/1951.
 Coal—252/1951, 272/1951, 279/1951, 280/1951, 281/1951, 328/1951, 4/1952, 18/1952, 39/1952, 40/1952, 62/1952, 63/1952, 64/1952, 65/1952, 66/1952, 67/1952, 68/1952, 69/1952, 70/1952.
 Currants and Raisins—319/1951.
 Dripping, Lard and Raw Fats—35/1952.
 Flour and Bread—268/1951.
 Gas Fund Contribution—57/1952.
 Gold Wares (Standard of Fineness)—365/1951.
 Intoxicating Liquor (Whiskey, Beer, Stout and Porter)—369/1951.
 Jams and Marmalade—306/1951.
 Kerosene—264/1951.
 Margarine—324/1951, revoked by 11/1952.
 Matches—6/1952.
 Milk (Retail Price Revocation)—10/1952.
 Motor Spirits—265/1951.
 Oatmeal—13/1952.
 Peas and Beans (Packed and Canned)—5/1952.
 Pottery—275/1951.
 Prices and Charges Standstill Revocation—253/1951.
 Sewing Thread—273/1951.
 Shotgun Cartridges—382/1951.
 Standard Mark Orders—
 Asbestos Cement Slates and Sheets—391/1951.
 Concrete Cylindrical Pipes—390/1951.
 Concrete Inter-locking Roof Tiles—389/1951.
 Concrete Land Drainage Pipes—402/1951.
 Concrete Plain Roofing Tiles and Fittings—388/1951.
 Cotton bed sheets and sheetings—385/1951.
 Electrical Plugs and Sockets—400/1951.
 Galvanised Cisterns for Water Supply—393/1951.
 Gypsum Plasters—386/1951.
 Hydrated Lime—392/1951.
 Linseed Oil Putty—387/1951.
 Portland Cement—384/1951.
 Ready Mixed Oil Paints—395/1951.
 Solid Concrete Building Blocks—396/1951.
 Test Sieve—401/1951.
 Tungsten Filament Electric Lamps—389/1951.
 Varnish—394/1951.
 Water Paints and Distempers—397/1951.
 Woollen Blankets—399/1951.
 Standard Specification Orders—
 Bituminous Roofing Felt—330/1951.
 Pickled Herrings—314/1951.
 Zinc Chromate Primers—321/1951.
 Sugar—257/1951; 305/1951.
 Sweets and Chocolates—7/1952.
 Timber (Home-grown)—251/1951.
 Timber (Imported)—320/1951.
 Tobacco—315/1951.

Tobacco Rehandler's Charges—323/1951.
 Whiskey—309/1951.

CONTROL OF IMPORTS AND EXPORTS

SUBJECT MATTER AND REFERENCE NUMBER

Asbestos—17/1952.
 Butter Rationing—289/1951.
 Control of Exports (Miscellaneous) Amendment—17/1952.
 Cotton Piece Goods (Woven)—297/1951, 298/1951, 299/1951.
 Cycle Tyres—376/1951.
 Diamonds—17/1952.
 Electric Filament Lamps—301/1951.
 Fertilizers—404/1951.
 Graphite—17/1952.
 Laminated Springs—45/1952.
 Marble Chippings—407/1951.
 Motor Cars (Temporary Importation)—14/1952.
 Motor Cycles—405/1951.
 Motor Tubes—377/1951.
 Motor Tyres—375/1951.
 Motor Spirit Rationing Revocation—12/1952.
 Perambulators—406/1951.
 Rabbits (Skinned) (Prohibition of Export)—61/1952.
 Rubber Footwear—379/1951, 380/1951.
 Rubber Manufactures (Various)—17/1952.
 Sparking Plugs—274/1951.
 Scientific Apparatus—17/1952.
 Sheepskin (Prohibition of Export)—58/1952.
 Shops within 3 miles of Border—no licence required—34/1952.
 Silk and Artificial Silk Hose—24/1952.
 Sugar Rationing—291/1951.
 Superphosphates and compound manures—404/1951.
 Tea Rationing—290/1951.
 Woven Woollen Tissues—9/1952.

COUNTY AND TOWN MANAGEMENT

SUBJECT MATTER AND REFERENCE NUMBER

Bray U.D.C. (Alteration of Boundary)—42/1952.
 Building Restrictions Withdrawn—41/1952.
 Housing (New Houses) Regs.—307/1951.
 Local Government (Officers Age Limit) Order—310/1951.
 Local Government (Dublin) Act 1948 Continuance—367/1951.
 Local Officers (Gaeltacht)—50/1952, 51/1952.
 Rate Collectors and Rent Collectors—Retirement Age—310/1951.

CUSTOM AND EXCISE—EMERGENCY AND OTHER DUTIES

SUBJECT MATTER AND REFERENCE NUMBER

Bedding—303/1951.
 Boots and Shoes Quota—242/1951.
 Brushes, brooms and mops—348/1951, 350/1951.
 Cast Iron Baths—313/1951.
 Coal (Suspension of Customs Duty)—59/1952.
 Cotton Quilts and Blankets—304/1951.
 Cotton thread and ply yarn—26/1952, 27/1952.
 Cycle Components—340/1951, 341/1951.
 Floor Coverings (Hard)—30/1952.
 Forks and Wooden Handles—71/1952.
 Hats, caps and hoods—351/1951.
 Knitted Fabrics—302/1951.
 Metal Screws—352/1951.
 Motor Car Chassis (Assembled)—344/1951, 345/1951, 346/1951, 347/1951.
 Pot Scourers (Metal)—317/1951.
 Rain Gutters—29/1952.
 Rubber Proofed Clothing Quota—343/1951.
 Sheepskin—43/1952.

Silk Woven Tissues—267/1951.
Toilet Brushes—349/1951.
Toilet Seats and Covers—358/1951.
Wool Yarns—312/1951.

EDUCATION

SUBJECT MATTER AND REFERENCE NUMBER

Superannuation (Reckoning of Teaching Service) Regs.—327/1951.

ELECTIONS

SUBJECT MATTER AND REFERENCE NUMBER

Registration Expenses Scale—1952—19/1952.
Seanad (Registration of Nominating Bodies) Regs.—371/1951.

EMPLOYMENT REGULATION AND CONDITIONS OF EMPLOYMENT

SUBJECT MATTER AND REFERENCE NUMBER

Cork Coopers' Benevolent Society, 75% Reduction on Deposit—52/1950.
Federation of Rural Workers—75% Reduction on High Court Deposit—23/1952.
Gas Installation Fitters, Dublin—266/1951.
Glass Manufacture—31/1952.
Messengers (Dublin City and Dun Laoghaire) Joint Labour Committee—354/1951.
Trade Union Act 1941 (No. 1 Order)—23/1952, 52/1952.

FINANCE AND CENTRAL GOVERNMENT

SUBJECT MATTER AND REFERENCE NUMBER

Civil Service Remuneration (No. 2) Regulations 1951—288/1951. (in "Iris Oifigiúil" 23rd October, 1951)
Customs—Approved Roads into Northern Ireland—258/1951.
Election Registration Expenses Scale—19/1952.
Exchange Control (Supplemental Provisions)—16/1952, 37/1952.
Fisheries (Delegation of Ministerial Functions)—292/1951.
Gaeltacht Housing Acts (Delegation of Ministerial Functions)—21/1951.
Irish Potato Marketing Co. Ltd.—Guarantee—355/1951.
Land Bond Order 1951—261/1951.
Minister for Agriculture (Agency)—326/1951.
Minister for Defence (Agency)—263/1951.
Minister for Finance (Agency)—338/1951.
Minister for Justice (Agency)—337/1951.
National Health Insurance Fund—Investment of Surplus Sums Regulations—241/1951.
Relief of Double Taxation (Ireland-U.S.A.) Regs.—381/1951
Statistics (Census of Production)—2/1952.
Statistics (Census of Distribution)—20/1952.
Statistics (Census of Production Forms)—25/1952.
Tea Importers (Eire)—Guaranteed amount of repayments raised—339/1951.
Wheat and Flour (Transfer of Ministerial Functions)—284/1951

HARBOURS, RIVERS AND HYDRO-ELECTRIC SCHEMES

SUBJECT MATTER AND REFERENCE NUMBER

Arklow Harbour Works—44/1952.
Cork Harbour Works—48/1952.
Kilrush Harbour Rates—15/1952.
Sligo Harbour Works—283/1951.
Tralee and Fenit Pier and Harbour Commissioners—28/1952.
Wexford Harbour Rates—Fishing Vessels—282/1951.

HEALTH

SUBJECT MATTER AND REFERENCE NUMBER

Chicken-Pox an infectious disease—53/1952.
Food Hygiene Regulations—270/1951.
Infectious Diseases (Amendment) Regs.—318/1951.
Kildare Public Assistance Districts—36/1952.
Limerick City Public Assistance Dispensary Districts—332/1951.
Limerick Public Assistance Dispensary Districts—333/1951.
Pharmacy Act, 1951 (Date of Commencement)—54/1952.
Streptococcal Sore Throat an Infectious Disease—318/1951.

JUSTICE, EXTERNAL AFFAIRS AND DEFENCE

SUBJECT MATTER AND REFERENCE NUMBER

Aliens Order 1949 Revocation—38/1952.
District Court (New Areas)—260/1951, 262/1951, 311/1951, 336/1951, 374/1951, 411/1951, 47/1952.
Garda Síochána (Allowances)—409/1951.
Garda Síochána (Appointments) Regs.—334/1951.
Garda Síochána (Promotion) Regs.—325/1951, 32/1952.
Garda Síochána (Retirement) Regs.—335/1951.
Garda Síochána Pay Orders—408/1951.
Garda Síochána (Pensions) Order—410/1951.
Military Service Pensions Regulations—285/1951, 286/1951.

HOUSING

SUBJECT MATTER AND REFERENCE NUMBER

Gaeltacht Housing Acts (Delegation of Ministerial Functions)—21/1952.
Housing (Loan Charges Contributions)—362/1951.
Housing (New Houses) Regs.—307/1951.

MISCELLANEOUS

SUBJECT MATTER AND REFERENCE NUMBER

Game Birds Protection—331/1952.
Street Trading, Henry Street, Dublin—329/1951.

POSTS AND TELEGRAPHS

SUBJECT MATTER AND REFERENCE NUMBER

Foreign Parcel Post Amendment (No. 7) Warrant 1951—300/1951.
Inland Post Amendment (No. 3) Warrant 1951—293/1951.
Money Order Amendment (No. 14) Regs. 1951—295/1951.
Postal Order (Inland) Amendment (No. 4) Regs. 1951—294/1951.
Telephone (Amendment) No. 1, Regs.—276/1951.

SOCIAL SERVICES

SUBJECT MATTER AND REFERENCE NUMBER

Intermittent Unemployment Insurance Benefit Regs.—366/1951.
National Health Insurance (Additional Benefits) Regs.—55/1952.
National Health Insurance Fund—Investment of Surplus Sums Regulations—241/1951.
Old Age Pensions Increases—250/1951.
Social Welfare (Great Britain Reciprocal Arrangements)—22/1952.
Unemployment Assistance (Employment Period)—46/1952.

TRANSPORT AND TRAFFIC

SUBJECT MATTER AND REFERENCE NUMBER

Air Navigation and Transport (Collinstown Compulsory Acquisition)—403/1951.
Carriage of Milk—259/1951.
Coal Mines (Diesel Locomotives) General Regs.—3/1952.
Coras Iompair Éireann Superannuation Scheme 1951—353/1951

Cork Traffic (Parking and Waiting) Bye-laws—331/1951.
 County Donegal Railways (Altered Maximum Charges)—
 277/1951.
 County Donegal Railways (Stranorlar-Glenties Termination)—
 49/1952.
 Great Northern Railway—Altered Maximum Charges—
 255/1951.
 Londonderry and Lough Swilly Railway—Altered Maximum
 Charges—271/1951.
 Omnibus Fares—Road Transport Act Regs.—256/1951.
 Road Transport Act (Fixing of Vehicle Plates) Regs.—8/1952.
 Road Vehicles (Additional Index Marks)—370/1951.
 Sligo Traffic (Parking and Waiting) Byelaws—361/1951.
 Sligo, Leitrim and Northern Counties Railway—Altered Maxi-
 mum Charges—287/1951.
 Turf Development Act 1946 (Lullymore Transport Works)—
 373/1951.

OBITUARY

MR. WILLIAM J. BAXTER, Solicitor, died on the 6th
 January, 1952.

Mr. Baxter served his apprenticeship with the late
 Mr. William B. Galway, 41 Donegall Place, Belfast,
 and was admitted in Hilary Sittings, 1900.

MR. J. HENRY COLLINS, Solicitor, died on the 12th
 January, 1952.

Mr. Collins served his apprenticeship with the
 late Mr. Daniel McCartan, Solicitor, Downpatrick,
 was admitted in Hilary Sittings, 1911, and practised
 at Newry as senior partner in the firm of Collins &
 Collins.

MR. FRANCIS A. SLOSS, Solicitor, died on the 14th
 January, 1952.

Mr. Sloss was admitted in Hilary Sittings, 1902,
 and practised at 82 Royal Avenue, Belfast and
 Bangor.

MR. THOMAS A. COLFER, Solicitor, died at Maypark
 Nursing Home, Waterford, on the 15th January,
 1952.

Mr. Colfer served his apprenticeship with the
 late Mr. John R. Colfer, Solicitor, New Ross, was
 admitted in Hilary Sittings, 1905, and practised at
 New Ross as senior partner in the firm of Colfer,
 Son & Poyntz.

MR. JAMES MCGUIRK, Solicitor, died at his residence,
 1 St. Peter's Terrace, Drogheda, on the 10th Febru-
 ary, 1952.

Mr. McGuirk served his apprenticeship with Mr.
 John J. Walsh, Solicitor, Drogheda, was admitted
 in Hilary Sittings, 1935, and practised at Drogheda.

MR. RICHARD CONNOLLY, Solicitor, died at his
 residence, John Street, Cashel, on the 18th February,
 1952.

Mr. Connolly served his apprenticeship with the
 late Mr. Laurence J. Ryan, Solicitor, Thurles, was
 admitted in Michaelmas Sittings, 1907, and prac-
 tised at Cashel, Co. Tipperary.

MR. JAMES J. LYNCH, Solicitor, died at Headfort
 Place, Kells, on the 19th February, 1952.

Mr. Lynch served his apprenticeship with the
 late Mr. Edward D'Alton, Solicitor, 11 St. Stephen's
 Green, Dublin, was admitted in Trinity Sittings,
 1900, and practised at Kells as Senior partner in the
 firm of Lynch & Murray. He was a member of
 the Council of this Society from 1924 to 1948, Vice-
 President for the year 1925-1926 and President of
 the Society for the year 1933-1934.

MR. WILLIAM A. BEERS, Solicitor, died at Banbridge
 District Hospital, Co. Down, on the 21st February,
 1952.

Mr. Beers served his apprenticeship with the late
 Mr. Robert M. Matheson, was admitted in Trinity
 Sittings, 1938, and practised at 6 Merrion Square
 under the style of Rooke & Beers.

MR. RICHARD C. KEOHANE, Solicitor, died at 50
 St. Helen's Road, Booterstown, Dublin, on the 15th
 March, 1952.

Mr. Keohane served his apprenticeship with the
 late Mr. Charles Daly, Solicitor, 25 Westmoreland
 Street, Dublin, was admitted in Hilary Sittings,
 1922, and practised at Ballybofey, Co. Donegal, and
 Strabane, Co. Tyrone.

LECTURESHIP IN COMMON LAW

THE Council invite applications from members of
 the Society for the position of lecturer in Common
 Law. The lecturer now to be appointed will
 commence duties in Michaelmas Sittings, 1952.
 Particulars of the terms and conditions of appoint-
 ment may be obtained from the Secretary.

EXAMINATION RESULTS

AT Examinations held on the 1st and 2nd days of
 February, 1952, under the Legal Practitioners'
 (Qualification) Act, 1929, the following passed the
 examinations:—

First Examination in Irish

Irene Mary Cafferkey, Julia Mary Conroy, John
 Joseph Delap, Robert A. Downes, William J. B.
 Fallon, John C. Farrell, Michael G. Fogarty,
 Thomas J. Furlong, Dermot Hegarty, John Ray-
 mond Macken, James Brendan O'Leary.

Fifteen candidates entered; 11 passed; 4 failed.

Second Examination in Irish

Fionnbar F. Callanan, Patrick J. Conway, Joseph M. L. Dockery, Donal P. Gallagher, Enda C. Gearty, Ivan W. P. Kelly, Henry J. A. Lafferty, C. Arthur Lavery, Edwin Russell McCloughan, James H. Mackey, Mary Moore, Nora Murphy, Una M. O'Higgins, John A. Phelan, Colm Price, Timothy Ryan, Eunice D. J. Spendlove.

Twenty-two candidates entered; 17 passed; 4 failed; 1 did not attend.

The remaining candidates are postponed.

THE REGISTRY

Section A

SOLICITOR'S Practice for sale in good country town. 20 miles from Dublin. Box A136.

Section B

CITY SOLICITOR. Long experience, particularly Conveyancing, seeks City position. Well recommended. Salary £500 p.a. Box No. B155.

SOLICITOR (aged 30), now in private practice, would be interested in assistantship with well established firm. Good connection, experience. Box B. 156.

SOLICITOR, admitted 1928, Commissioner for Oaths C. of I., in practice up to 1941. Royal Navy 1941 to 1946. Associated with firms in Reading and London since 1946 mostly in trust and conveyancing, wants assistantship Dublin or provinces, view to partnership or succession. Good experience in Land Commission and all Courts. Availal le next Autumn. Box B. 157.

SOLICITOR'S Assistant, qualified, with three years' District, Circuit, Probate, Debt Collection and general office experience, seeks position City. Well recommended. Box B. 158.

Section C

FOR sale. Complete set of Halsbury's Laws of England, together with complete set of Butterworth's Forms and Precedents (Irish and English) and O'Connor's Justice of the Peace—all perfect condition. What offers? Box No. C130.

DUBLIN Solicitor with good office accommodation desires contact colleagues interested in office sharing arrangement. Box C. 131.

SOLICITORS' BENEVOLENT ASSOCIATION

THREE £52 annuities will be offered for election at an early date. Solicitors joining now will be entitled to vote.

LOCAL REGISTRATION OF TITLE ACTS, 1891 AND 1942

NOTICE

Folio 772

COUNTY OFFALY

Registered Owner: RICHARD KEENE GAMBLE

An application has been made by the Personal Representative of the Registered Owner to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which it is alleged has been lost or inadvertently destroyed.

The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above named registered owner. Any such notification should state the grounds on which the Certificate is being held.

Dated this 7th day of April, 1952.

JOSEPH O'BYRNE

Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
DUBLIN.

SCHEDULE

L.C. of Richard Keene Gamble to 438a. 3r. 10p. of the lands of Killoly situate in the Barony of Ballyboy and County of Offaly being the lands comprised in said Folio.

from 30. The following is an analysis of the replies to questions submitted:—

	Replies
(a) Are you in favour of the recommendation by the Council of a uniform scale of costs for use by solicitors acting for local authorities on the completion of mortgages to secure advances made under the Small Dwellings (Acquisition) Acts?	Yes—29 No—1
(b) Are you opposed to any reduction in the full scale fee for such work?	Yes—6 No—22
(c) Should any scale recommended be related to the volume of work handled by the Solicitor in a single year?	Yes—2 No—28
(d) Are you in favour of a uniform scale of $1\frac{1}{2}\%$ suggested by the Department of Local Government?	Yes—15 No—14

It was decided that a letter should be written by the Secretary to the interested solicitors, explaining the present position and the result of the replies to the circular, asking them to convene a meeting in Dublin to discuss the matter with a view to giving the Council the necessary authority to discuss, and if possible agree, a scale with the Department of Local Government.

Land Registry Costs

A draft application to the Land Registration Rules Committee for an increase in the commission scale fee and other amendments to the rules relating to costs was considered and adopted. Representatives were appointed to attend before the Committee on the hearing of the application.

DECISIONS OF PROFESSIONAL INTEREST

In an action for personal injuries the defendant delays serving his defence on the ground that the plaintiff resident in the country has refused to submit to a medical examination unless the defendant undertakes to pay the expenses of his personal medical attendant of travelling to Dublin with him. Is the plaintiff entitled to judgment in default of defence?

No. In *O’Keeffe v. Rogers*, not yet reported, after a plenary summons had been served and an appearance entered, the solicitors for the defendant requested that the plaintiff who resided in Ballinasloe should attend for examination by the defendant’s surgeon in Dublin. The defendant’s solicitors undertook to pay the costs of conveying the plaintiff to Dublin and the fee of a Dublin surgeon of the

defendant’s choice for attending the medical examination. The plaintiff’s solicitor declined to comply with this request, and stated that the plaintiff would attend for examination only on condition that his personal doctor accompanied him, and that the defendant would pay the sum of 25 guineas being the amount of his Doctor’s fee. The defendant insisted on his original proposal and declined to deliver a defence until it was complied with. On the hearing of a motion for judgment in default of defence, it was contended for the plaintiff that he was entitled, as a condition of submitting himself for medical examination, to insist on the presence of his personal medical attendant. It was submitted by the defendant that the plaintiff could not reasonably require more than the attendance of a Dublin practitioner to be chosen by himself. Casey J. held that the defendant had acted reasonably and stated that, although he could not compel the plaintiff to submit himself to a medical examination, he could protect the defendant from the plaintiff’s unreasonable conduct. He refused the motion for judgment, allowed the defendant 21 days to file his defence, the costs to be part of the costs in the cause. (*Irish Law Times and Solicitors’ Journal*, 10th November, 1951).

Where a solicitor’s name has been struck off the roll by order of the Chief Justice on a report made by the Statutory Committee finding him guilty of professional misconduct, can proceedings be successfully brought afterwards against him on a petition under the Attorneys and Solicitors (Ireland) Act, 1849, claiming an order directing him to furnish a bill of costs and an account of moneys of the petitioner in his hands and to hand over to the petitioner documents in his possession?

Yes. In an unreported case before Mr. Justice Budd at the beginning of Hilary Term he held that the rule was, “Once an Attorney always an Attorney” for the purpose of an application under Section 2 of the Attorneys and Solicitors (Ireland) Act, 1849. The Solicitor’s name had been struck off the roll pursuant to an order of the Chief Justice made on the 11th December, 1951, and the petition claiming an account and delivery of documents was filed on 15th December, 1951. It was suggested at the hearing of the petition that the Court had no jurisdiction to make the order sought, in as much as Section 2 of the Act of 1849 deals only with “an attorney or solicitor, or any executor, administrator or assignee of any attorney or solicitor” and does not deal expressly with the case of an ex-solicitor. The only authority bearing on the case was *Simes v. Gibbs* (6 Dowl. 310), decided in 1838, in which an ex-attorney named

Humfrey was directed to hand over a bill of exchange on the ground that he could not get rid of the summary jurisdiction of the Court with respect to acts done while an attorney by ceasing to be one, Mr. Justice Budd following this decision made an order granting the relief claimed in the petition. (*Irish Law Times and Solicitors' Journal*, 2nd February, 1952).

On the bankruptcy of a solicitor who maintained a number of banking accounts, one of which was an account for clients' moneys in accordance with the English Solicitors Act, 1933, Section 1, and the Solicitors' Accounts Rules, 1945, is the trustee in bankruptcy entitled to receive the amount standing to credit of the clients' moneys bank account for payment to the general creditors?

No. In re a Solicitor (1951 M. No. 234) Roxburgh J. held that only property of the bankrupt vests in the trustee. Accounts at banks for clients within the Solicitors Act, 1933, Section 1 are not accounts for solicitors' moneys, nor mixed accounts of solicitors' and clients' moneys. Such accounts are held by the bankrupt solicitor on trust for another person within the meaning of the Bankruptcy Act, 1914, Section 38 (1) and accordingly do not vest in the trustee in bankruptcy.

Where a successful plaintiff is awarded costs against the defendant as between solicitor and client what is the test to be applied by the Taxing Master in ascertaining the costs which should be allowed, as distinguished from those which would be allowed on the ordinary taxation of costs as between party and party.

The rule applicable is R.S.C. Ord. 65, r. 27 (29)* which provides as follows:—"On every taxation the Taxing Master shall allow all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice or defending the rights of any party, but, save as against the party who incurred the same, no costs shall be allowed which appear to the Taxing Master to have been incurred or increased through over caution, negligence, or mistake, or by the payment of special fees to Counsel or special charges or expenses to witnesses or other persons, or other unusual expenses." Costs payable by one party to another may be directed to be taxed (a) as between party and party; (b) as between solicitor and client; (c) as between solicitor and own client. The latter order gives the successful litigant a complete indemnity against his opponent in respect of all costs which the successful litigant is liable to pay to his own solicitor. Order (b) gives the successful litigant an indemnity in respect of his solicitor and

client costs subject to the proviso in Ord. 65 r. 27 (29) as to the disallowance of costs incurred through over caution, negligence, mistake, etc. The statement in the Taxing Master's report in *Giles v. Randall* (1915, 1 K.B. 290) that "a solicitor and client taxation is substantially a party and party taxation on a more generous basis" if approved by the Court, was merely an obiter dictum and is not binding. While the indemnity against an unsuccessful opponent given by an order for taxation as between solicitor and client cannot be construed as an order for taxation as between solicitor and own client, it nevertheless enables the Taxing Master to increase the fees which would be allowed as between party and party and to allow fees which would be disallowed altogether as between party and party, subject to the limitation of R.S. C. Ord. 65 r. 27 (29). (*Reed v. Gray*, 1952, 1 All E. R. 242).

Where a country solicitor instituted proceedings in the High Court in which he acted for himself, employing London Agents, was he entitled under an order against the defendant for costs as between solicitor and client to be allowed fees claimed for instructing the Agents and for their attendance on the Plaintiff?

Yes. Although a solicitor cannot claim for consulting, instructing and attending on himself he can incur costs for such work performed by his Agents and such costs are allowed. (*Reed v. Gray*, *Supra*).

Is a married woman who does not follow a gainful occupation entitled to more than nominal expenses as a witness?

Yes. Having regard to her absence from domestic duties the witness is entitled to more than the amount of her disbursements and should receive more than a nominal sum. (*Reed v. Gray*, *Supra*).

Where an unqualified person prepares an instrument relating to real or personal estate, which to be effective should be under seal but which is not, in fact, sealed, is it a defence to proceedings under Section 44 of the Stamp Act, 1891, to say that the document is an agreement under hand only within the meaning of sub-section 2 of the Section?

No. The appellant, an estate agent, prepared for reward an instrument purporting to be an agreement under hand only for a lease of certain property for a term of 14 years. To be effective as a lease the document should have been under seal in accordance with English law. On being charged with an offence under the English Solicitors Act, 1932, Section 47 (1) which replaced Section 44 of the Stamp Act, 1891, the defendant contended that no offence had been committed as (a) the instrument

*N.B., Cf. R.S.C. (1r.) 1905, D.LXV. r. 65 (28) (29).

was an agreement under hand only within the meaning of Section 47 (4) (b) of the Act of 1932 and (b) assuming that it was a lease and not a tenancy agreement it was for a term which would not necessarily last more than three years and therefore under Section 52 (2) (d) and 54 (2) of the Law of Property Act, 1925 it was not required to be under seal. It was held that an instrument which is void at law unless under seal and which in fact is not under seal is not an agreement under hand only, and therefore if an unqualified person draws or prepares such an instrument he is guilty of an offence. It is immaterial whether the document is called an agreement or a lease as it is the effect of the document and not what the parties choose to call it which matters. If the instrument was not under seal it would be invalid in law, but, if it had been under seal it would have conferred a title on the defendant to remain in possession of the premises for 14 years. (*Kushner v. Law Society*, 1952, I.A.E.R. 404).

THE REGISTRY

Register A.

WANTED: An experienced Law Clerk for well-known office in County Tipperary. Will applicant please send on full particulars and copy references and state salary expected. Box A. 137.

Register B.

SOLICITOR (Lady), experienced seeks appointment, Dublin City. Box B. 159.

Register C.

WANTED: Millers Probate Practice. State price and condition. Box C. 132.

Register D.

PROPERTY WANTED.

WANTED: A farm of about 150 to 200 acres with small Gentleman's Residence in good order, in any part of the Republic, but the land must be of first class quality.

ALLEN & HALPIN,
Solicitors,

Church Street,
CAVAN.

LEGAL LITERATURE

- Law Times* —28th December—"Factory: Meaning at Law."
4th January—"Disagreement of the Jury."
18th January—"Sir Thomas More The Lawyer—I."
1st February—"Sir Thomas More The Lawyer—II."
8th February—"The Defamation (Amendment) Bill"—"Bankruptcy—Reputed Ownership."

Solicitors' Journal

- 15th February—"Costs of Execution"
"Misrepresentation of Agent."
29th February—"Election Expenses."
29th December—"Sales by a surviving Joint-Tenant." "Matrimonial Convivance." "Estate Agents Commission." "Compensation for Loss of Goodwill."
5th January—"Revocation Clause in Will." "Repairs to Motor Vehicles." "Dilapidations."
12th January—"Consent to Surgical Operation."
19th January—"Actions by Spouses against each other in tort." "Re-Entry by Evicted Person."
2nd February—"Voluntary Transfers of Property." "Permissive but Exclusive Occupation."
9th February—"Lien and the Right of Sale."
16th February—"Recovery of Tax on Tax Free Annuity." "Sealing and Its Effect."
8th March—"Trustees' Power to Determine Questions."

Modern Law Review

- January—"Recent Developments in Doctrine of Consideration." "False Documents in the Law of Forgery." "Effect of Liquidation on Contracts of Service." "Habeas Corpus Appeals."

Irish Law Times and Solicitors' Journal

- 5th January—"Historical Background to Charitable Donations and Bequests Act 1884—I."
12th January—"Historical Background to Charitable Donations and Bequests Act 1844—II." "Garnishee Application Against Co."
19th January—"Charitable Bequests—III."
26th January—"Mens Rea—I." "Applicability of Prerogative Rights."
2nd February—"Mens Rea—II."
9th February—"Mens Rea—III."
23rd February—"Sportsgrounds Adjoining Highways." "Constitutionality of Section 2 of Land Act 1946."

Law Quarterly Review

- January—"Larceny by an Owner and Animus Furandi." "Perpetuities" (W. B. Leach).

EXAMINATION RESULTS

At the Preliminary Examination for intending apprentices to Solicitors held on the 31st day of March and 1st day of April, the following passed the examination and their names are arranged in order of merit:—

1. John Joseph Delap.
2. James Noel Tanham.

The remaining candidate is postponed.
3 candidates entered; 2 passed; 1 was postponed.

At the Final Examination for apprentices to Solicitors held on the 31st day of March and the 1st and 2nd days of April, the following passed the examination and their names are arranged in order of merit:—

1. Edward P. King.
2. John Brendan O'Flynn.
3. Patrick J. Carey.
4. John V. Kelly.
5. Patrick Desmond O'Connor.
6. Michael F. Flanagan } Equal.
7. John A. Greene }
8. Francis G. Keane.
9. Patrick O'R. Markey } Equal.
10. Patrick Noel Downes }
11. Francis B. Geary.
12. Felim H. Meade.
13. Patrick E. Thornton.
14. Henry W. Burleigh.
15. Kathleen Cussen.
16. Daniel C. Brilley } Equal.
17. Mary Noone }
18. Eileen Anne Brennan.
19. William S. O'Brien.
20. Patrick L. Tracey.
21. Patrick J. Cusack.
22. Simon D. J. Comer.
23. David Punch.

The remaining candidates are postponed.
29 candidates entered: 23 passed; 5 were postponed; 1 did not attend.

The Council has awarded Special Certificates to Edward P. King and John Brendan O'Flynn.

By Order,
ERIC A. PLUNKETT
Secretary.

STAMP DUTIES

MINISTER'S BUDGET STATEMENT

It will be recalled that in the Finance (No. 2) Act, 1947, by which the rates of stamp duty on transfers of lands and houses were increased, provision was made to relieve from the increase transfers between

persons related in a certain way. The relief was restricted to cases where persons were transferring property by way of gifts to their children or other younger relatives or to their brothers or sisters. It has been represented to me that hardship may be caused by restricting the relief to these particular kinds of family transactions. For example, there is no relief where children want to transfer property to their widowed mother, or where brothers and sisters want to sell their interest in the family farm to that member of the family who is remaining on to work the land. To meet these cases I propose to include in the Finance Bill a provision extending the relief to include sales as well as gifts or voluntary dispositions, and transfers from the younger to the older relatives as well as transfers in the opposite direction. This will mean that the maximum rate of duty in all these cases will be 1 per cent.

Under 1947 legislation stamp duty at the rate of 25 per cent. was imposed on transfers of lands or tenements unless the instrument contained a statement certifying that the person who became entitled to the entire beneficial interest in the property was an Irish citizen or came within one of the other classes specified in the statute. The specified classes did not include a body corporate without a share capital, incorporated in the State after the 15th October, 1947. It follows that transfers to bodies corporate of this type are chargeable with duty at the rate of 25 per cent., even though the body may be composed exclusively of Irish citizens.

Another general type of body corporate not mentioned among the classes which the legislation specifies is the body corporate incorporated in the State after the 15th October, 1947, whose issued shares are wholly or mainly in the beneficial ownership of another body corporate incorporated here after the same date, where the issued shares of this other body corporate are wholly or mainly held by Irish citizens. In other words, under the law as it stands the question of the 25 per cent. rate of stamp duty would arise in the case of a transfer of lands or tenements to a subsidiary of an Irish company registered after the 15th October, 1947.

The two difficulties I have indicated are manifesting themselves in concrete cases and it is my intention accordingly to have remedial provisions written into this year's Finance Bill. Another matter which will be covered is the granting of exemption or virtual exemption from duty in instances where property is transferred and the transfer is being made from a parent company to its subsidiary.

Death Duties

Where a sum of money is deposited with a banker in the joint names of two or more persons and one

of the persons dies, the legal estate in the deposit vests automatically in the survivor; and the bank, before paying out to the survivor, will not require production of probate or of letters of administration. Before 1935, when preventive action was taken, it thus frequently happened that moneys on deposit were withdrawn by a surviving depositor in a joint account without the claim for death duties on the deposit having been discharged. Section 33 of the 1935 Finance Act prevented a banker from paying out money in a joint account to a survivor until any claim for death duties had been satisfied. The provisions of the section were limited to deposits exceeding £100 in amount. At that time estates not in excess of £100 in value were exempt from all death duties and, although the deceased might have died possessed of other property, it was considered safe to exclude deposits of £100 or under from the scope of the section. Since last year estates not exceeding £2,000 in value are no longer liable to death duties, so it appears to me that the limit of £100 for joint deposits in the Finance Act, 1935, might be lifted to £500, with some administrative saving and without undue risk to the revenue. The Finance Bill will contain an appropriate provision.

CENTENARY OF CHARTER

THE list of applications for dinner cards has been closed, except to fill casual vacancies.

Members are again asked to note the following information concerning the Society's functions:—

Tuesday, May 27th.

8.30 p.m.: Reception by the President and Mrs. Cox, Four Courts, for members and ladies.

Wednesday, May 28th.

10 a.m.: Solemn Votive Mass, Pro-Cathedral, Marlborough Street. Members only.

10 a.m.: Church of Ireland Service, St. Patrick's Cathedral. Members and their wives.

12 noon: General Meeting, Solicitors' Buildings, Four Courts. Members only.

7.30 p.m.: Charter Centenary Dinner, Aberdeen Hall, Gresham Hotel. Members only.

Members unexpectedly prevented from attending the dinner please notify the Secretary.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

NOTICE

Folio 6104

COUNTY ROSCOMMON

Registered Owner: PATRICK KILCOYNE.

An application has been made by the Registered Owner to the Registrar of Titles for the issue of a

Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which, it is alleged, has been lost or inadvertently destroyed. The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above-named Registered Owner. Any such notification should state the grounds on which the Certificate in question is being held.

Dated this 1st day of May, 1952.

JOSEPH O'BYRNE,
Registrar of Titles.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE

Land Certificate of Patrick Kilcoyne in respect of plot of ground with the houses etc. thereon in the town of Ballaghaderreen containing oa. or. 29p. and to 3a. 2r. 13p. of the lands of Lung, both situate in the Barony of Costello and County of Roscommon, being the lands comprised in said Folio.

NOTICE

Folio 1394

COUNTY CORK

Registered Owner: DAVID LYNCH

An Application has been made to the Registrar of Titles for the issue of a Certificate of Title in substitution for the Certificate specified in the Schedule hereto, which it is alleged to have been lost or inadvertently destroyed.

The Registrar of Titles will issue a duplicate Certificate unless he is notified within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of some person other than the above named registered owner. Any such notification should state the grounds on which the Certificate is being held.

Dated this 1st day of May, 1952.

J. J. O'SHEA,
Chief Clerk.

Land Registry,
Central Office,
Chancery Street,
Dublin.

SCHEDULE

Land Certificate of David Lynch to oa. or. 37½p. of the lands of Williams town and Claycastle called the Beach situate near the town of Youghal in the Barony of Imokilly and County of Cork, being the lands comprised in said Folio.

OBITUARY

MR. JOHN C. GARVEY, Solicitor, died at his residence, Murrisk Abbey, Westport, Co. Mayo, on the 27th March, 1952.

Mr. Garvey served his apprenticeship with the late Mr. H. Stuart Moore, Solicitor, 31 Molesworth Street, Dublin, was admitted in Michaelmas Sittings, 1901, and practised at Westport under the style of Messrs. Garvey & Smith.

MR. BASIL THOMPSON, Solicitor, died at his residence, Burlington Road, Dublin, on the 6th April, 1952.

Mr. Thompson served his apprenticeship with the late Mr. Edward D. MacLaughlin, Solicitor, 3, 4 and 5 Suffolk Street, Dublin, was admitted in Michaelmas Sittings, 1900, and practised at 12 Molesworth Street as senior partner in the firm of Messrs. Bennett Thompson & Edwards now known as Messrs. Bennett Thompson Fetherstonhaugh & Carter. He was a member of the Council of this Society from 1913 to 1939. Vice-President for the year 1917-18 and President of the Society for the year 1927-28.

MR. CECIL BAILLIE GAGE, Solicitor, died at his residence Lansdowne Lodge, Dublin on the 7th April, 1952.

Mr. Baillie Gage served his apprenticeship with the late Mr. Richard S. Reeves, Solicitor, 51 Merrion Square, Dublin, was admitted in Trinity Sittings, 1900, and practised at Amien Street Station as law agent to the Great Northern Railway.

MR. MICHAEL J. KAVANAGH, Solicitor, died in Ely Nursing Home on the 15th April, 1952.

Mr. Kavanagh served his apprenticeship with the late Mr. Michael J. O'Connor, Solicitor, Wexford, was admitted in Michaelmas Sittings, 1924 and practised at Wexford.

MR. JOHN G. OULTON, Solicitor, died at his residence, Clontarf Castle, Dublin on the 17th April, 1952.

Mr. Oulton served his apprenticeship with the late Mr. William S. Hayes, Solicitor, 24 Nassau Street, Dublin, was admitted in Michaelmas Sittings, 1912 and practised at 47 Upper Mount Street, Dublin as senior partner in the firm of Messrs. Franks & Oulton.

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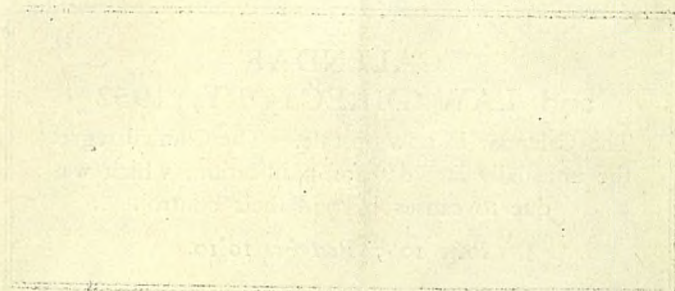
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CALENDAR and LAW DIRECTORY, 1952

The Calendar is now on sale. The Council regret the unusually late date of publication, which was due to causes beyond their control.

Price 10/-; Post free 10/10.

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