



*W.F.A.*

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# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2807 (2 lines).

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. IV, No. 1.]

May, 1910.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meeting of the Council.

*April 20th.*

### Half-Yearly Accounts.

Upon the recommendation of the Finance Committee cheques amounting to £216 17s. 2d., in discharge of Half-yearly Accounts, were ordered to be drawn and paid.

### University College, Cork.

A letter was read from the Hon. Sec. of the Southern Law Association enclosing the syllabus for the law courses in University College, Cork, for the approval of the Council. The matter was referred to the Court of Examiners.

### Certificate.

An application by a Solicitor for the renewal of his annual certificate was considered and granted.

### Court of Examiners.

A report from the Court of Examiners upon petitions of three law clerks seeking leave to be bound under Section 16 was submitted; two applications were granted, and the third was refused.

### Council Meetings.

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

May 4th and 18th.

June 1st, 15th and 29th.

### Committee Meetings.

THE following Committee Meetings were held during April:—

Gazette, 11th.

Court of Examiners, 15th.

Trustee, 22nd.

Land Act, 25th.

Costs, 28th.

Court of Examiners, 29th.

### Labourers Ireland (Order), 1909.

#### COSTS OF DEDUCING TITLE.

ATTENTION is drawn to the decision of the Lord Chief Baron in the case of *Elliott and Magee v. Stranorlar Rural District Council*, to be found in this GAZETTE, whereby it was decided that the Solicitor for a judicial tenant, portion of whose land had been acquired under the Labourers (Ireland) Act, 1906, is entitled to be paid costs applicable to a lessee under the Labourers (Ireland) Order, 1909, for deducing title to the land so acquired. Following upon this decision, it is understood, that the Taxing Officer (Mr. McHugh), appointed under the Labourers (Ireland) Order, 1909, will in future tax as owner's or lessee's costs, the costs of deducing title to land acquired under the Labourers (Ireland) Act, 1906, from a judicial tenant who has entered into an agreement to purchase under the Land Purchase (Ireland) Acts.

### Finance (1909-10) Act, 1910.

THE important circulars recently issued by the Commissioners of Inland Revenue to Solicitors with reference to Increment Value

Duty, and other matters consequent upon the passing of the Finance Act, have been referred by the Council to a Committee for consideration.

### Half-Yearly General Meeting.

MEMBERS are reminded that the Half-yearly General Meeting of the Society will be held in the Hall of the Society, Solicitors' Buildings, Four Courts, Dublin, on Friday, the 13th day of May, 1910, at two o'clock, p.m., to elect Auditors of the Accounts of the Society; to nominate Scrutineers of the Ballot for Council to be held in November next, and to receive and consider the Report from the Council upon two references from the General Meeting held in November last.

The following Report from the Council upon said two references will be submitted for adoption:—

Reference No. 1.—“To report to the General Meeting to be held in May next, whether it be desirable to make the following Amendments in the Bye-laws:—

“That Bye-law 3 of the Bye-laws of the Incorporated Law Society of Ireland shall be amended by leaving out the words from ‘the amounts’ down to ‘other Members,’ and substituting therefor ‘The annual subscription to the Society shall be:— For members taking out a Dublin Certificate who have been admitted for three years and upwards, £1. For members taking out a Country Certificate who have been admitted for three years and upwards and are desirous of voting for the Ordinary Members of the Council, £1. For all other members, 10s.’”

“That Bye-law 22 be struck out, and in place thereof there shall be substituted the following:—

“Bye-law 32. All members paying the subscriptions set out in Bye-law 3 shall be entitled to vote at the election for Ordinary Members of the Council 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. Every member taking out a Country Certificate and paying the subscriptions set out in the Bye-law 3 shall be

“entitled to vote for the Provincial Delegate for his Province.”

The Council have considered the effect of the above suggested amendments, which would be to reduce the subscription of members admitted to the profession less than three years, to ten shillings per annum, and to give to all Country members admitted to the profession less than three years, the right to vote both for the Ordinary Members of Council and for the Delegate of the Province. The Council recommend the General Meeting to adopt the suggested amendments, and notice is given that the President will at the Meeting move the above amendments to the Bye-laws.

Reference No. 2.—“That the Council of the Incorporated Law Society consider the question of compulsory membership of the Society in the case of practising Solicitors, and report thereon to the Meeting of the Society to be held in May next.”

The Council are of opinion that it is not desirable to promote legislation for the purpose of enforcing compulsory membership of the Society, and they recommend that no further action be taken on this reference.

### Annual Subscriptions.

MEMBERS are reminded that the annual subscription to the Society became due upon the first day of May, as well as annual press-rents (five shillings).

### New Members.

THE following joined the Society during April:—

Barron, Louis, 33 Wicklow Street, Dublin.  
Hamerton, John T., 39 Fleet Street, Dublin.

Ross, Alexander, 1 Upper Mount Street, Dublin.

### Commissioners to Administer Oaths.

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

William E. G. Lloyd, Solicitor, 35 Dame Street, Dublin.

Thomas Larkin, Auctioneer, Magherafelt.



**Obituary.**

SIR SAMUEL BLACK, Solicitor, died on the 18th April, 1910, at his residence Glen Ebor, Belfast.

Sir Samuel, who served his apprenticeship with the late Mr. John Bates, Solicitor, Town Clerk, Belfast, was admitted in Hilary Term, 1854, and practised in Belfast.

In 1871 he was appointed Town Solicitor to the Corporation of Belfast, and in 1878 he was appointed to the combined offices of Town Solicitor and Town Clerk, which he filled until last year, when he retired.

He was President of the Northern Law Society from 1895 to 1897, and he was an extraordinary member of the Council of the Incorporated Law Society of Ireland from 1895 to 1904.

**New Solicitor.**

ADMISSIONS DURING APRIL, 1910.

Name	Served Apprenticeship to
Girvin, William Harold	William J. Girvin, Killorglin.

**Recent Decisions affecting Solicitors.**

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

CIRCUIT CASE.

(Before Palles, C.B.)

*Lifford, March 15, 1910.—Labourers (Ireland) Act, 1906—Costs—Local Government—Labourers Acts—Labourers (Ir.) Order, 1909, r. 55 (8) and (9)—Costs of owner or lessee.*

*Thomas Elliott and Richard Magee v. Stranorlar Rural District Council.*

A judicial tenant upon whose holding a fair rent has been fixed under the Land Law (Ir.) Acts is an owner or lessee within the meaning of r. 55 (8) of the Labourers (Ir.) Order, 1909, and a solicitor acting on his behalf may exercise his option under r. 55 (8) and claim the fee payable for deducing title to, and completing the transfer of, lands taken under the Labourers (Ir.) Acts, without taxation.

This was an appeal from a decision of the County Court Judge dismissing the plaintiffs' claim for £2 2s. for fees payable for deducing title to lands taken under the Labourers

(Ir.) Acts and for completing transfer thereof to the council. The plaintiff, Richard Magee, was a judicial tenant by virtue of an order of the Irish Land Commission fixing a fair rent for the holding, portion of which the Stranorlar Rural District Council had acquired for the purposes of the Labourers (Ir.) Acts. The compensation awarded did not exceed £60, and relying on the Labourers (Ir.) Order, 1909, r. 55, his solicitor, Thomas Elliott, claimed £2 2s. for the costs of deducing title and completing the transfer of the lands. The council refused to pay on the grounds that a judicial tenant is only an occupier, and not an owner or lessee, and is therefore only entitled to a fee of 10s. 6d. as and for the work done in respect of the plot acquired under r. 55 (9). The present action was instituted to have this question determined. Rule 55 (8) and (9) provide as follows:—

(8) At the option of the solicitor acting on behalf of an owner or lessee, the total fees payable for deducing title to lands taken under the Acts, and completing transfer thereof to the Council, may, without any taxation as aforesaid, be in accordance with the following scale:—

Where the total purchase-money payable to an owner or lessee in respect of lands taken does not exceed £60	£2 2 0
Where the same exceeds £60 but does not exceed £100	3 3 0
Where the same exceeds £100 but does not exceed £200	4 4 0
And beyond £200 at the rate of two per cent. for every additional £100 or part thereof up to and including £1,000,	
And beyond £1,000 at the rate of one per cent. for every additional £100 or part thereof.	

(9) Where, on the application of a council or their solicitor, a short abstract or declaration of title is furnished on behalf of the occupier (other than the owner or lessee) of land authorised to be acquired, the council may pay to such occupier, without any taxation, a sum not exceeding 10s. 6d. as a fee in respect of the employment of such solicitor by him for the purpose of making out and furnishing such abstract or declaration.

Babington, for plaintiffs.—The Lands Clauses Acts are incorporated in the Labourers Code by s. 16 of the Labourers (Ir.) Act, 1883, and defined by s. 21 of the same Act, to include the Railways Act (Ir.), 1851. Section 23 of the Interpretation Act, 1889, contains a similar provision. The Lands Clauses Acts as applied to the Labourers Code are further amended by the introduction of the Second Schedule of the

Housing of the Working Classes Act, 1890, (see s. 3 (1) of the Labourers (Ir.) Act, 1896), but not so as to exclude the Railways Act (Ir.), 1851. The preamble of that Act shows that the tenure according to the law of Ireland is to be recognised in proceedings under it. It says:—"Whereas, on account of circumstances connected with the tenure of land in Ireland, the provision of the Lands Clauses Consolidation Act, 1845, are found to be unsuited to the existing condition of that country, &c., &c., be it therefore enacted." Owners, lessees and occupiers, therefore, in s. 4 of that Act mean owners: lessees and occupiers according to the law of Ireland; and a judicial tenant, according to the law of Ireland, is a lessee both by reason of holding from year to year, which contract need not be in writing under s. 4 of Deasy's Act, and by virtue of the order of the Land Commission, which is a contract of tenancy reduced to writing, and enforced on both parties to it by statute (*R. Wright v. Chairman and Justices of Co. Cork*, 40 Ir. L.T.R., 103 (1906); 2 Ir. R. 349.) The same principle applies to the rules made under the Acts.

Wylie, for the Stranorlar District Council.—Owner or lessee means a person who can give a title to something more than the occupation interest, and all through the Acts the words are used in this sense. Owner or lessee really means a person having power to sell under the Land Purchase Acts: (see s. 11 (1) of the Labourers (Ir.) Act, 1906), and in this connection lessee means a person holding under a long lease. Tenants from year to year and judicial tenants have always been treated as occupiers, and come under sub-rule (9).

Palles, C.B.—I cannot follow the argument that the word "lessee" in this order is to have any other meaning than that usually attached to it. Apart from the Labourers Acts and the Lands Clauses Acts, a judicial tenant is certainly a lessee, and I cannot see why any other construction should apply when these Acts (or rules made in pursuance of them) are under consideration, and I think the plaintiffs are entitled to a decree for the amount claimed.

(Reported *Irish Law Times Reports*, Vol. xliv, p. 95).

#### COURT OF APPEAL (ENGLAND).

(Before Vaughan Williams and Fletcher Moulton, L.JJ.)

*Jones v. Stott and Others.*

April 5, 1910.—Costs—Appeal and Cross-Appeal—R.S.C., lviii., 6, 7, (*Rules of Supreme Court of Judicature, Ireland, Order, lviii., 6, 7*).

The plaintiffs sued the defendants, and the trial ended in judgment being entered for the defendants without costs. Both parties appealed, but the defendants set down their appeal (which was merely for costs of the action) first. Consequently, the plaintiff's appeal, which raised the substantial issue as at the trial, came on by way of cross-appeal. On the hearing of the appeals, both were dismissed with costs.

*Held*, that in taxing the costs the appeal and cross-appeal should be treated by the taxing master as two separate appeals.

Appeal by the plaintiff on a question of taxation arising out of an Order made by the Court of Appeal in an action decided last Sittings. The facts sufficiently appear from the judgment.

Vaughan Williams, L.J.—I do not think that in this case we have anything further to do than to consider the terms of the order which was made in this Court. The part of the order which deals with costs is as follows:—"Upon hearing Mr. Scott Fox, for the defendant, and Mr. Norman Craig, for the plaintiff, on the notice of motion, dated 26th day of February, 1909, given on behalf of the defendants on appeal from so much of the judgment of A. T. Lawrence, J., given on the trial of this action before him at York on the 15th day of January, 1909, as directs that the defendants shall have no costs, and as deprives them of their costs of the action, that such part of the said judgment as directs as aforesaid might be reversed and set aside, and that the judgment in the said action might be entered for the defendants with costs. And upon hearing the same Counsel on the cross-notice, dated the 19th day of April, 1909, given on behalf of the plaintiff of his intention to contend that the said judgment should be reversed or varied in so far as it adjudges that judgment be entered for the defendant without costs." That cross-notice went to the whole of the plaintiff's

alleged cause of action, and the whole of the learned judge's decision that the defendants ought to have judgment, but without costs—"and upon reading the said judgment. It is ordered that the said judgment be affirmed and the appeal of the defendants be dismissed with costs, to be taxed by the taxing master." That is, the defendants failed altogether to get the judgment of the learned judge modified by striking out so much of it as said the defendants were to have no costs, and giving the defendants costs—"and that the cross-notice of the plaintiff be also dismissed with costs, to be taxed by the taxing master." That is, the plaintiff's cross-notice, in which he claims that he ought to have judgment in the action, and, I suppose, probably claimed it—I have not got the actual motion before me—the judgment with costs; I suppose it was dismissed, and the costs taxed by the taxing master. It seems to me, as far as that is concerned, it is a simple order under which there would be two taxations in respect of these two separate appeals. The order goes on: "And it is ordered that the taxing master do set off the plaintiff's costs of the appeal and the defendants' costs of the cross-notice when so respectively taxed, and certify to which of the parties the balance after such set off is due, and that such balance be then paid by the party to whom the same shall be certified to be due." It seems to me that that is a very specific order, and I am told that that order ought to be read in the light of a practice in respect of claim and counter-claim which was established by a judgment of Fry, J., as he then was, in *Saner v. Bilton* (L.R., 11 C.D., 416), a practice which results in the taxing master having to conduct his taxation upon the basis of which of the two sides is entitled to get the general costs. I do not myself think that the practice applies to the present case, having regard to the present order. I think that it was intended by the very terms of this order that there should be really two taxations, and that then, when these two taxations had been separately arrived at, the amount of the one should be set against the amount of the other, and that the balance should be paid by the one to the other in accordance with that result. Therefore, it seems to me that that order is not really, and ought not really, to be affected

by this practice to which we have been referred. It may very well be that the order that this court made was not in accordance with the practice which was in force—if there was such a practice—in respect of cross-appeals. I cannot say; but I frankly say that at the time when I was a party to the making of this order I was not aware that there was any such practice which would give to our order a different result from that which would have come out if the words of the order simply had been looked at, and the taxation conducted accordingly. It was said, I think, both by Mr. Tindal Atkinson and Mr. Norman Craig, that in arriving at such a conclusion as I have just described, the court would run the risk of telling the taxing master to allow sums for costs which had not in fact been incurred. I quite agree that if the result would be that which it is feared it might be, the master on taxation would probably say: "This is an order which it is impossible effectually to carry out, because it is made upon the basis that there really had been one set of costs for the defendants' appeal and another set of costs in respect of the plaintiff's appeal, and that steps in these two appeals had been taken which in fact had not been taken; then, when I come to tax I cannot possibly allow costs or fix an amount for costs in respect to costs which have never really been incurred." But I think, and I think Hamilton, J., thought, as far as I can judge from what I have heard and what took place, that there is really no such real difficulty here. It is true that there was really only one brief on each side in respect of these two appeals. If you come to apportion the fees on those briefs, then the deadlock will not arise which has been suggested. I asked the question, and both sides are agreed that there would not be the very slightest difficulty in apportioning the sum given on the one brief partly to one appeal and partly to the other appeal, and if there is no difficulty in doing that—and I do not understand from the Master's answers that there is any difficulty—I see no reason for interfering with the judgment of Hamilton, J. I think, therefore, this appeal fails, and ought to be dismissed with costs.

Fletcher Moulton, L.J.—I am also of opinion that the decision of Hamilton, J.,

was right. In this case the plaintiff failed in his action, but the judge gave judgment for the defendant without costs. Both parties appealed from that decision, and each claimed that judgment ought to be entered for him with costs. The defendants only appealed, therefore, against the disallowance of their costs. It happened that the defendants lodged their notice of appeal first, and then, by ord, 58, rr. 6 and 7, there is to be no separate notice of appeal on the other side, but what is called a cross-notice of appeal is given. In my opinion that is merely machinery to ensure that if there are appeals by both parties, those two shall come on together, and that there is no other meaning or object of those rules. The consequence is that it by no means follows that the appeal and cross-appeal are dependent one on the other. They may be so, but they may be quite independent. In this case they were quite independent, and the rights of the parties when they came to argue these appeals were, in my opinion, exactly the same as if two independent notices of appeal had been given and they were heard by the Court at the same time. The appeal of the plaintiff was by far the wider in its scope, it went to the whole of the decision; and if the two had been contested at length, I think that it is quite possible that the Court might have elected to hear the appeal against the whole of the decision before it heard the appeal with regard to costs, and there would have been nothing, in my opinion, contrary to the rules of court if they had chosen to do so. Under those circumstances they made one order, which was substantially two, dismissing each of the appeals with costs; and the question before us is, whether the mere fact that one of the appeals is in form of notice of appeal and the other of cross-notice of appeal, is to give the former such a position of priority that the taxation of those two sets of costs are to be on wholly different principles. In my opinion the decision of the court was not that in any sense. It dismissed each of the appeals as if they were independent appeals with costs, and the Master has to tax the costs of this appeal and this cross-appeal upon that principle. It is not a matter of any difficulty. It is similar to that which perpetually occurred before the Judicature

Act, when there would be an action and a cross-action, and the two were tried together, possibly with one brief, or at all events with the same Counsel, with the same witnesses, and the Master had to apportion the costs of those two independent actions. Therefore, there is no difficulty in my mind in the interpretation of the order; there is no difficulty in my mind in the carrying out of the order so interpreted. I do not mean to say that a cross-notice of appeal is always an independent notice. It may be distinctly dependent; it may be that if the court set aside so much of the decision, then the other party will claim that it ought to be done in a particular way. Under those circumstances I have no doubt that the court would, in giving direction as to taxation, see that the costs of that dependent motion was properly awarded. We have nothing of that kind here. In my opinion we have simply to consider what is the effect of what were practically two independent orders of the court upon two independent appeals, and how they should be interpreted. In my opinion, in a difficult case, Hamilton, J., has given suggestions—they are no more—to the Master as to how he should carry out what is his duty, that is, apportioning them.

Appeal dismissed with costs.

(Reported *The Solicitors' Journal and Weekly Reporter*, Vol. liv., p. 424).

### Labourers (Ireland) Act, 1906.

MEMORANDUM WITH REFERENCE TO THE PRACTICE IN THE LAND REGISTRY OF IRELAND UNDER THE LABOURERS (IRELAND) ACT, 1906.

LAND REGISTRY OF IRELAND,  
CENTRAL OFFICE,

DUBLIN, April, 1910.

NOTE.—This Memorandum is issued merely with a view to assisting the Local Registrar, Solicitors to Rural District Councils, and others in the work of Registration of Title under the Labourers Act of 1906. It must be taken as liable to modification as a result of judicial decisions, or otherwise.

(First issued April, 1907).

The cases may be divided as follows, viz. :—

- (A) Those in which the compensation payable to the person entitled does not exceed £60.
- (B) Those in which such compensation exceeds £60 but does not exceed £200.
- (C) Those in which such compensation exceeds £200.

A.

As to (A), Section 11 of the Labourers Act of 1906 applies.

The receipt may be given by a person who would be entitled to sell the fee simple in proceedings under the Purchase Acts.

The receipt of a first mortgagee of any such person will be as effectual as his own, provided he is so described in the receipt.

Any such receipt will enable the Council to be registered as owners in fee simple.

In cases where the plots coming under this group form portions of lands already registered, and a receipt signed by the registered owner (even though registered subject to equities) is lodged, the Council will be registered as owners in fee simple discharged of equities.

NOTE.—Where the compensation payable under any one award to any one vendor in respect of two or more plots taken from him, and held under a common title, though the compensation in respect of each plot does not exceed £60, exceeds in the aggregate £60, Section 11 of the Act of 1906 does not apply. Such cases therefore fall under groups B or C and not under this group.

B.

As to (B), the law as it stood before the Act of 1906 still applies.

The compensation payable may be paid either—

- (a) to the person ascertained on an investigation of the title to be entitled thereto; or,
- (b) to trustees appointed under the Lands Clauses Acts; or,
- (c) into Court.

If course (a) be adopted, it will be necessary for the title to be investigated, *unless*, the land is already registered free of equities, in which case the register alone is the title. In other cases the

evidence should consist of the abstract of title, affidavit or statutory declaration, furnished by the Vendor to the Council in support of his title, together with a certificate of Counsel, if such has been obtained. This evidence has been generally found sufficient, but the Registrar reserves to himself the right to make any further requisitions.

NOTE.—Where the evidence adduced shows that there is a first or only mortgage or charge exceeding in amount the total compensation money awarded in respect of the interest of the vendor, no further title need be shown than is sufficient to prove the nature of the estate (*i.e.*, whether freehold or leasehold) and the fact that the person signing the receipt or conveyance is entitled to such mortgage or charge.

In course (b) all burdens will attach to the money in the hands of the trustees, and no investigation of title will be necessary, and the receipt of the trustees will be sufficient to enable the title of the Council to be registered.

In course (c) also all burdens will attach to the purchase money, and the Council, on lodgment of a deed poll executed by them, will be registered as owners.

N.B.—Sums exceeding £10 and not amounting to £100 may be lodged in the County Court.

C.

As to (C) :—

All the remarks under group (B) apply to group (C), with the exceptions that money over £200 cannot be paid to trustees appointed under the Lands Clauses Acts, nor can sums of £100 or more be paid into the County Court.

GENERAL OBSERVATIONS.

For the purpose of registration the following documents must be lodged in the proper Local Office, viz. :—

*In all cases :—*

1. The receipt of, or transfer by, the person whose receipt is effectual to vest the fee-simple or who is capable of granting the fee-simple. (Receipts from mere occupiers need not be lodged.)

2. A certified copy of the Award of the arbitrator.
3. A complete set of ordnance sheets showing the various plots comprised in the Award certified to be a duplicate of the deposited maps.

NOTE.—Nos. 2 and 3 need only be lodged when the first receipt or transfer under any particular scheme, order, or award is being submitted for registration.

*And in cases coming under B. or C. :—*

4. Such evidence of title as is there set out.

*And in cases where the land was subject to a Land Purchase annuity :—*

5. Evidence of the release of the plot therefrom.

*And in the case of registered land, where there are registered charges thereon, and the compensation has been paid to the owner of the land :—*

6. Consent to such payment by the owners of all registered charges.

The particular attention of Councils is drawn to the circular letter from the Local Government Board dated 29th June, 1908 (L. 7886.08), on the subject of plots taken from holdings already vested or about to be vested in the occupying tenants, a copy of which has been issued to the Clerk of each Council.

In all cases the solicitor must ascertain, by search or otherwise, whether the lands acquired are already registered or not, and, if they are, the Folio number must appear on the face of the receipt or transfer.

Where possible, the form of receipt in the Local Government Board Rules, or Form 14 annexed to the Rules under the L. R. Title (Ir.) Act, 1891, should be adhered to, and long conveyances avoided.

As all responsibility for the due execution of receipts, etc., lies on the Council, the Registering Authorities do not insist on the verification of the signatures to these documents.

No stamp duty is payable on any receipt, transfer, or conveyance.

No fees are payable for registration or searches.

If the Council lodging the documents have been already registered as owners of other

lands in the same County, the Land Certificate held by them should be lodged, in order that the new plots may be added.

It is the practice to rely on the provisions of Section 47 (a and b) of the said Act of 1891 as sufficient for the protection of Crown and quit rents and the other charges therein specified.

The Land Certificate in relation to the several plots of land acquired in pursuance of any Scheme, Order, or Award is, as a rule, not issued until the registration of all has been completed, but pending such completion this document will be transmitted to the local authority, on application being made therefor, in case it should be required for Audit or other purposes, or, in the alternative, an official notification will be sent to the local authority when desired of the cases in which registration has actually been completed.

#### Solicitors' Benevolent Association.

A MEETING of the Directors was held upon the 20th day of April. The Secretary reported having received since last meeting the sum of £69 6s., making the total annual subscriptions received since January last £478 16s. 0d. The Secretary also reported having received a donation of £4 16s. from Charles G. Jefferson, Esq., representing the balance of a fund in his hands.

The Directors considered the various applications for relief, and made grants to four applicants, amounting in all to £82, bringing the amount afforded in relief since the 1st of January up to £214 11s.

The result of the scrutiny for the election of a candidate to an annuity of £15 was submitted, and No. 4 on the list having received the largest number of votes was declared duly elected.

The death of the holder of the "Jubilee" Annuity of the Association was reported, and it was resolved that an election for this annuity be held in the month of June next. The value of the annuity is £20 per annum, and applications by intending candidates should be lodged with the Secretary of the Association on or before Monday, 23rd May.

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

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2607 (2 lines).

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## DEATH OF KING EDWARD VII.

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A Special Meeting of the Council was held upon Monday, the 9th May. The President stated that owing to the death of His Majesty the King he had summoned the Council so that they might give expression to their feelings of regret. They all deplored the death of the King, which took place with such startling suddenness. He was a great and beloved Monarch, a great Diplomatist, and his voice was ever raised in the cause of peace. The sympathy of the Council would go out at this time to Her Majesty Queen Alexandra and to His Majesty King George, who, though he had gained a crown, had lost a loving father.

The President then moved, and it was unanimously resolved, that the following telegrams be immediately sent :—

To THE PRIVATE SECRETARY,  
Marlborough House,  
London.

The President and Council of the Incorporated Law Society of Ireland beg to offer to His Majesty the King their most respectful sympathy in his bereavement, and humbly to assure His Majesty of their feelings of loyalty and devotion to His Majesty's Throne and person.

To THE PRIVATE SECRETARY,  
Buckingham Palace,  
London.

The President and Council of the Incorporated Law Society of Ireland beg to assure Her Majesty Queen Alexandra of their most profound sympathy in her bereavement, and of their deep sorrow for the calamity which has befallen the nation.

To these telegrams the following replies were received :—

THE PRESIDENT,  
Incorporated Law Society of Ireland,  
Solicitors' Buildings, Four Courts, Dublin. 9th May, 1910.

Queen Alexandra sends her sincere thanks for your kind expressions of sympathy in her sorrow.

RICHARD MACNAMARA,  
Solicitors' Buildings, Four Courts, Dublin. 10th May, 1910.

The King sincerely thanks you and the Council of the Incorporated Law Society of Ireland for the kind sympathy and loyal assurances you express.—PRIVATE SECRETARY.

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The President received an invitation from His Excellency the Lord Lieutenant to attend the meeting of the Privy Council held on Monday, the 9th May for the Proclamation of His Majesty King George V. The President attended the meeting, and was one of the signatories to the Proclamation.



# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. IV, No. 2.]

June, 1910.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Half-Yearly General Meeting.

THE Half-yearly General Meeting of the Society was held in the Hall of the Society, at the Four Courts, on Friday, 13th May, the President (Mr. Richard A. Macnamara) in the chair. The following members were also present :—

W. V. Seddall (Vice-President), A. Lloyd-Blood (Vice-President), Sir G. Roche, Sir A. F. Baker, W. J. Shannon, George Collins, T. C. Franks, Wm. Fry, Gerald Byrne, F. C. Earle Bland, G. H. Lyster, C. A. Stanuall, James Henry, R. G. Warren, I. J. Rice, A. E. Bradley, Joseph Galloway, C. G. Gamble, P. K. White, E. Condell, A. G. Joyce, O. P. Beater, J. G. Perry, J. W. Davis, G. M. Collins, Gerald Byrne, Jun., W. J. Byrne, E. H. Byrne, C. Friery, W. Ryan, R. T. Holmes, W. Grove White, Sydney M. Bell, William Read, G. E. G. White, John Read, M. C. Jameson, N. L. Moran.

The Secretary (W. G. Wakely) read the notice convening the meeting, and the minutes of the meeting of last November which were signed by the President.

Before the commencement of the business of the meeting, the President alluded to the death of his Majesty King Edward and intimated that he had summoned a Special Meeting of the Council upon hearing of the sad news, in order that the Council might, upon behalf of the profession, express to His Majesty King George and to Her Majesty Queen Alexandra their feelings of sorrow, and the Council having met and passed resolutions of sympathy, these resolutions were conveyed by telegram, and telegrams in reply had been received.

MR. SEDDALL (Vice-President) moved, and MR. LLOYD-BLOOD (Vice President), seconded, and it was resolved that Messrs. W. W. Carruthers, J. J. Cartan and F. Gifford be appointed Auditors of the accounts of the Society for the year ending 30th April, 1910.

THE PRESIDENT nominated the following members to act as Scrutineers of the Ballot for election of the Council, to be held in November next :—Messrs. P. J. Brady, M.P. ; E. N. Edwards, W. H. Geoghegan, J. G. Perry and P. K. White.

THE PRESIDENT informed the meeting that in accordance with the undertaking given at the last November General Meeting, the Council had considered the resolution proposed by Mr. Rooney at that meeting, the object of which resolution was to reduce to ten shillings the subscription to the Society of members admitted less than three years to the profession. The matter was considered by the Council, and they had come to the conclusion to recommend to this General Meeting that the suggested amendment should be adopted. He (the President) now, pursuant to notice, moved that the bye-laws should be amended so as to give effect to the proposal.

MR. SEDDALL (Vice-President) seconded the motion, which was passed.

THE PRESIDENT said there was another proposal, which was made by Mr. P. J. Brady, M.P., suggesting compulsory membership of the Society for all practising Solicitors, and it was suggested that portion of the annual certificate duty should be allocated towards payment of the subscription to the Society. The Council also considered that

matter, and they had come to the conclusion, and so reported, that it is not desirable to force any member of the profession to become a member of the Society. They also thought it would not do for them at all to give any sanction to what might be considered to be an approval of the certificate duty. They had from time to time protested against the imposition of this certificate duty, as they considered it to be a most unjust and inequitable charge upon the profession. Therefore, the Council could not do anything that would in any way appear to give assent to the duty, leaving out of consideration the question whether the Treasury would consent to the allocation in the manner suggested. The Council, under these circumstances, could not report in favour of the proposal.

MR. BEATER asked if the Council had ever taken any energetic independent action to try to have the certificate duty taken off.

The PRESIDENT said they had repeatedly taken action, and had had an interview with a Chancellor of the Exchequer, but without any result up to the present.

The proceedings then terminated.

### Meetings of the Council.

*4th and 18th May.*

#### Finance Act (1909-10) 1910.

It was resolved that the circulars issued to the profession by the Commissioners of Inland Revenue relative to the new duties imposed by the Finance Act be referred to the Costs Committee to report upon.

#### Conveyancing Bill.

Clause 13 of the Conveyancing Bill, at present before the House of Commons, was discussed. Under this clause it is proposed that contracts by a purchaser or lessee restricting his choice of a Solicitor shall, subject to certain exceptions, be unenforceable. The Bill was referred to the Parliamentary Committee.

#### University College, Cork.

A report from the Court of Examiners, expressing approval of the proposed syllabus for the law courses in University College,

Cork, received from the Southern Law Association, was adopted.

#### Land Commission Stamps.

It was resolved to request the Commissioners of Inland Revenue to make provision for the sale of Land Commission Stamps in the Land Commission Buildings, Upper Merrion Street.

#### Council Meetings.

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

June 1st, 15th and 29th.

July 13th and 27th.

#### Committee Meetings.

THE following Committee Meetings were held during May:—

Gazette, 4th.

Costs, 10th.

Parliamentary, 26th.

Costs, 27th.

Court of Examiners, 30th.

#### New Members.

THE following joined the Society during May:—

Bell, E. St. Clair, 20 Molesworth Street, Dublin.

Campbell, Joseph, 16 Donegall Square, South, Belfast.

Connolly, Martin J., Tullow.

Fisher, Alexander, Newry.

Gowan, Thomas J., 3 Upper Sackville Street, Dublin.

Higgins, Alexander, 67 Mid. Abbey Street, Dublin.

McCarroll, Hugh, Wicklow.

McSpadden, Wm. George, Rathfriland.

Proctor, James C. B., Limavady.

Thompson, Henry E., 1 College Street, Dublin.

#### Membership of the Society.

The following amended Bye-laws were adopted by the May Half-Yearly General Meeting of the Society:—

3. The annual subscriptions to the Society

shall be:—For members taking out a Dublin certificate who have been admitted for three years and upwards, £1. For members taking out a country certificate who have been admitted for three years and upwards and are desirous of voting for the Ordinary Members of the Council, £1. For all other members, 10s. Each member shall pay his annual subscription in advance, on or before the first day of May in each year, after he shall have become a member. Provided, however, that members admitted for the first time in or after Michaelmas Sittings in any year shall only be required to pay half-a-year's subscription up to such first day of May, and such new members shall be entitled to vote at the then ensuing elections of the Council, in the event of their having joined the Society on or before the twentieth day of November.

32. All members paying the subscriptions set out in Bye-law 3 shall be entitled to vote at the election for Ordinary Members of the Council 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. Every member taking out a Country Certificate and paying the subscriptions set out in the Bye-law 3 shall be entitled to vote for the Provincial Delegate for his Province.

### Obituary.

MR. DAVID MCGONIGAL, Solicitor, Belfast, died on the 4th May, 1910, at his residence, Redcliffe, Strandtown, Belfast.

Mr. McGonigal, who served his apprenticeship with the late Mr. Henry Seeds, Solicitor, Belfast, was admitted in Easter Sittings, 1877, and practised in Belfast.

MR. DANIEL MCCALLUM, Solicitor, Belfast, died on the 23rd May, 1910.

Mr. McCallum, who served his apprenticeship with the late Mr. Conley Dickie, Solicitor, Belfast, and with the late Mr. Charles C. Russell, Belfast, was admitted in Michaelmas Sittings, 1882, and practised in Belfast and Newtownards.

### Legal Appointment.

THE Lord Lieutenant has appointed Mr. George M'Elroy, Solicitor, to be a Resident Magistrate for the County of Clare, under the provisions of the Act 6 Wm. IV., Cap. 13. Mr. M'Elroy was admitted a Solicitor in Michaelmas Sittings, 1891, and practised at Aughnacloy, County Tyrone.

### Solicitors Seeking Call to the Bar.

THE Statutory Committee having reported upon the applications of Mr. Brian P. MacErlean, Solicitor, and Mr. John Walker, Solicitor, to have their own names struck off the Roll in order to enter as law students of the King's Inns, with a view to seeking call to the Bar, the Lord Chancellor has made orders, in compliance with the recommendations contained in the reports of the Committee, directing the names of both Solicitors to be struck off the Roll at their own request.

Mr. MacErlean was admitted in Hilary Sittings, 1898, and practised at 73 Donegall Street, Belfast.

Mr. Walker was admitted in Michaelmas Sittings, 1893, and practised at 12 Trinity Street, Dublin.

### Finance (1909-10) Act 1910.

THE Council of the English Law Society have expressed the opinion (and have published it in the *Gazette* of that Society) that the additional work, now for the first time thrown on the Vendor's Solicitor in relation to the payment of increment duty, is not included in the scale charge for deducing title and completing conveyance, and that the Solicitor is entitled to a reasonable fee for the additional work actually done; and that the same rule would apply to a Solicitor acting for a Lessor.

The Council concur in this opinion of the English Law Society, and recommend that the profession should act as suggested by it.

### Irish Land Acts, 1903 and 1909.

REGULATION, dated 24th day of May, 1910, made by the Lord Lieutenant under Section 23 (8) of the Irish Land Act,

1903, and Section 4 of the Irish Land Act, 1909, supplemental to the Regulations thereunder dated the 15th February, 1910.

Notwithstanding anything contained in the Regulations of the 15th of February, 1910, it shall be lawful for the Estates Commissioners, if they think fit, to proceed with and accelerate the sanction and making of the advance of the purchase money of any estate being sold to the Estates Commissioners under Sections VI., VII. and VIII. of the Irish Land Act, 1903, out of its ordinary order of priority for special reasons to be recorded in writing and forwarded to the Lord Lieutenant before the said advance is sanctioned, and the said advance shall not be made out of its order of priority without the approval of the Lord Lieutenant.

### Recent Decisions affecting Solicitors.

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

COURT OF APPEAL (ENGLAND).

(Before Vaughan Williams, Fletcher Moulton and Farwell, L.JJ.)

*Clissold v. Cratchley and Another.*

April 14, 1910.—Execution—Writ of *fi. fa.* issued after payment of debt—Seizure by Sheriff—Liability of Solicitor—Trespass.

When the total amount of a judgment debt has been paid the judgment ceases to be of any force or effect. Execution levied thereunder is, therefore, a trespass, and an action will lie in respect thereof.

Decision of the Divisional Court reversed.

This was an appeal by the plaintiff from the judgment of the Divisional Court (Mr. Justice Darling and Mr. Justice Phillimore) on the hearing of an appeal from the Stroud County Court.

The action was brought by Mr. Clissold, a farmer living at Stroud, in Gloucestershire, against Mrs. Cratchley, who also resided in Gloucestershire, and Mr. H. Powell Richards, her Solicitor, for £30 damage for improperly levying an execution under a writ of *fi. fa.*, or in the alternative for damages for trespass by the defendants or their agents entering the plaintiff's premises and improperly

levying an execution. In consequence of certain litigation in the Stroud County Court Mrs. Cratchley had obtained in the High Court a writ of prohibition against Mr. Clissold, the costs of which Mr. Clissold was ordered to pay. In these proceedings Mr. H. Powell Richards acted as Solicitor for Mrs. Cratchley, and Messrs. Walker and Rowe, London agents for Mr. J. Lapage Norris, of Stroud, were Solicitors for Mr. Clissold. The costs having been taxed at £27 12s. 4d., Mr. Richards, on December 15, 1908, wrote to Messrs. Walker and Rowe requesting payment of the taxed costs before 11 a.m. the next day. At about noon on December 16 Mr. Norris went to Mr. Richards's office at Stroud, and paid the £27 12s. 4d., on behalf of Mr. Clissold, to a clerk of Mr. Richards named Greening, who was in charge of the office, and took from him a receipt signed "H. Powell Richards, p.p. B. J. Greening." Mr. Richards was then in London, and Greening did not at once inform him of the receipt of the money, and on the same day Mr. Richards, having had no further communication with Messrs. Walker and Rowe, sued out a writ of *fi. fa.* at 3.45 p.m., which was at once sent to the sheriff of Gloucestershire, and on December 17 the sheriff's officers, in pursuance of the writ, entered upon Mr. Clissold's farm and demanded £33 17s. 3d., and notwithstanding the production by him of Greening's receipt, levied on his goods to the extent of £50. On the next day, December 18, in consequence of a telegram from Mr. Richards, the sheriff's officers withdrew. Mr. Clissold having brought this action, the County Court Judge found that the amount of the costs in question was paid three hours before the writ of *fi. fa.* was issued, and that Greening had authority to receive it and to give a valid receipt for it. He also found that neither of the defendants had acted maliciously; but he held that, as the execution was illegal, the defendants were liable, and he gave judgment for the plaintiff for £15. On appeal the Divisional Court gave judgment for the defendants on the ground that in the absence of malice no action would lie against either of them for issuing the writ of *fi. fa.*

The plaintiff appealed.

Lord Justice Vaughan Williams said that

in his opinion the appeal must be allowed. He did not know that the law on which he based his judgment was in any way contradicted by the judgments of the learned Judges in the Court below. Both the learned Judges recognised the distinction between an action on the case and an action of trespass and recognised that in an action on the case of maliciously issuing out process the allegation of malice was an allegation of fact and must be proved, and that if it were not proved the action could not be maintained. And they both recognised that, if the action was not an action on the case but an action of trespass, malice was not essential to the maintenance of an action of trespass. He was not sure how they came to decide this case on the basis that the action could not succeed without an allegation and proof of malice. The plaint showed that this was an action of trespass; it was partly an action for maliciously issuing out process and partly an action of trespass. The learned County Court Judge in terms recognised this, and in delivering judgment treated the case as an action of trespass. It was, therefore, unnecessary to give any evidence of malice, and there seemed to him to be no ground for saying that the judgment of the County Court Judge was wrong. It was suggested that at the time when the writ of *fi. fa.* was issued the judgment which had been obtained against the plaintiff was still in force, notwithstanding the fact that the total amount of the debt ordered to be paid by the judgment had been paid and a receipt given. It was said that, notwithstanding that, there was an existing judgment which would support the writ of execution and which continued in force. Commonsense, apart from authority, told one that, when the total amount ordered by a judgment to be paid was paid, the judgment ought not any longer to be of any force or effect whatsoever. It had been argued that a writ of execution was good as long as the judgment was not in law set aside. It was therefore convenient to know that there was authority for the proposition that, when the total amount of a judgment debt was paid the judgment ceased to be of any force or effect whatever.

The Lord Justice read the following sentence from the summing-up of Baron Parke in *Tebbutt v. Holt* (I. C. and K., 280,

at p. 289):—"The law also is, if the debt and costs are paid or satisfied, the judgment is at an end." And in Bullen and Leake's *Precedents of Pleadings* (3rd ed.), at p. 353, was the following:—"An action will not lie for an arrest on final process upon a subsisting unsatisfied judgment; but if the party arrested can get the judgment set aside for irregularity or on any other ground, or can show that the judgment was satisfied by payment or otherwise before the arrest, he may then maintain an action; the arrest in such case would in general support an action of trespass." The authorities on which the defendants sought to rely were all instances of actions on the case for maliciously issuing out process. No authority had been cited justifying the proposition that a judgment which had been satisfied by payment still existed as a judgment in force for the purpose of issuing a writ of execution. The writ of execution in this case was void *ab initio*, and the defendants were therefore liable in trespass.

Lord Justice Fletcher Moulton and Lord Justice Farwell delivered judgment to the same effect.

(Reported *The Times Law Reports*, Vol. xxvi., page 409).

#### CHANCERY DIVISION (ENGLAND).

(Before Swinfen Eady, J.)

*In re Ward, Bowie and Co.*

April 14, 1910.—Costs—Taxation after payment—Payment under protest, 6 and 7 Vic., c. 73, s. 38; and 12 and 13 Vic., cap. 53, s. 3 (Ireland).

G., a client, purchased the equity of redemption in certain properties in 1906, and employed W. to act for him in the matter. In July, 1909, W., as a Solicitor for three mortgagees, gave G. notice to pay off the mortgages. It was arranged, after some delay, that the mortgages should be paid off and reconveyances taken, after which fresh mortgages were made. Completion was fixed for the 28th January, and W. delivered his bill on the 21st January. G. paid the bill "under protest," and now applied to tax the bill. The Solicitors for one of the mortgagees got an abstract of title to one property from W., and paid £10 8s. 4d. It was said that W., as Solicitor for G., when he purchased in

1906, ought to have made an abstract at that date, and this was objected to. Triplicate charges were made for the letters and attendances, inasmuch as W. acted for three mortgagees, but the charges were moderate. One item of 10s. 2d., however, was admittedly charged in error. Before the Master, W. offered to return £4, each party paying his own costs, but this was declined. *Re Williams; ex parte Love* (65 L. T. Rep. 68) was cited, in which taxation was ordered where a cheque had been sent "subject to our right to tax."

*Held* (1) that the £10 8s. 4d. charged for the abstract, being a sum paid by another firm, did not arise on this application; (2) that there is no rigid rule as to what circumstances will justify taxation of a Solicitor's bill after payment (*Re Cheesman*, 66 L. T. Rep. 602; (1891) 2 Ch. 289); and (3) that the applicant had not made out "special circumstances" entitling him to the order sought.

(Reported *The Law Times*, Vol. cxxvii., p. 568).

### Irish Land Commission.

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

Dublin, June 9th.  
Carrick-on-Shannon, June 15th.  
Sligo, June 16th.  
Enniskillen, June 17th.  
Dublin, June 23rd.  
Cork, June 29th.  
Waterford, July 1st.

### Summer Assizes.

#### NORTH-EAST CIRCUIT.

C. Meath.—At Trim, Friday, July 1st, at 11.30 a.m.  
Co. Louth.—At Dundalk, Monday, July 11th, at 11 a.m.  
Co. Monaghan.—At Monaghan, Wednesday, July 6th, at 11 a.m.  
Co. Armagh.—At Armagh, Friday, July 8th, at 11 a.m.

Co. Down.—At Downpatrick, Wednesday, July 13th, at 12 noon.

Co. Antrim.—At Belfast, Monday, July 18th, at 12 noon.

Co. of the City of Belfast.—Belfast, Wednesday, July 30th, at 11 a.m.

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

*Registrars*.—Mr. T. W. Wright, 25 Henry Street, Dublin; and Mr. Huston Dodd, 94 Marlborough Road, Donnybrook, Dublin.

#### NORTH-WEST CIRCUIT.

Co. Westmeath.—At Mullingar, Friday, July 1st, at 11.30 a.m.

Co. Longford.—At Longford, Monday, July 4th, at 12 noon.

Co. Cavan.—At Cavan, Wednesday, July 6th, at 11 a.m.

Co. Fermanagh.—At Enniskillen, Friday, July 8th, at 11 a.m.

Co. Tyrone.—At Omagh, Monday, July 11th, at 11 a.m.

Co. Donegal.—At Lifford, Saturday, July 16th, at 11 a.m.

Co. Derry.—At Londonderry, Wednesday, July 20th, at 11.30 a.m.

Co. of the City of Londonderry.—At Londonderry, Thursday, July 21st, at 10.30 a.m.

*Judges*.—The Right Hon. Mr. Justice Gibson, and the Right Hon. Mr. Justice Madden.

*Registrars*.—The Hon. E. Gibson, 38 Fitzwilliam Place, Dublin; and Mr. W. H. Atkinson, Nutley, Booterstown, Co. Dublin.

#### CONNAUGHT CIRCUIT.

King's County.—At Tullamore, Friday, July 1st, at 11.30 a.m.

Co. Leitrim.—At Carrick-on-Shannon, Monday, July 14th, at 2 p.m.

Co. Sligo.—At Sligo, Thursday, July 7th, at 11.30 a.m.

Co. Roscommon.—At Roscommon, Tuesday, July 12th, at 11 a.m.

Co. Mayo.—At Castlebar, Thursday, July 14th, at 12 noon.

Co. Galway.—At Galway, Monday, July 18th, at 11 a.m.

*Judges*.—The Right Hon. the Lord Chief Baron, and the Right Hon. Mr. Justice Kenny.

*Registrars*.—Francis Kennedy, Marino



Park, Blackrock, Co. Dublin; E. H. Kenny, Marfield, Cabinteely, Co. Dublin.

## LEINSTER CIRCUIT.

Co. Wicklow.—At Wicklow, Friday, July 1st, at 12.15 p.m.

Co. Wexford.—At Wexford, Saturday, July 2nd, at 3.15 p.m.

Co. Waterford.—At Waterford, Tuesday, July 5th, at 12 noon.

Co. of the City of Waterford.—At Waterford, Tuesday, July 5th, at 12 noon.

Co. Tipperary (South Riding).—At Clonmel, Friday, July 8th, at 11 a.m.

Co. Tipperary (North Riding).—At Nenagh, Monday, July 11th, at 2.30 p.m.

Queen's County.—At Maryborough, Wednesday, July 13th, at 11 a.m.

Co. Kilkenny.—At Kilkenny, Thursday, July 14th, at 11 a.m.

Co. Carlow.—At Carlow, Saturday, July 16th, at 11 a.m.

Co. Kildare.—At Naas, Monday, July 18th, at 11 a.m.

*Judges.*—The Right Hon. the Lord Chief Justice of Ireland, and the Right Hon. Lord Justice Holmes.

*Registrars.*—Mr. C. Clark, Airfield, Donnybrook, Co. Dublin; and Mr. Hugh O. Holmes, 3 Fitzwilliam Place, Dublin.

## MUNSTER CIRCUIT.

Co. Clare.—At Ennis, Friday, July 1st, at 11 a.m.

Co. Limerick.—At Limerick, Tuesday, July 5th, at 11 a.m.

City of Limerick.—At Limerick, Tuesday, July 5th, at 11 a.m.

Co. Kerry.—At Tralee, Friday, July 8th, at 12 noon.

Co. Cork.—At Cork, Friday, July 15th, at 11 a.m.

City of Cork.—At Cork, Monday, July 18th, at 10.30 a.m.

*Judges.*—The Right Hon. Lord Justice Cherry and the Right Hon. Mr. Justice Boyd.

*Registrars.*—Mr. Robert T. F. Greene, 61 Mid. Abbey Street, Dublin; and Mr. Robt. R. Boyd, Howth House, Howth, Co. Dublin.

## Additions to the Library.

THE following books have been added to the Library from November, 1909, to May, 1910:—

- Anson (Sir W. R.): Law of Contract. 12th ed. 8vo. London, 1910.
- Army List (Monthly). 8vo. London, 1910.
- Belfast Directory for 1910. 8vo. Belfast, 1910.
- Bolton (A. D.): Labourers (Ireland) Acts, Vol. II. 8vo. Dublin, 1910.
- Bower (G. S.): Actionable Defamation. 8vo. London, 1908.
- Buckley (Sir H. B.): Companies (Consolidation) Act, 1908. 9th ed. 8vo. London, 1909.
- Butterworth's Twentieth Century Statutes (annotated). 5 Vols. 8vo. London, 1910.
- Chalmers (Sir M. D.): Sale of Goods Act, 1893. 7th ed. 8vo. London, 1910.
- Cockburn (J. H.): Law of Private Railway Sidings and Private Traders' Traffic. 8vo. London, 1909.
- Hazell's Annual for 1910. 8vo. London, 1910.
- Halsbury (Rt. Hon. the Earl of): Laws of England. Vol. XI. 8vo. London, 1910.
- Incorporated Accountants' Year Book. 12mo. London, 1909-10.
- Irish Practice Decisions, 1906-1909. 12mo. Dublin, 1909.
- Kelke (W. H. H.): Epitome of Company Law. 8vo. London, 1909.
- Law List for 1910. 12mo. London, 1910.
- Lawes (E. T. H.): Workmen's Compensation. 8vo. London, 1909.
- Legal Diary and Almanac for 1910. 8vo. London, 1910.
- Maxwell (T. H.): Outline of the Law of Landlord and Tenant and of Land Purchase in Ireland. 8vo. Dublin, 1909.
- Medical Directory, The, for 1910. 8vo. London, 1910.
- Revised Reports, The. Vols. 110-112. 3 Vols. 8vo. London, 1910.
- Scottish Law List. 12mo. Edinburgh, 1910.
- Sell's Telegraphic Addresses, 1910. 8vo. London, 1910.
- Statutes:—  
Local and Personal Acts, 1909.  
Public General Acts, 1909.

- Statutes of Practical Utility passed in 1909, with notes. By W. H. Aggs. 8vo. London, 1910.
- Statutory Rules and Orders, issued in the year 1909. 8vo. London, 1910.
- Stock Exchange Official Intelligencer for 1910. 4to. London, 1910.
- Stock Exchange Year-Book for 1910. 8vo. London, 1910.
- Stringer (F. A.): Oaths and Affirmations. 3rd ed. 8vo. London, 1910.
- Stubbs' Commercial Year-Book, 1910. 8vo. London, 1910.
- Thom's Official Directory, 1910. 8vo. Dublin, 1910.
- Whitaker's Almanac for 1910. 8vo. London, 1910.
- Williams (J.): Law of Real Property. 21st ed. 8vo. London, 1910.
- Withers (A. H.): Life and Reversionary Interests. 8vo. London, 1910.

### Solicitors' Apprentices' Debating Society, Session 1910.

#### PROGRAMME FOR TRINITY SITTINGS, 1910.

MEETINGS to be held at 8 o'clock, p.m., in the Hall of the Incorporated Law Society, Four Courts, Dublin.

June 6th.—Debate.—“That Censorship of Literature is essential for the moral welfare of the Community.”

June 9th.—Legal Debate.—“That the Decision of the House of Lords in the Case of *O'Reilly v. McCall* (1910), 2 J.R. 42, was wrong.”

June 13th.—Impromptu Speeches.  
(Candidates for Offices for Session 1910-1911 to be nominated).

June 20th.—Debate.—“That the Socialistic Tendency of the present day is to be deplored.”

June 27th.—Essay Night.

(Result of Election of Officers for the Session 1910-1911 to be declared).

### Trinity Sittings Lectures.

LECTURES will be delivered to the Senior Class upon the subjects of Real Property, Equity and Conveyancing, at 4 o'clock, p.m., on the following dates in Trinity Sittings, 1910:—

June 3rd, 7th, 10th, 14th, 17th, 21st, 22nd, 24th and 28th.

Lectures will be delivered to the Junior Class upon Common Law, at 4 o'clock, p.m., on the following dates in Trinity Sittings, 1910:—

June 2nd, 6th, 9th, 13th, 16th, 20th, 23rd, 27th, 29th and 30th.

### Intermediate Examination.

THE Intermediate Examination for Apprentices will be held upon Friday, the first day of July, 1910. Notices to be lodged on or before Friday, 17th day of June.

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

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Telegrams: "Law Society, Dublin."

Telephones 2807 (2 lines).

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# THE GAZETTE

OF THE

## Incorporated Law Society\* of Ireland.

Vol. IV, No. 3.]

July, 1910.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*June 1st.*

#### **Admiralty Practice.**

THE subject of the increasing practice of giving security in the English Admiralty Court in order to have Admiralty actions which have been commenced in Ireland subsequently tried in London was discussed, and it was decided to request the Bar Council to appoint representatives to confer with representatives of the Council upon the subject with a view to having the trial of Admiralty cases arising out of Irish Admiralty proceedings retained in this country.

#### **Parliamentary.**

A report from the Parliamentary Committee upon the Great Northern Railway (Ireland) Bill at present before the House of Commons was adopted. It was resolved to take immediate steps to oppose Clause 29 of the Bill, which provides that the award of the Arbitrator of compensation for lands compulsorily taken by the Company shall be final and not subject to an appeal, thus abolishing the right of traversing the Arbitrator's award at Assizes under the procedure laid down by the Lands Clauses Act, 1845, and the Irish Railway Acts, 1851 and 1860.

#### **Examination Results.**

The report of the Court of Examiners upon the Preliminary and Final Examinations results, and upon the awards of medals and

certificates was adopted. It was resolved that Candidate No. 6 at the Final Examination, being guilty of a breach of the rules at the examination, be not permitted to again present himself for examination till May, 1911.

*June 15th.*

#### **Commissioner of National Education.**

The congratulations of the Council were directed to be conveyed to Mr. David M. Moriarty, Solicitor, of Killarney, upon his appointment as a Commissioner of National Education in Ireland.

#### **Register of Changes in Firms of Solicitors.**

It was referred to the Gazette Committee to consider the matter of compiling a register, to be kept in the Secretary's Office, containing a record of changes in membership of firms of Solicitors and of businesses of deceased or retired Solicitors which have been acquired by other Solicitors.

#### **Increment Duty.**

A letter from the Coleraine Branch of the Derry and Antrim Solicitors' Association, asking the opinion of the Council as to the liability for discharging increment duty as between vendor and purchaser on closing of sales, was considered and referred to the Costs Committee.

#### **Labourers Acts.**

A letter was read from a country member giving particulars of taxation of his costs of

appearing before an Arbitrator upon behalf of several owners and occupiers whose lands were compulsorily acquired. The remuneration allowed by the Arbitrator was apparently at the rate of three guineas per day to the Solicitor, without taking into account the number of clients for whom he appeared, which resulted in the remuneration allowed being only three shillings and fourpence for all the work connected with the case of each client. The matter was referred to the Costs Committee, with authority to consult Counsel.

### Apprentices' Debating Society.

"The Industrial Future of Ireland" was the subject selected for the medal to be awarded by the Council for Composition.

### Certificate

An application by a Solicitor for liberty to renew his annual certificate was submitted and granted.

### Court of Examiners.

A report from the Court of Examiners upon two applications by Law Clerks for leave to be bound under Section 16 was submitted, and it was resolved that both applications be granted.

### Costs Committee.

The answers of the Costs Committee to the following queries were submitted and adopted:—

*A*, an owner of certain premises in the City of Belfast, on which there is a mortgage affecting her interest for £2,400, verbally agreed, through a friend, to grant or sell her interest therein to *B* on the following terms, viz.:—*B* to pay to *A* £100 in cash and to take the premises subject to the mortgage for £2,400, and to obtain a conveyance or fee farm grant subject to the annual rent of £350. *A* holds the premises under a sub-fee farm grant; she is indemnified against payment of any rent by other portions of the premises in the original grant, the whole premises being liable to £60 per annum.

Queries.—(1) Whose province is it to prepare, complete, and register the fee farm grant or conveyance in fee in duplicate.  
(2) Who is the proper party to pay for such

deeds, and what are the costs properly payable?

Answers.—The Solicitor for the grantor is entitled to prepare the grant and counterpart, and the costs of the Solicitors of both parties are payable by the grantee. Such costs should be drawn under Schedule I., Part II., Table II., and the rules thereunder of the General Order made under the Solicitors Remuneration Act.

*June 29th.*

### Special Examiners.

The Council reappointed Mr. Charles H. Denroche, B.A., LL.D., R.U.I., Solicitor; and Mr. Frank V. Gordon, B.A., Ex-Scholar (T.C.D.), Solicitor, as Special Examiners for 1911.

### Commissioner of National Education.

A letter was read from Mr. David M. Moriarty, Solicitor, thanking the Council for their congratulations upon his appointment as a Commissioner of National Education in Ireland.

### Wood Pavement outside Courts.

Attention having been called to the difficulty of conducting the business of some of the Courts owing to the noise of traffic, it was resolved to make application to the Corporation of Dublin to direct the laying down of wood pavement in the streets around the Four Courts and Metropolitan Police Courts.

### Examinations.

An application by a Law Clerk under Section 18 for a modified preliminary examination was considered, and it was resolved that the application be not opposed.

### Increment Duty.

A report was adopted from the Costs Committee with reference to the query submitted by the Coleraine Branch of the Derry and Antrim Solicitors' Association, asking whether payment of increment duty must be discharged by a Vendor before a Purchaser can be asked to complete a sale. The report stated that the proper course of procedure was for the Purchaser's Solicitor to hand the deed to the Vendor's Solicitor to have it executed in the usual way by the Vendor,

and to have the provisions of Section 4 of the Finance Act (1909-10), 1910, as regards increment duty, complied with, and when the Vendor's Solicitor returned the deed executed and stamped with one of the stamps mentioned in Sub-section (3) of Section 4, then the transaction might be closed.

**Council Meetings.**

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

- July 13th and 27th.
- October 5th and 19th.

**Committee Meetings.**

THE following Committee Meetings were held during June:—

- Gazette, 6th.
- County Courts, 9th and 16th.
- Court of Examiners, 10th.
- Costs, 22nd and 30th.

**New Members.**

THE following joined the Society during June:—

- Lowe, Ernest S., 65 Lower Gardiner Street, Dublin.
- Lyons, Alexander M., Sligo.
- Mulholland, Hugh, Lisburn.

**New Solicitors.**

**ADMISSIONS DURING JUNE, 1910.**

<i>Name</i>	<i>Served Apprenticeship to</i>
Baxter, George ..	Alexander M. Lyons, Sligo.
Bonass, Henry Hudson	Ignatius J. Rice, Dublin
Kelly, Edward J. ..	P. M. Gallagher, Donegal, and Patrick Rooney, Dublin.
Lowe, Ernest S. ..	E. Samuel Lowe, Dublin.
Moore, Michael J. ..	William D. Sainsbury, Dublin
Moran, Hugh O'Brien	James H. Moran, Limerick.
Sheil, John J. ..	Gerald Tench, Dublin.

**Obituary.**

MR. WILLIAM T. DANIEL, Solicitor, Dublin, died on the 6th June, 1910, at his residence 88 Lower Leeson Street, Dublin.

Mr. Daniel, who served his apprenticeship with the late Mr. Richard D. Kane, of 93 Talbot Street, Dublin, was admitted in Michaelmas Term, 1850, and practised at 88 Lower Leeson Street, Dublin, up to the year 1908, when he retired.

MR. WILLIAM F. O'SHAUGHNESSY, Solicitor, Charleville, died on the 7th June, 1910, at his residence Knight's Lodge, Charleville, Co. Cork.

Mr. O'Shaughnessy, who served his apprenticeship with the late Mr. Russell O'Shaughnessy, of Charleville, and the late Mr. J. G. MacCarthy, of 70 South Mall, Cork, was admitted in Trinity Term, 1873, and practised in Charleville.

MR. ROBERT H. BEAUCHAMP, Solicitor, Dublin, died on the 8th June, 1910, at his residence 25 Fitzwilliam Square, Dublin.

Mr. Beauchamp, who served his apprenticeship with his father, the late Mr. Edward M. Beauchamp, Mallow Street, Limerick, was admitted in Michaelmas Term, 1864, and practised latterly (in partnership with Mr. Alexander D. Orr, who carries on the business under the style of R. H. Beauchamp and Orr), at 5 Foster Place, Dublin.

MR. MATTHEW J. WHITE, Solicitor, Dublin, died on the 19th June, 1910, at his residence Moyne House, Rathmines.

Mr. White, who served his apprenticeship with the late Mr. Robert Power, 29 Upper Ormond Quay, Dublin, was admitted in Easter Term, 1842, and practised at 42 Fleet Street, Dublin, up to the year 1903, when he retired.

MR. RICHARD POPE FROSTE, Solicitor, Dublin, died on the 26th June, 1910, at his residence The Willows, Terenure, Co. Dublin.

Mr. Froste, who served his apprenticeship with the late Mr. John Taylor, of 116 Grafton Street, Dublin, was admitted in Hilary Term, 1869, and practised at 63 Harcourt Street, Dublin, up to the year 1902, when he retired.

MR. PATRICK QUIRK, Solicitor, Carrick-on-Suir, died on the 30th June, 1910, at his residence Carrick-on-Suir.

Mr. Quirk, who served his apprenticeship with the late Mr. John Cavanagh, 52 Dame Street, Dublin, was admitted in Hilary Term,

1876, and practised at Carrick-on-Suir up to the year 1891, when he retired.

#### Legal Appointments.

MR. JAMES G. FRANKS, Solicitor, Dublin, has been appointed an Examiner to the Irish Land Commission.

Mr. Franks was admitted in Hilary Sittings, 1901, and practised at 18 Stephen's Green, Dublin.

The Lord Lieutenant has appointed Mr. Patrick S. Brady, Solicitor, to be a Resident Magistrate for the County of Galway, under the provisions of the Act Wm. IV., Cap. 13.

Mr. Brady was admitted a Solicitor in Hilary Sittings, 1901, and practised at Belfast.

The Lord Lieutenant has appointed Mr. Joseph Carroll, Solicitor, to be a Resident Magistrate under the provisions of the Act Wm. IV., Cap. 13.

Mr. Carroll was admitted a Solicitor in Hilary Sittings, 1891, and practised at Newry.

Mr. William J. Dunlea, LL.D., Solicitor, has been appointed Professor of Law of Contracts, of Personal Property and of Torts, to the University College, Cork.

Mr. Dunlea obtained the Findlater Scholarship, and was admitted in Trinity Sittings, 1888, and practises at 59 South Mall, Cork.

#### Commissioners to Administer Oaths.

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

Edmund W. Kelly, Clerk of Petty Sessions, Kilkelly, Co. Mayo.

Edmund Moore, Solicitor's Assistant, Tralee.

#### Recent Decision affecting Solicitors.

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

CHANCERY DIVISION, LAND JUDGES.

(Before Ross, J.)

ESTATE OF ASSIGNEES OF PILKINGTON.

July 4, 1910.—*Costs of sale—Apportionment over lots for sale.*

AN application was made by Mr. James Robinson, Solicitor, one of the trustees of

the Will of Mr. Archibald Robinson, senior, deceased, for directions as to the apportionment of the costs of the proceedings for sale in this matter, the estate being an insolvent one.

Mr. Robinson stated that the property consisted of houses and premises situate in Dublin and Wicklow, on portion of which the executors of the late Mr. Archibald Robinson had a charge, and the petitioner and other incumbrancers had *puisne* charges on the portion affected by the executors' mortgage as well as on other portions of the property not affected by such mortgage. The premises were put up for sale in November last, the property being divided into 25 lots, some of which were then sold, others having since been sold and the residue still remaining unsold.

The Solicitors having carriage estimated the value of the premises subject to the Robinson Mortgage, including in such estimate the value of the unsold lots affected thereby, at something over £2,500, and the value of the premises not affected by this mortgage at about £1,000, and on this basis proposed that about 25-35ths of the costs should be paid out of the proceeds of the sale of the premises subject to the executors' mortgage, and the remaining 10-35ths out of the proceeds of the sale of the other properties. Mr. Robinson objected to this mode of apportioning the costs, pointing out that assuming the work in connection with each of the lots was equal, as his mortgage only affected 12 out of 25 lots, the property thereby affected should bear less than half the costs. He also stated that there were various applications from time to time during the proceedings for sale (the costs of which were included in the petitioner's costs) which related exclusively to property not affected by his mortgage, and consequently it would be inequitable to apportion the costs as suggested, and he also pointed out that if the costs were apportioned according to the annual rental, he would only have to bear 22-50ths instead of upwards of two-thirds of the costs, as proposed by the Solicitors having carriage, and contended that the costs should be segregated as between the various lots, having regard to the work necessary in connection with same.



Mr. Patton, B.L., on behalf of the petitioner, pointed out that the rule of the Court has always been to apportion the costs of sale according to the amounts produced by the various lots supporting the principle to be adopted by the Solicitors having carriage; and Mr. Dunne, Solicitor for the National Bank, also supported Mr. Patton's contention, which Mr. Robinson admitted to be the usual practice of the Court, but pointed out that in this case the proportion of the costs which it was proposed should be placed on the 12 lots affected by his mortgage would be over £800, and the portion on the 13 lots in which he was not interested would only be about £300.

Mr. Justice Ross stated that although it was the practice of the Court for upwards of fifty years to apportion costs as mentioned by Mr. Patton, and such practice had hitherto been found most convenient, he should decide the question according to law and equity, and as he thought it would be inequitable to direct the costs to be apportioned, as suggested, he referred the matter to the Taxing Master to ascertain the proper proportion of costs to be borne by the premises comprised in the various lots.

(Communicated by Messrs. A. and J. Robinson).

#### Register of Changes in Firms of Solicitors.

FROM time to time great difficulty has been experienced by members of the Profession in tracing the custody of deeds and documents prepared by firms no longer in existence. To assist the Profession in this matter the Council are anxious to compile a Register containing information as to changes of membership in Solicitors' firms from time to time, and also of businesses of deceased or retired Solicitors which have been acquired and carried on by other Solicitors. It is intended that this Register should be kept in the Secretary's office, so that members of the profession seeking information relative to papers formerly in the custody of Solicitors now either deceased or retired may be afforded assistance in tracing such papers. The Council would be glad if members would assist in the compilation of the Register by writing to the Secretary informing him of any such changes in firms,

or of the acquiring of businesses in the past as they may be aware of.

#### Local Registration of Title (Ireland) Acts.

THE following Order has been issued:—

High Court of Justice in Ireland,  
Land Registry of Ireland,  
Local Registration of Title (Ireland)  
Act, 1891.

#### "EX-PARTE" AND OTHER MOTIONS.

IN cases of Ex-parte motions, a motion paper should be lodged in the Central Office two clear days before the day on which the motion is to be moved, with an affidavit or affidavits of any facts to be brought under the notice of the Court in support of the motion.

The motion paper must contain (1) a short outline of the principal facts upon which the motion is grounded, and (2) conclude with the terms in which the motion is to be made. This statement should comprise no facts which are not supported by affidavit or official documents.

Any rule made by a Registrar on the subject of the motion must be mentioned in the motion paper with the name of the Registrar.

The form of the motion paper should follow as nearly as may be the form now in use in the Probate Division. Costs of motion papers will not be allowed unless the requirements of this direction are complied with.

Solicitors are requested when filing affidavits or other documents to be used on ex-parte motions or motions on notice, to lodge at the same time certified copies of such affidavits or other documents and notices of motion for the use of the Court. These copies will be returned when the motion has been disposed of.

By Order,  
R. MANDERS,  
Registrar.

10th May, 1910.

#### Results of Examinations.

AT the Preliminary Examination held on the 11th and 12th days of May, the following

passed the examination, and their names were arranged in the following order of merit :—

1. Anthony S. Farrell.
2. Robert Marshall.
3. Stephen de Vere Fogarty.
4. Thomas C. Doyle.
5. John Bell.
6. John W. Davidson.
7. Hubert M. Johnstone } equal.  
Esmond A. Power }

The remaining candidates were postponed.  
Twelve candidates attended : eight passed; four were postponed.

#### Preliminary Examinations Prizes, 1909-10.

THE Court of Examiners awarded a Silver Medal to John B. J. Dunne and Special Certificates to Daniel P. King, Patrick Hogan, and Anthony S. Farrell.

At the Final Examination held on the 19th and 21st days of May, the following passed the examination, and their names were arranged in the following order of merit :—

1. Michael O'Shea.
2. Thomas J. Tiernan.
3. Michael J. Moore, B.A., LL.B., } equal.  
R.U.I. }  
John J. Sheil. }
4. John T. Doyle.
5. Daniel J. McGrath, B.A., R.U.I.
6. William S. Huggard } equal.  
Hugh O'B. Moran }
7. Thomas V. Gillespie.
8. Henry Sheil, B.A., T.C.D.
9. Henry H. Bonass.
10. Hugh R. Pollock.
11. Cecil G. Stapleton.
12. Ernest S. Lowe.
13. George Baxter } equal.  
William H. C. Galt }
14. William Molloy.

The Court of Examiners awarded a Silver Medal to Michael O'Shea, and Special Certificates to Thomas J. Tiernan, Michael J. Moore and John J. Sheil.

The remaining candidates were postponed.  
Twenty-nine candidates attended : seventeen passed; twelve were postponed.

#### Examinations.

THE following are the dates upon which the October Examinations will be held :—

- October 6th and 7th.—Preliminary.  
October 10th.—Intermediate.  
October 11th and 12th.—Final.

#### The Solicitors' Benevolent Association.

A MEETING of the Directors was held on the 29th June.

The minutes of last meeting having been read and confirmed, the Secretary reported receipt since last meeting of the sum of £42, making the total annual subscriptions received since 1st January last £526 1s.

The Secretary also reported having received a donation of £2 2s. from Mr. Norman C. Caruth, a life subscription of £10 10s. from Mr. J. G. Franks, and a sum of £20 from Mr. J. H. O'Donnell, being portion of a sum of £500 left by the late Mr. J. O'Hagan to Mr. O'Donnell to distribute in charity at his discretion.

The Directors considered the various applications for relief, and made grants to eight applicants, amounting in all to £85, bringing the amount of relief afforded since the 1st of January up to £439 11s. The report of the Scrutineers as to the result of the voting for the election of an annuitant to the Jubilee Annuity of £20 was submitted, and candidate No. 4 on the list having received the largest number of votes was declared duly elected. After transacting some further routine business the meeting adjourned.

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

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Telegrams: "Law Society, Dublin."

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. IV, No. 4.]

August, 1910.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*July 13th.*

#### Labourers Act Costs.

THE President informed the Council that he had received a request from the Local Government Board to attend upon the 15th instant a meeting, in order that the Board might consult him in reference to a new Order which they propose to make dealing with Occupier's Costs of Title under the Labourers (Ireland) Act, 1906.

#### Great Northern Railway (Ireland) Bill.

A letter was read from Messrs Sherwood & Co., Parliamentary Agents to the Society, stating that the Private Bill Committee of the House of Commons, before whom this Bill came, had struck out Clause 29. The Council had taken steps to oppose this Clause, the object of which was to provide that the award of the Arbitrator as to the amount of compensation money to be paid for lands compulsorily acquired under the Act should be final, thus depriving the owner of his right of traverse, which the Council considered would be very detrimental both to owners and to the Profession.

#### Civil Bill Courts (Dublin) Bill.

The Bill introduced upon 7th July in the House of Commons dealing with the procedure in the Civil Bill Courts of the City and County of Dublin was considered. The

Bill gives the Lord Chancellor power to make rules "with the concurrence of the Recorder and after consultation with the President of the Incorporated Law Society" with reference to various matters set forth in the Bill.

The Council have, after consultation with the Northern Law Society, the Southern Law Association, the Provincial Delegates and the General Council of the Bar of Ireland, prepared a County Courts Bill amending the County Court procedure and applicable to the whole of Ireland. This measure is now ready for introduction, and the Council hope they may be successful in passing it, and they therefore decided to oppose the above Bill which was not sufficiently general in its character.

#### Public Trustee.

The following resolution was adopted:—  
"That in the opinion of the Council of the Incorporated Law Society of Ireland it is not necessary or expedient to appoint a Public Trustee in Ireland.

#### Certificates.

Three applications of Solicitors for renewal of their certificates were considered and orders made granting the three applications.

#### Repairs to Premises.

Upon the recommendation of the House Committee estimates were accepted for some repairs to the premises of the Society to be carried out during vacation.

July 27th.

### County Courts (Ireland) Bill.

A print of the draft Bill about to be introduced at the instance of the Council for amending the law relating to County Courts in Ireland, which has been prepared by the County Courts Committee of the Council after consideration of all amendments suggested by the Northern Law Society, the Southern Law Association, the Provincial Delegates and the General Council of the Bar of Ireland, was submitted to the Council and approved. It was ordered that copies of same be sent to the Chambers of Commerce of Ireland for their consideration.

### Badge of Office for the President.

The Council having decided that a badge of office should be provided to be worn by the President of the Society at public functions, designs were submitted, and one of those submitted having been selected, it was ordered that the execution of the design be entrusted to Messrs. West & Son.

### Re-appointment of Professors.

The Council re-appointed Mr. Thomas G. Quirke, B.A., LL.D., R.U.I., Solicitor, as Professor of Real Property, Equity and Conveyancing; and Mr. Frederick G. Sharpe, LL.D., T.C.D., Solicitor, as Professor of Common Law for 1910-11.

### Certificates.

Two applications by Solicitors for renewal of their certificates were considered, and orders were made granting both applications.

### Court of Examiners.

A report was submitted from the Court Examiners upon applications from three Law Clerks for liberty to be bound under Section 16 of the Solicitors (Ireland) Act, 1898. It was resolved that the three applications be granted.

### Preliminary Examination.

Mémoires from three intending apprentices to the Lord Chancellor and Judges named in Section 18 of the Solicitors (Ireland) Act, 1898, praying for modified Preliminary Examinations were considered, and it was

resolved not to oppose any one of the three memorials.

### Council Meetings.

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

October 5th and 19th.

November 2nd, 16th and 30th.

### Committee Meetings.

THE following Committee Meetings were held during July:—

Gazette, 7th.

County Courts, 11th.

House, Library and Finance, 12th.

Court of Examiners, 12th and 21st.

Costs, 18th and 25th.

Admiralty, 26th.

### New Members.

THE following joined the Society during July:—

Leahy, Edward, Limerick.

McCredy, Robert, Swanlinbar.

### New Solicitors.

ADMISSIONS DURING JULY, 1910.

Name	Served Apprenticeship to
Bridge, Henry Powell, junior.	William Bridge, Roscrea.
Sheil, Henry	John O'Hagan, Dublin.

### Obituary.

MR. HUGH PETER KENNEDY, Solicitor, Cavan, died upon the 18th July, 1910, at his residence 7 Farnham Street, Cavan.

Mr. Kennedy served his apprenticeship with the late Mr. James Armstrong, of Cavan, was admitted in Easter Term, 1865, and practised in Cavan. He was Crown Solicitor for the County of Cavan since the year 1887.

MR. JOHN RICKARD LLOYD, Solicitor, Dublin, died upon the 19th July, 1910, at his residence Traverston, Nenagh, Co. Tipperary.

Mr. Lloyd, who served his apprenticeship with the late Mr. Samuel Frederick Adair, of 25 Clare Street, Dublin, was admitted in Easter Term, 1867, and practised in partnership with the late Mr. Henry L. Keily, at 2 Clare Street, Dublin, under the style of Messrs. Keily & Lloyd, and subsequently he was a member of the firm of Messrs. Moore, Keily & Lloyd, of 31 Molesworth Street, Dublin, until he retired from practice last year.

### Legal Appointment.

HIS Excellency the Lord Lieutenant has appointed Mr. Louis C. P. Smith, Solicitor, Cavan, to be Crown Solicitor for the County of Cavan in succession to the late Mr. Hugh P. Kennedy.

### Commissioners to Administer Oaths.

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

Hugh Mulholland, Solicitor, Market Square, Lisburn.

Timothy A. O'Keeffe, Assistant in the Office of Clerk of the Crown and Peace, Galway.

### Irish Land Act, 1909.

#### INVESTMENTS SANCTIONED BY THE PUBLIC TRUSTEE.

IN the House of Commons upon 6th July, 1910,

MR. MOORE asked the Chief Secretary to the Lord Lieutenant of Ireland, if he will circulate with the Votes a list of the investments under the Land Act of 1909 which have, up to the present, been sanctioned by the Public Trustee.

MR. BIRRELL, in a printed reply, says: Securities sanctioned by the Public Trustee (Ireland) under the Land Act of 1909 to date:—

Argentine Government Four and a-half per Cent. (1888) Sterling Loan;  
Argentine Government Four per Cent. Loan, 1908;

Brazilian Government Four per Cent. Bonds, 1889;  
Brazilian Four per Cent. Rescission Bonds;  
Chilian Government Four and a-half per Cent. (1886) Loan Bonds;  
Chinese Government Four and a-half per Cent. Bonds;  
Hungarian Four per Cent. Gold Rentes;  
Mexican Gold Loan Four per Cent., 1904;  
Finland Four and a-half per Cent. Government Railway Bonds;  
Russian Four per Cent. Consolidated Railway Bonds I. and II. ;  
Japanese Government Four and a-half per Cent. Sterling Loan (1st series);  
Japanese Government Four and a-half per Cent. Sterling Loan (2nd series);  
Japanese Government Four per Cent. Sterling Loan;  
Japanese Government Five per Cent. Bonds, 1895-6;  
Japanese Government Four per Cent. Sterling Loan, 1905;  
New York Central Railway Four per Cent. (1934) Debentures;  
Chicago, Milwaukee, and St. Paul Four per Cent. (1934) Gold Bonds;  
Baltimore and Ohio Railroad Company (Pittsburg and Lake Erie Division) Four per Cent. Bonds;  
Louisville and Nashville Railway Unified Four per Cent. Gold Bonds;  
New York Central and Hudson Railway Three and a-half per Cent. Gold (Lake Shore) Bonds;  
Union Pacific Railway Four per Cent. First Mortgage Bonds;  
Union Pacific Railway Four per Cent. Sterling Gold Bonds;  
St. Paul, Minneapolis, and Manitoba Railway Four per Cent. Extension Bonds;  
Atchison, Topeka, and Santa Fé Railway Four per Cent. Adjustment Bonds;  
Mexican Southern Railway Four per Cent. First Mortgage Debentures;  
Argentine Great Western Railway Five per Cent. Debenture Stock;  
Central Argentine Railway Four per Cent. Rosario Debenture Stock;  
Buenos Ayres and Pacific Railway Four and a-half per Cent. Consolidated Debenture Stock;  
Buenos Ayres and Great Southern Railway Four per Cent. Debenture Stock;

Buenos Ayres Great Western Railway Four per Cent. Debenture Stock ;  
 Canadian Pacific Railway Four per Cent. Debenture Stock ;  
 Northern Pacific Great Northern Railways Four per Cent. Joint Bonds.

### Solicitor Purchasing in Trust.

Upon the hearing of an application in an administration suit upon the 11th July, the Master of the Rolls stated that should occasion arise he is prepared to hold that in the case of a sale in his Court a Solicitor who signs a contract to purchase "in trust" for a client is personally liable to bring in the purchase money and to complete the sale should his client fail to do so. The attention of the Profession is specially drawn to this statement, as there was a general impression that a Solicitor purchasing "in trust" was not personally liable to carry out such a purchase unless when made in the Land Judge's Division under the special rules of that Court.

### Practice in the Court of the Master of the Rolls.

THE MASTER of the Rolls has intimated that in future he will require copies of interrogatories, of answers to interrogatories, of notices requiring particulars, and of particulars furnished in pursuance of such notices, to be lodged with the pleadings, when setting down an action for trial in his Court.

### Allowance of Costs of Counsel.

THE FOLLOWING memorandum has been issued from the Consolidated Taxing Office :—

THE CONSOLIDATED TAXING OFFICE OF THE SUPREME COURT OF JUDICATURE (IRELAND).

RESOLVED THIS 2ND DAY OF JULY, 1910 :—

1. That in all cases of Originating Summons adjourned for further hearing or for Judgment, where the facts and the dates of the hearing and the adjournment or adjournments are entered on the Chamber Order, the costs of Refresher fees to Counsel in respect of the said adjournment or adjournments may be allowed.

2. That in all cases of Originating Summons where the Chamber Order is made up as a Court Order only for the purposes of Appeal, the costs of only one Counsel shall be allowed in pursuance of Order 54, Rule 17, except upon special directions upon such Order.

3. That in all cases of Originating Summons where the Chamber Order is directed to be made up as a Court Order and it appears that the case has been adjourned into Court for hearing or further hearing, or for Judgment, the costs of two Counsel may (if claimed) be allowed.

JEHU MATHEWS,  
*Taxing Master.*  
 SHAPLAND MORRIS TANDY,  
*Taxing Master.*  
 JAMES GOFF,  
*Taxing Master.*

The General Council of the Bar of Ireland have considered the above Resolutions and approve of them.

HENRY HANNA,  
 GEORGE M'SWEENEY,  
*Hon. Secs.*

2nd July, 1910.

### Increment Duty, Finance Act, 1910.

#### Land Judge's Court.

THE new increment duty to be paid by the Vendor, as distinguished from the Purchaser, has of necessity caused a change of procedure in the Land Judge's Division, as the duty has to be provided out of the purchase money.

For this purpose the following Rules dated the 19th day of July, 1910, have been made by the Lord Chancellor and the Land Judge, and on account of urgency it has been ordered that same shall come into operation forthwith as Provisional Rules :—

#### RULES AND FORMS.

Additional Regulations with regard to the execution of Conveyances by the Land Judge rendered necessary by the provisions of the Finance (1909-10) Act, 1910.

*Increment Value Duty.—Part I. of the Act.*

The Solicitor for the purchaser, as soon as the *ad valorem* duty has been stamped on the



conveyance, shall lodge it with the official of the Inland Revenue in charge of the Stamp Office, either at the Custom House or the Four Courts, for the purpose of obtaining the stamp "particulars delivered."

The conveyance shall be accompanied by (a) one of the printed copies supplied to the purchaser; (b) a copy of the rental for sale; and (c) the official form of application—(I.V.D. (a)).

On receipt of a notification from the Controller of Inland Revenue of the amount of increment value duty payable on any conveyance by the Land Judge's Court, or of an estimate of the amount of such duty, the Examiner shall make provision, on the Final Schedule of Incumbrances, for payment of such duty, or, in the case of an estimate, shall retain funds to meet such duty when finally assessed. The above regulations shall not apply to conveyances, to which the Land Purchase (Ireland) Acts apply, which are to be registered under the Local Registration of Title (Ireland) Act, 1891, nor to any conveyance of land in pursuance of a contract entered into before the commencement of the Finance Act.

In the case of conveyances of the latter class, the purchaser's Solicitor shall apply to the Registrar of the Court for a certificate (to be endorsed on the original agreement) that the conveyance is made in pursuance of a contract entered into before the passing of the Act.

The form of such certificate shall be as follows, viz. :—

*Land Judge's Court.*  
day of

I certify that the within printed conveyance is about to be executed by the Land Judge in pursuance of a contract for sale entered into before the commencement of the Finance (1909-10) Act, 1910.

Registrar.

In addition to the fees chargeable by the purchaser's Solicitor against his client, there shall be paid to him, out of the estate, a further fee of £1 10s. for all necessary attendances at the Stamp Office in connection with the assessment of increment value duty.

*Ad Valorem Duty under Section 73.*

In order to enable the purchaser to obtain the benefit of the provisions of the above Section as to conveyances, when the consideration does not exceed £500, the purchaser's Solicitor should obtain from the Registrar of the Court a certificate (to be endorsed on the original engagement) in the following form, viz. :—

I certify that the transaction proposed to be effected by the within conveyance does not (so far as is known to the Court) form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration exceeds five hundred pounds.

*Local Registration of Title (Ireland)*  
*Amendment Act, 1908.*

Provisional Rules for procedure in the County Court under the provisions of the Local Registration of Title (Ireland) Amendment Act, 1908, made by the Lord Chancellor and County Court Judges, under Section 79 of the County Officers and Courts (Ireland) Act, 1877, and dated the 8th day of July, 1910.

(1.) Proceedings to rectify the Register pursuant to the provisions of the Local Registration of Title (Ireland) Amendment Act, 1908, shall be commenced by Petition to the County Court. Such Petition may be in the Form "A" in the Schedule hereto, or to the like effect.

(2.) A copy of the Petition shall be served on the Registrar of Titles and the Secretary of the Irish Land Commission, and upon all the parties appearing by the Register to have any estate or interest in the land, and such Petition shall state specifically the amendment or correction sought to be made.

(3.) The Petition may be returnable to any Civil Bill Court held in and for the division in which the lands proposed to be affected or any part thereof are situate, and shall be served fifteen clear days before the first day of the Sessions in such town.

(4.) Service of the Petition shall be effected in the manner prescribed for ordinary Civil Bills, except that when any party required to be served resides out of the jurisdiction of

the County Court of the County in which the lands are situate, then and in such case service of the Petition and all other documents may be effected by registered letter, and the production of the certificate of the posting of such registered letter, signed by the Postmaster and initialled, shall be considered good service of the said Petition; provided that the Court, unless satisfied that every necessary party has been duly served, shall adjourn the hearing and direct service upon such party in such manner as to the Court shall seem fit.

(5.) Two copies of the Petition shall be lodged with the Clerk of the Crown and Peace for the County in which such Petition is proposed to be heard two clear days before the return day.

(6.) The Court, if it thinks fit, may, on the hearing of the Petition, either make an absolute order for the rectification of the Register or make a conditional order for the rectification thereof, and may direct notice of same to be published and given to such persons as it may direct, with a statement that the order will be made absolute at the next sittings unless cause be shown to the contrary. Such cause shall be shown by notice of motion served upon the petitioner and upon the Clerk of the Crown and Peace not less than seven clear days before such next sittings.

(7.) The rules and practice now in force in the equity procedure in the County Court shall prevail in reference to any matter not herein provided for.

(8.) The costs of any proceedings taken under these rules shall in all cases be in the discretion of the County Court Judge. When he himself fixes the amount, such amount shall not exceed the amount of costs which may be awarded under the Equity Jurisdiction of the County Court higher scale. When the Judge orders costs to be taxed, same shall, unless he shall otherwise order, be taxed under the Rules and Schedule of Fees relating to equity proceedings under the County Courts (Ireland) Orders higher scale so far as applicable.

#### SCHEDULE OF FORMS.

##### Form "A."

Petition to the County Court under the

provisions of the Local Registration of Title (Ireland) Amendment Act, 1908.

County Court of  
Division of

Petitioners;

and

Respondents.

The Petition of  
Rural District of

Council of the

SHEWETH,

1. That your Petitioners under a Provisional Order dated \_\_\_\_\_ made in pursuance of the provisions of the Labourers (Ireland) Acts, 1883-1906, acquired, on or about the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, a plot of land described therein as site No. \_\_\_\_\_ O.S. \_\_\_\_\_, Townland of \_\_\_\_\_, County of \_\_\_\_\_, and containing \_\_\_\_\_

2. The said plot of land formed part of folio \_\_\_\_\_, County of \_\_\_\_\_, of which \_\_\_\_\_ is the registered owner, under the Local Registration of Title Act, 1891.

3. That the said \_\_\_\_\_, the registered owner of the lands of which the said \_\_\_\_\_ plot forms part, at or before the time he was registered as owner, had notice of the acquisition of the said parcel or plot by your petitioners, or was otherwise bound in equity to give effect thereto.

4. Your petitioners therefore pray that the said Register may be amended by inserting your petitioners as the registered owners of the said plot on the said folio instead of the said \_\_\_\_\_

The respondent is therefore required to appear personally at the County Court, to be held at \_\_\_\_\_, in the division and county aforesaid, on the \_\_\_\_\_ day of \_\_\_\_\_, to show cause why such Petition should not be granted.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Signature of Petitioners.

Full Postal Address.

Solicitor for Petitioners

Full Postal Address

Form "B."

Order of the County Court Judge made upon the provisions of the Local Registration of Title (Ireland) Amendment Act, 1908.

County Court of  
Division of

Petitioners ;

and

Respondent.

The day of 19 .

The Court having heard the matter of the said Petition and the evidence offered by the petitioners and respondent respectfully, doth adjudge that the said Register, being folio , County of , and comprising the land of which is the registered owner, be amended or rectified (or disallowed) as follows :—

That the said do pay to the said taxed costs and expenses of this Order (or as the case may be).

County Court Judge.  
Clerk of the Crown and Peace.

*County Officers and Courts (Ireland) Act, 1877.*

Provisional Rules as to the Renewal of Decrees, Dismisses, and Orders upon Affidavits sworn out of Court, made by the Lord Chancellor and County Court Judges, and dated the 12th day of July, 1910.

1. Every affidavit to be used for the purpose of obtaining a renewal of any Decree, Dismiss or Order, when the same is sworn otherwise than before a Judge in open Court, shall be sworn within the seven days immediately preceding the first day of the Sittings of the Court for the place at which the application for such Renewal is intended to be made, and no Order for Renewal shall be made upon any such affidavit not sworn within the time aforesaid.

2. When the application is made by a Solicitor he shall certify at the foot of the affidavit that, to the best of his knowledge and belief, the full amount therein stated to be due for debt and costs is still unpaid.

3. The Commissioner for Oaths, Justice of the Peace, or other authorised person before whom such affidavit shall be sworn shall state in the jurat the name of the place where such affidavit has been sworn, and every such Justice of the Peace shall also set forth the County, City Borough, or other place for which he has been appointed or is entitled to act as Justice of the Peace.

4. These Rules shall be read as supplemental to the Rules of the 1st day of June, 1909.

**Result of Society's Examinations.**

At the Intermediate Examination for apprentices held upon the 1st of July, the following passed the examination :—

CLASS I.

1. Samuel Cunningham.
2. William J. White.
3. John V. Dunn.
4. John Kelly.
5. Ambrose Davoren.
6. Charles A. Flattery. } equal.
- John J. Meagher. }
8. William O. Armstrong. } equal.
- William J. G. Seeds. }
10. Francis J. O'Connor. } equal.
- Charles T. B. White. }
12. John J. Smith.
13. Dinnen B. Gilmore.
14. Michael Noyk.
15. William Ryan.
16. Arthur Beaumont. } equal.
- James Fitzgerald. }
18. Patrick Grimes. } equal.
- Frederick C. MacNeice }
20. David H. Charles. } equal.
- William A. Empey. }
22. James W. McNinch, Junior.
23. Philip J. Furlong.
24. John C. J. Murphy.
25. Thomas O'Keeffe. } equal.
- Andrew Robb. }
- Maurice Skehan. }
28. Patrick A. Mooney.
29. James W. McFadden.
30. H. C. Gordon McCormick. } equal.
- Philip J. McQuaid. }
32. Patrick S. Murphy.
33. George Martin. } equal.
- Percy J. Waldron. }

CLASS II.

1. John O. Hanrahan. } equal.
- Francis J. Horne. }
3. John P. Quin.
4. Ivan H. Garvey.

Forty-two candidates attended the examination: thirty-eight passed; four were postponed.

### Dates of October Examinations.

THE following are the dates upon which the October Examinations will be held :—

Thursday 6th and Friday 7th.—Preliminary (Notice to be lodged before 7th September).

Monday 10th.—Intermediate (Notice to be lodged before 26th September).

Tuesday 11th and Wednesday 12th.—Final (Notice to be lodged before 12th September).

### Michaelmas Sittings Lectures.

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing, on the following dates in Michaelmas Sittings, 1910 :—

October 25th and 28th.

November 1st, 4th, 8th, 11th, 15th, 18th, 22nd, 25th, 29th.

December 2nd.

Books :—Williams' Real Property, Snell's Equity, Davidson's Concise Precedents in Conveyancing, and Maxwell's Outline of the Law of Landlord and Tenant and of Land Purchase in Ireland.

PROFESSOR SHARPE will deliver lectures to the Junior Class upon Common Law on the following dates in Michaelmas Sittings, 1910 :—

October 27th and 31st.

November 3rd, 7th, 10th, 14th, 17th, 21st, 24th, 28th.

December 1st and 5th.

Books :—Williams' Personal Property and Ringwood on Torts.

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

Apprentices desirous of attending either lecture class should give notice to the Secretary before the 17th October.

### Solicitors' Apprentices' Debating Society.

OFFICERS FOR SESSION, 1910-11.

*Auditor.*—John J. Molloy.

*Secretary.*—Michael J. Dwyer, B.A.

*Treasurer.*—William P. Corrigan.

*Committee.*—The Ex-Auditor, C. B. W. Boyle; R. V. Lynam, Ambrose Davoren, J. V. Dunn, Thomas Arkins, LL.B.; Samuel Tarrant, Edward Counihan.

### Solicitors' Benevolent Association

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

November 2nd.

December 7th.

### Notice as to "Gazette."

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

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2607 (2 lines).

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. IV, No. 5.]

November, 1910.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*October 5th.*

#### Finance Act.

A LETTER was read from a firm of Solicitors suggesting that the Council should request the Commissioners of Inland Revenue to permit the certificate of a Solicitor to be accepted to secure the lower rate of stamp duty being assessed in transactions under £500 under Section 73 of the Finance Act.

A reply was directed to be sent stating that the Council are of opinion that, having regard to the terms of the Section, the certificate of the Solicitor could not be acted on.

Section 73, which provides for doubling the stamp duties chargeable on conveyances, also provides that the Section shall not apply to a conveyance or transfer where the amount or value of the consideration for the sale does not exceed five hundred pounds, and the instrument contains a statement certifying that the transaction thereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value of the consideration exceeds five hundred pounds.

#### Labourers (Ireland) Acts.

Two opinions of Counsel were submitted to the Council upon questions arising under these Acts. The purport of these opinions was directed to be communicated to the members who had brought the subjects dealt with under the attention of the Council. The one opinion advised that owners of lands for the sale of which agreements have been entered into under the Land Purchase (Ireland) Acts

are entitled to be paid by District Councils who acquire portions of such lands for the purposes of the Labourers (Ireland) Acts, the costs of preparing and of lodging in the Land Commission the necessary consents for the exclusion of the acquired plots from the holdings agreed to be sold.

The other opinion dealt with the allowance by Arbitrators to claimants of the costs of being represented before the Arbitrator.

#### Certificate

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

*October 19th.*

#### Labourers (Ireland) Acts.

In consequence of the Taxing Officer continuing to disallow the costs of consents required under these Acts (which matter will be found amongst those referred to above, in the report of the proceedings of the Council of October 5th), it was decided to submit a further case to Counsel for advice in reference to the question of the disallowance by the Taxing Officer of all costs of preparation and lodgment in the Land Commission of the necessary consents for excluding plots acquired under the Labourers Acts from holdings agreed to be sold under the Land Purchase Acts.

#### Presentation.

The thanks of the Council were expressed to Mr. Reeves for his presentation of an engraving of the late Right Hon. Mr. Justice Lawson, to be added to the collection of engravings in the Council Chamber.

### Certificate Duty.

A letter was read from the Secretary of the Omagh Solicitors' Association conveying a resolution of that Association advocating the abolition of the annual duty payable on Solicitors' certificates. This is a subject which has received attention from the Council for a number of years past, and a reply was directed to be sent expressing the concurrence of the Council with the object of the resolution, and stating that the Council had made every possible effort in support of the suggested abolition.

### Solicitors' Apprentices' Debating Society.

The list of subjects for debate, by this Society for the ensuing Session was, in accordance with its rules, submitted to the Council for approval and was sanctioned. The following is the list of subjects:—

1. That Members of Parliament should be paid.
2. That Free Trade is ruinous from a Fiscal point of view.
3. That the hunger for amusement is the bane of modern times.
4. That the Nationalization of the Irish Railways is absolutely essential to Ireland's progress.
5. That the Irish Revival has had a beneficial effect on the Industrial Progress of the country.
6. That the State should be invested with drastic powers to settle Industrial disputes.
7. That the influence of Germany on Politics is dangerous to European peace and should be checked.
8. That the writings of G. B. Shaw are ephemeral.
9. That Federalism is the proper solution of the Irish Question.

### Apprentices.

Four applications by Law Clerks seeking to be bound as apprentices under Section 16 of the Solicitors (Ireland) Act, 1898, were considered; two were granted, and two were refused.

### County Courts Bills.

A report from the County Courts Committee was presented, submitting, for adoption by the Council, the County Courts (Ireland) Bill prepared by the Committee, after consultations with the Northern Law Society, the Southern Law Association, the Dublin Sessions Bar, the Bar Council, the Dublin Chamber of Commerce and others. The Council adopted the Bill as prepared by the Committee, and it was resolved to request Mr. Brady, M.P., a member of the Society, to present the Bill upon the re-assembling of Parliament, and it was resolved to request the other Irish Solicitors who are Members of Parliament to permit their names to be placed upon the Bill.

### Costs Committee.

A report of the Costs Committee was adopted, which recommended that the President of the Southern Law Association be informed in reply to a query from him, that the Council are of opinion that a Solicitor is entitled to charge for the additional work in connection with the assessment of increment value duty under the Finance (1909-10) Act, 1910, in conveyancing matters, according to the amount of necessary work done. Attention was also drawn to the rule of the Land Judge's Court fixing thirty shillings as the Solicitor's remuneration for having increment value duty denoted upon conveyances of that Court.

### Court of Examiners.

The report of the Court of Examiners upon the October Intermediate Examination was submitted and adopted, and the result will be found in this GAZETTE.

*October 26th.*

### Death of Mr. Galloway.

The President informed the Council that he had directed the Council to be specially convened, owing to the lamented death of their colleague Mr. Joseph Galloway, which had occurred upon the 24th inst. The President referred in feeling terms to the high esteem in which Mr. Galloway was held by the Council and by the Profession, and to the valuable services rendered by him to the Society, and upon the motion of the



President, seconded by Mr. Reeves, the following resolution was passed :—

RESOLVED :—“ The Council of the Incorporated Law Society of Ireland have learnt with feelings of profound regret of the death of their esteemed colleague Mr. Joseph Galloway, who for the past twenty-four years has been an active member of the Council, and who always took the deepest interest in the work of the Society and the welfare of the Profession. The Council desire to express to the members of the family of the late Mr. Galloway their sincere sympathy in their bereavement.”

### Council Meetings.

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

November 2nd, 16th and 30th.  
December 7th and 14th.

### Committee Meetings.

THE following Committee Meetings were held during October :—

County Courts, 6th.  
Costs, 13th.  
Court of Examiners, 18th and 31st.  
Annual Report, 20th.  
House, Library and Finance, 28th.

### Ballot for Election of Council.

THE ballot for the election of the Council will take place in the Secretary's Office between the hours of 11 o'clock, a.m., and 1 o'clock, p.m., on Monday, the 21st day of November, 1910. Ballot papers sent by post should be posted so as to reach the Secretary not later than 1 o'clock, p.m., on Monday, the 21st day of November, 1910.

### General Meeting of the Society.

THE Half-yearly General Meeting of the members of the Society will be held in the Hall of the Society, in the Solicitors' Buildings, Four Courts, on Monday, the 28th day of November, 1910, at the hour of two o'clock, p.m. The Report of the outgoing Council will be submitted for adoption.

### New Members.

THE following have joined the Society since July, 1910 :—

Brenan, Henry F., 35 Westmoreland Street, Dublin.  
Farley, Thomas J. (Jun.), 14 Fleet Street, Dublin.  
Jermyn, Charles, 67 South Mall, Cork.  
Jermyn, John, 67 South Mall, Cork.  
Kelly, Edward J., 2 Westmoreland Street, Dublin.  
McCoy, Wm. F., Clones.  
Mullan, James J., 24 Dame Street, Dublin.  
Staunton, Maurice, Castlereagh.

### Obituary.

MR. GEORGE O'BRIEN KENNEDY, Solicitor, Dublin, died upon the 2nd August, 1910.

Mr. Kennedy, who served his apprenticeship with the late Mr. Frederick L. Flood, 2 Dame Street, Dublin, was admitted in Hilary Term, 1859, and practised at 42 Fleet Street, Dublin.

MR. FREDERICK A. FENTON, Solicitor, Castlereagh, died upon the 4th September, 1910, at Castlereagh.

Mr. Fenton, who served his apprenticeship with Mr. Wm. R. Fenton, Sligo, was admitted in Michaelmas Sittings, 1889, and practised at Castlereagh.

MR. JOHN J. HANRAHAN, Solicitor, Clonmel, died upon the 26th September, 1910, at Clonmel.

Mr. Hanrahan, who served his apprenticeship, with the late Mr. Arthur St. George, Clonmel, was admitted in Trinity Sittings, 1889, and practised at Clonmel.

MR. HENRY J. DALY, Solicitor, late of Eaton Brae, Shankill, Co. Dublin, died upon the 4th October, 1910.

Mr. Daly, who served his apprenticeship with the late Mr. W. J. Davidson, 62 Upper Sackville Street, Dublin, was admitted in Trinity Sittings, 1884, and practised in Drogheda up to the year 1894, when he retired.

MR. THOMAS DUNWOODY, Solicitor, Ballybay, died upon the 5th October, 1910, at his residence, Ballybay.

Mr. Dunwoody, who served his apprenticeship with the late Mr. Robert J. McMorðie,

Belfast, was admitted in Michaelmas Sittings, 1885, and practised at Ballybay and Castleblaney up to the year 1908, when he retired.

MR. STANISLAUS M. J. O'FARRELL, Solicitor died upon the 6th October, 1910, at East London, Cape Colony.

Mr. O'Farrell, who served his apprenticeship with Mr. Michael C. O'Meara, 20 Upper Ormond Quay, Dublin, was admitted in Trinity Sittings, 1900.

MR. CHARLES P. J. DOWNES, Solicitor, Cahirciveen, died upon the 11th October, 1910, at his residence, Cahirciveen.

Mr. Downes, who served his apprenticeship with his father, the late Mr. Thomas Downes, Skibbereen, was admitted in Hilary Sittings, 1907, and practised at Cahirciveen.

MR. JOSEPH GALLOWAY, Solicitor, Dublin, died upon the 24th October, 1910, at his residence, The Priory, Monkstown, Co. Dublin.

Mr. Galloway, who served his apprenticeship with his father, the late Mr. John Galloway, 35 North Cumberland Street, Dublin, was admitted in Trinity Term, 1860, and practised, under the style of J. & J. Galloway, at 55 Upper Sackville Street, Dublin, in partnership with his son, Mr. J. W. Dyas, who continues to carry on the business.

#### Commissioners to administer Oaths.

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

Thomas J. Deering, Solicitor, 12 Lower Ormond Quay, Dublin.

Richard W. MacNeice, Solicitor, 12 Westmoreland Street, Dublin.

Alexander D. Orr, Solicitor, 5 Foster Place, Dublin.

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

In the month of July, the President received a letter from the Local Government Board requesting his attendance at a consultation with the Board relative to a new Order which the Board desired to make under the Labourers (Ireland) Act, 1906. The object of this proposed Order was to amend the Labourers (Ireland) Order, 1909, so as to provide that the words "owner" or "lessee,"

where used in the Order of 1909, should not include a judicial tenant, nor a tenant from year to year, nor a tenant who has entered into an agreement to purchase his holding under the Land Purchase (Ireland) Acts. The Board desired to make this new Order in consequence of the decision of the Lord Chief Baron, in the case of Elliott and another *v.* Stranorlar Rural District Council (reported in GAZETTE of May, 1910, page 109), in which it was held that the word "lessee" included a judicial tenant, and, accordingly, that the solicitor for a judicial tenant should be paid for shewing title the remuneration prescribed for a solicitor for a lessee under the Labourers (Ireland) Order, 1909.

The President, in the month of July, laid before the Board very fully, both verbally and by letter, his reasons for dissenting from the terms of the proposed Order. The letter of the President was acknowledged upon the 26th July by the Board, with an intimation that it would receive most careful consideration. No further communication was received from the Board by the President, but upon the 11th October the Order, as originally drafted by the Board, appeared in the *Dublin Gazette* as having been made on 6th October.

The Order is in the following terms:

#### THE LOCAL GOVERNMENT BOARD FOR IRELAND.

#### THE LABOURERS (IRELAND) ORDER, 1910.

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

1. This Order may be cited as "The Labourers (Ireland) Order, 1910," and shall be construed as one with the Labourers (Ireland) Order, 1906, and the Labourers (Ireland) Order, 1909, and these Orders, and this Order may be cited collectively as the Labourers (Ireland) Orders, 1906 to 1910,

2. Clause (9) of Rule 55 of the Labourers (Ireland) Order, 1906, as amended by the Labourers (Ireland) Order, 1909, is hereby revoked, and the following Clauses (9) and (10) shall be inserted as so numbered in the said Rule, and shall henceforth be read and constructed as part of the said Rule:—

(9) Where land is taken from an occupier who is neither owner or lessee thereof, the fee payable by the Council for all expenses incurred in respect of the employment of a Solicitor by him for the purpose of deducing title to his occupation interest shall be the sum of ten shillings and sixpence.

(10) In the construction and for the purposes of this Rule, the expressions "owner" or "lessee" shall not extend to or include—

- (a) Any tenant of a holding subject to a judicial rent fixed or agreed to under the Land Law (Ireland) Act, 1881, and the Acts amending the same; or
- (b) Any tenant holding under a tenancy from year to year or any lesser tenancy; or
- (c) Any such tenant as is hereinbefore in this clause mentioned who has entered into an agreement for the purchase of his holding under the Land Purchase Acts, but in whom such holding is not yet vested under the said Acts.

Given under Our Seal of Office this Sixth day of October, in the Year of our Lord, One Thousand Nine Hundred and Ten.

[L.S.]

AUGUSTINE BIRRELL.  
H. A. ROBINSON.

### Recent Decisions affecting Solicitors.

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

#### COUNTY COURT.

(Before HIS HONOR JUDGE COOKE, K.C.)

*Patrick Benar and H. T. Gallagher v. The Stranorlar District Council.*

October 26, 1910.—*Labourers (Ireland) Acts and Orders—Cost of furnishing Title to District Council—Labourers (Ireland) Order, 1910, not retrospective.*

At Lifford County Court, Patrick Benar and H. T. Gallagher, Solicitor, Strabane, were

plaintiffs in a process brought against the Stranorlar Rural District Council for £2 2s. costs in one of several cases for title furnished under the Labourers Act. The claim was made under the Labourers (Ireland) Order, 1909, and the defence set up, by Mr. James Boyle, solicitor, for the District Council, was that the claim did not come within the scope of the Act, the order under which it was made having been since partially repealed by the Local Government Board. The new Order of 1910 was retrospective, Mr. Boyle argued, and, therefore, Mr. Gallagher was only entitled to 10s. 6d. for each of the several cases.

Judge Cooke said this matter had been before him in a previous action. At that time there was a Local Government Board Order, dated July, 1909, in force, which in effect stated that the Solicitor for the owner or lessee or person, whose land had been taken could take or claim without any taxation the sum of £2 2s. in each case; but in cases of persons other than the owner or lessee, a smaller fee was fixed, namely, 10s. 6d. The question then agitated was whether the tenant from year to year was to be considered a lessee, within the meaning of that Order, or whether he was to be considered simply an occupier other than the owner or lessee. At that time he went very fully into the code, and after pointing to the kindred Acts upon which this code depended, stated that, so far as he could gather from the code as it was drafted, the distinction was between tenant from year to year and owner, or what was described as lessee. This came before the Lord Chief Baron on appeal, and he held that a tenant from year to year, who had a fair rent fixed, was a lessee, because there was a contract on the Court records, which was the highest form of contract, making him tenant by written order of the Court, and that consequently a tenant holding in that way was a lessee, the definition of lessee being according to Deasy's Act, a person who held under written contract. Therefore, his decision was reversed by the Lord Chief Baron. He (Judge Cooke) remembered that in the course of his remarks on the case, he said that really the cases were not of much importance, inasmuch as the Local Government Board, if they chose, could publish a new Order any day, and so

alter the whole thing. Whatever the reason, the Local Government Board did publish a new Order, in which they expressly provided that a tenant from year to year, whether holding under a statutory tenancy or otherwise, was not to be considered an owner or lessee for the purposes of the scale of fees they fixed. That Order was published on the 6th of October of the present year. That being so, could that new Order be now used to cut down Mr. Gallagher's fees in respect of the abstracts he had furnished on behalf of tenants from year to year, long before the Order. Having fully considered all the facts, His Honor held that Mr. Gallagher was right. Accordingly, in these cases a decree for two guineas in each case would be given.

Mr. Boyle said he had been instructed by the Local Government Board to appeal if the decision was adverse to his contention. He would, therefore, ask that a decree be given in one case and that the others be withheld.

Judgment was entered accordingly for the plaintiffs in this one case, and the others were adjourned pending appeal.

### New Solicitors.

ADMISSIONS DURING AUGUST, SEPTEMBER AND OCTOBER, 1910.

Name	Served Apprenticeship to
Doyle, John Thomas	Henry A. J. Drennan, Dublin, and Thomas J. Deering, Dublin.
Galt, William	Hunt W. Leech, Coleraine.
Howard Curtis	
Gillespie, Thomas	M. A. Fenton, Sligo, and Alexander M. Lyons, Sligo.
Victor	
McGrath, Daniel J.	John J. McDonald, Dublin.
O'Shea, Michael	Thomas Kelly, Kilrush.
Stapleton, Cecil	George C. Stapleton, Dublin.
George	
Tiernan, Thomas J.	Patrick Tallan, Drogheda.

### Winter Assizes.

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

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

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

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

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

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

### Examination Results.

AT the Intermediate Examination for Apprentices to Solicitors, held upon the 10th October, the following passed the Examination, and their names are arranged in order of merit:—

#### CLASS 1.

1. Daniel Kepple.
2. James J. O'Connor.
3. William S. McCullough.
4. Robert I. Archer
- James Toner } equal.
- John P. Wray }
7. Martin J. Crotty.
8. Henry Robinson.
9. Charles T. Denroche.

Twelve candidates attended: nine passed; three were postponed.

**Examination Regulations.**

THE attention of intending candidates for the Intermediate and Final Examination is drawn to the fact that the new regulations applicable to those examinations, come into operation at the Final Examination to be held in January, 1911, and at the Intermediate Examination to be held in July, 1911. The Intermediate Examination to be held in March, 1911, will be under the regulations hitherto in force, and the course will be the same as that at the October, 1910, Intermediate Examination. Under the new regulations, at the January, 1911, Final Examination, and at all subsequent Final Examinations, the Examination will last for three days, each day from 10 o'clock, a.m., to 1 o'clock, p.m., and from 2 o'clock, p.m., to 5 o'clock, p.m. In the Practice Course there will be six papers, each containing five questions, and in the Theory Course there will be three papers each containing ten questions. The subject of Book-keeping is eliminated from the Final Examination Course.

At the July, 1911, Intermediate Examination, and at all subsequent Intermediate Examinations, the Examination will last during one day, from 10 o'clock, a.m., to 1 o'clock, p.m., and from 2 o'clock, p.m., till 5 o'clock, p.m. There will be three papers, one in Practice, containing seven questions, one in Book-keeping, containing five questions, and one in Theory, containing ten questions.

Particulars as to the subjects for both Examinations can be obtained in the Secretary's Office.

**Dates of Examination.**

THE following are the dates of the January, 1911, Examinations:—

January 2nd and 3rd—Preliminary (notice to be lodged before December 4th).

January 4th, 5th and 6th—Final (notice to be lodged before December 7th).

**Solicitors' Benevolent Association.**

A meeting of the Directors was held upon the 2nd October.

The Secretary reported having received £23 2s. 0d., in annual subscriptions since the last meeting, making the total for the year of £549 3s. 0d.

Grants were made to applicants amounting to £60.

Mr. Daniel O'Connell, Solicitor, Dundalk, joined the Association since last meeting.

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.



# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

Telegrams: "Law Society, Dublin."

Telephones 2807 (2 lines).

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# THE INCORPORATED LAW SOCIETY OF IRELAND.

COUNCIL AND OFFICERS FOR YEAR ENDING  
26TH NOVEMBER, 1911.

**President :**

FREDERICK W. MEREDITH.

**Vice-Presidents :**

ARTHUR E. BRADLEY.

ROBERT G. WARREN.

**Ordinary Members :**

RICHARD A. MACNAMARA.

WILLIAM S. HAYES.

SIR AUGUSTINE F. BAKER.

WILLIAM J. SHANNON.

SIR GEORGE ROCHE.

GEORGE COLLINS.

GERALD BYRNE.

WILLIAM FRY.

F. C. EARLE BLAND.

STEPHEN J. BROWN.

PATRICK J. BRADY, M.P.

RICHARD S. REEVES.

WILLIAM V. SEDDALL.

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THOMAS C. FRANKS.

A. LLOYD-BLOOD.

JOHN G. FOTTRELL.

ARCHIBALD V. MONTGOMERY.

**Provincial Delegates :**

*Ulster*—THOMAS M. GREER.

*Munster*—HENRY BLACKALL.

*Leinster*—MICHAEL BUGGY.

*Connaught*—WILLIAM P. KELLY.

**Extra-Ordinary Members :**

*Northern Law Society.*

JOHN D. COATES.

CHARLES W. BLACK.

MARTIN J. BURKE.

JAMES W. MCNINCH

GEORGE B. WILKINS.

*Southern Law Association.*

W. GUEST LANE.

ALFRED BLAKE.

FREDERICK HALL.

ARTHUR H. JULIAN.

WALTER THORNHILL.

**Treasurers :**

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND.

**Secretary :**

WILLIAM GEORGE WAKELY.



# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. IV, No. 6.]

December, 1910.

[FOR CIRCULATION  
AMONGST MEMBERS.]

### “Gazette.”

THE GAZETTE of the Incorporated Law Society of Ireland was instituted by the Council in May, 1907, with the object of keeping the members of the Society in touch with the work of the Council; and of affording general legal information to the members.

The publication is prepared by a Committee of the Council, and is issued monthly, except in the months of September and October, gratis and post free, to every member of the Society.

The Council think that the GAZETTE is of advantage to the members, as, although it is nominally confined to the proceedings of the Society and Council, the subjects brought before the Council are so numerous that the publication contains much information of interest to Solicitors generally.

The GAZETTE deals with many subjects of great importance to the Profession, and has gradually become a record of general information on most subjects connected with the Solicitors' Profession. Information as to the latest rules and orders, short reports of legal decisions affecting the Profession, the course of Parliamentary legislation affecting the Profession, and a summary from week to week of business brought before the Council are to be found in its pages.

In the present number, in addition to the usual matter, there is a full report of the proceedings at the General Meeting of the Society on the 28th November, and the speeches then delivered.

Of recent years the number of members of the Law Society has considerably increased,

and the majority of the Solicitors in actual practice belong to it; but the Council believe that the more numerous its members the greater will be its influence for the benefit of the Profession, and they have therefore decided to issue the present number of the GAZETTE, not only to the members of the Society, but to every member of the Profession in Ireland, so as to give them an opportunity of judging of the work done by the Society; and the importance of adding to its numbers and influence by joining it:

### Half-Yearly General Meeting.

THE Half-yearly Meeting of the members of the Incorporated Law Society of Ireland took place in the Hall of the Society at the Four Courts, on Monday, 28th November. The chair was occupied by Mr. Richard A. Macnamara, President of the Society. Amongst those present were:—

W. V. Seddall (Vice-President), A. Lloyd-Blood (Vice-President), Sir George Roche, Sir A. Baker, R. S. Reeves, W. S. Hayes, W. J. Shannon, G. Collins, G. Byrne, Wm. Fry, F. C. E. Bland, P. J. Brady, M.P.; J. P. Lynch, C. St. G. Orpen, J. W. Richards, F. W. Meredith, J. A. Denning, G. H. Lyster, R. G. Warren, H. J. Synnott, C. A. Stanuell, I. J. Rice, A. E. Bradley, James Henry, R. B. White, C. Gamble, P. K. White, H. D. Draper, F. Greene, P. Rooney, N. L. Moran, G. M. Collins, O. P. Beater, S. Kerr, R. T. F. Greene, R. J. Dodd (Jun.), C. Corcoran, E. Condell, J. W. Davis, W. Read, J. Gleeson, J. J. Beatty, W. H. Fry, H. F.

Brenan, R. T. Holmes, T. M. Gerrard, V. Kilbride, S. M. Bell, A. H. Burne, B. G. Barton, E. H. Burne, J. J. Cartan, T. H. R. Craig, W. J. Ryan, M. C. O'Halloran, G. E. G. White, G. T. C. Roe, C. H. Monsarrat, W. G. Bradley, J. V. Murphy, J. W. Dyas, F. R. M. Crozier, H. Bonass, H. R. Maunsell, E. E. Merrick, J. Brady, G. A. Byrne, W. J. Byrne, G. H. Parkes, E. N. Edwards, C. Friery, J. Vanston, M. Hayden, R. A. Andrews, C. H. Hardman, C. P. O'Neill, E. McNeill, W. H. Geoghegan, T. W. Fitzgerald, F. Gordon, E. Brady, J. McDermott, M. A. Smyth, J. P. Collins, P. Seales, H. D. Vaughan, E. St. C. Bell, T. C. Perrott, C. P. Wilson, J. Barry Brown, G. A. Overend, H. P. Mayne, J. Moore, R. Scholefield, A. H. S. Orpen, F. H. Croskerry, J. Minton.

The Secretary (Mr. W. G. Wakely) read the notice convening the meeting, also the minutes of the Half-yearly General Meeting, held upon 13th May, which latter were signed by the President.

The President signed the audited accounts of the Society for year ending 30th April, 1910.

The Secretary read the report of the Scrutineers of the Ballot for Election of Council for the year ending the 26th November, 1911, which stated that the following had been returned unopposed as Provincial Delegates:—Henry Blackall, for Munster; Thomas M. Greer, for Ulster; M. M. Buggy, for Leinster; William P. Kelly, for Connaught; and that the following having received the number of votes placed after their names, had been elected as the thirty-one ordinary members of the Council:—R. A. Macnamara, 232; W. S. Hayes, 232; Sir A. Baker, 227; W. J. Shannon, 225; Sir G. Roche, 225; George Collins, 214; Gerald Byrne, 207; William Fry, 206; F. C. E. Bland, 205; S. J. Brown, 203; P. J. Brady, 203; R. S. Reeves, 203; W. V. Seddall, 196; J. P. Lynch, 192; C. St. G. Orpen, 192; J. W. Richards, 184; J. A. Denning, 184; G. Lyster, 175; R. G. Warren, 170; H. J. Synnott, 167; C. A. Stanuall, 166; I. J. Rice, 163; A. E. Bradley, 161; James Henry, 160; R. B. White, 157; C. Gamble, 152; F. W. Meredith, 148; T. C. Franks, 143; A. Lloyd-Blood, 142; J. G. Fottrell, 137; A. V.

Montgomery, 136. And the following to form a supplemental list to fill vacancies:—T. W. Fitzgerald, 135; James Moore, 120; J. R. O'Connell, 119.

THE PRESIDENT, in moving the adoption of the Annual Report of the Council, said:—The next business is that I should move the adoption of the Annual Report. I am glad to notice an increase in the membership—773, as against 756 last year. We expected something more, having regard to the new Bye-Laws we issued, but probably they have not yet had sufficient time to operate. It is with the greatest regret the Council have to record the death of Mr. Galloway, who was for 24 years a member of the Council. His death, occurring as it did so suddenly, came upon us with a great shock.

The most important matter in the Report is that referring to County Court procedure: The question of the amendment of County Court procedure so as to give further jurisdiction in certain important matters, and to facilitate the more rapid issue of decrees, has been the subject of numerous attempts at legislation. Lord Ashbourne, when Lord Chancellor, took a great interest in this matter, and introduced in the House of Lords Bills dealing with the subject, which passed that House on four different occasions, in the years 1900, 1901, 1902 and 1905, but, I presume, owing to the pressure of other business, those Bills only received a first reading in the House of Commons, and were not further proceeded with.

The next step in connection with this question was the introduction in the House of Commons, in the year 1907 by Mr. John Gordon, K.C., M.P., of a measure which, I believe, had the approval of the Recorder of Dublin. This Bill, not having been dealt within that year, was re-introduced by Mr. Gordon in the year 1908. It dealt only with procedure in the County Court of Dublin, but did not apply to any other part of Ireland, and only obtained a first reading. In the year 1909 an entirely new Bill was introduced by Mr. Field, M.P., which also only referred to the County and City of Dublin. It was one of three clauses, and provided that the Lord Chancellor, with the

concurrence of the Recorder and after consultation with the President of the Incorporated Law Society, might make orders and rules for regulating various matters, both of law and procedure, which are set out in the Bill in the Civil Bill Courts of the City and County of Dublin. This Bill had the same fate as its predecessors, and did not get beyond a first reading.

A Bill in the same terms exactly was again introduced by Mr. Clancy, K.C., M.P., in the month of July last and has been read a second time. The Council of this Society could not approve of this Bill. They are of opinion that an Act of Parliament intended to effect drastic changes in law and procedure should itself contain and enact the new provisions which it is proposed to make. They consider that legislation which deposes to a rule-making authority the power practically to legislate is entirely unsatisfactory. They also consider that in all such Acts of Parliament which provide for the making of rules, the President for the time being of this Society should be named as a member of the rule-making authority and not as a person only to be consulted in reference to the rules. The experience the Council have had of the working of Acts which provide for the President being only a consultant party are highly unsatisfactory.

Early in this year the Council received from the Dublin County Court Bar Association a Draft Bill for the purpose of amending the procedure of the Dublin Civil Bill Courts, and having considered the matter (as stated in the Report), came to the conclusion that any Bill to be promoted by the Society for remedying defects in County Court procedure should be made applicable not alone to Dublin, but the whole of Ireland. A demand for such amendments had been made by all the great commercial bodies, who complained most bitterly of the difficulty of recovering debts in the County Courts, and of the delays attendant on the issue of decrees and in having them realised when obtained.

The Council, therefore, with a view to having these grievances redressed as far as possible, took into consideration the whole question of the amendments required in the present law

affecting the working of the County Courts in Ireland, and prepared a Draft Bill which they believe, if passed into law, will render proceedings in the County Courts much more effectual than heretofore, and enable decrees to be issued and levied more rapidly. The Bill provides, amongst other things:—

For the attachment of debts due to debtors.

For the obtaining of interpleader orders and orders on Sheriffs to make returns to decrees.

Enforcement of instalment orders.

That decrees shall remain in force for two years without renewal.

That the time for appeal shall run from six days from actual pronouncement of decisions, etc.

The provision limiting the time for appeal is a most important one, as it will enable decrees to be issued all through the Sessions and without the necessity of waiting, as at present, to issue the decrees after the end of the long Sessions. The Draft Bill, as prepared by the Council, was submitted for approval to the Dublin Chamber of Commerce, the Northern and Southern Law Societies, the Dublin County Courts Bar Association, the General Council of the Bar of Ireland, and others, and has been approved of by all these bodies.

The Bill is promoted altogether in the interests of the Public, and by it an effort has been made to meet most of the objections and suggestions from time to time put forward by the Commercial community in reference to County Court procedure. It has occupied the attention of the Council for a considerable portion of this year, and was discussed at nine meetings of the Committee specially appointed for the purpose and which comprised most of the leading County Court practitioners. The Bill, as so settled and approved of, was introduced in the House of Commons on the 18th of November, by Mr. P. J. Brady, M.P.—who, we are pleased to see, has been elected a member of the Council (applause)—supported by Mr. Maurice Healy, Mr. Kelly and Mr. Horner, K.C., and we sincerely trust that it may be adopted as a Government measure and in due time find its way to the Statute Book, and that thus the long sought for amendments, which it is

believed will improve the efficiency of the County Courts of Ireland, may be accomplished (applause).

MR. W. V. SEDDALL (Vice-President) said:—I have much pleasure in seconding the adoption of the Report. In doing so I do not intend to inflict a speech upon you. After your hearing the address of the President and after reading the Report, I think you will be satisfied that the members of the Society whom you have placed on the Council have at all events done their best during the year in the interests of the Profession (hear, hear).

MR. FRY:—I want to say a few words on the Irish Land Acts.

The Report which has been submitted contains no reference to the Irish Land Acts, because during the past year there has been no new legislation; but I think that at a gathering of Solicitors, such as we see here to-day, it is only fitting and right that we should express our views on the condition of affairs as we find them in this country. Now it is quite possible for members of the Incorporated Law Society to discuss burning questions from a purely professional point of view, and, representing as we do every shade of political opinions, every class of the community, whether landlords, tenants, incumbrancers, commercial men, and ourselves, we are surely entitled to express our opinions as to whether measures affecting land in Ireland are working for good or for ill; and I go further and say that I claim that it is not alone our privilege, but it is our duty to give expression to our views if we think we can thereby assist the general public in consideration of the matter.

It is impossible to avoid coming to the conclusion that the Land Question is at the root of every trouble in Ireland. Talk as we may, we cannot get away from the land, for every citizen—aye, every inhabitant of this island—is more or less directly or indirectly dependent on the products of land. It is manifest that if the dwellers on the land are in a state of turmoil and trouble and in a condition of unrest and unsettlement, agriculture is neglected, and the land does not give forth at its best that which Nature intended. The result is that those who are dependent on rents to be produced or paid by

the occupier of the soil must be largely prejudiced, and it follows that those who have claims on the landowners, such as incumbrancers, annuitants, or creditors, in their turn are materially affected also; so that the question is one which touches us all, and must be dealt with by us in a calm and dispassionate spirit, and it is from this point of view that I propose to approach the subject very briefly to-day.

Most of us have had experience in carrying through land sales under the provisions of the Land Law (Ireland) Act, 1903, and we know that as long as there was an abundance of cash provided by the British Treasury the sales went through without any great difficulty and with obvious advantage to all parties concerned: in our own experience, as professional men, the working of the Wyndham Act was most beneficial. When estates were sold agrarian agitation ceased, the new owners put energy and spirit into their labours in the land, co-operative societies for the purpose of securing better prices were started by the farmers, and the face of the country was rapidly changing for the better.

Time went on, however, and the British Treasury found that they were unable to float loans of Irish Stock at terms which made it remunerative or, indeed, possible to raise cash except at a loss, and after introducing a Bill in the year 1908, which was read a second time in the House of Commons on the 8th December of that year, we find that in the year 1909 Mr. Birrell, the Chief Secretary for Ireland, carried through the Irish Land Act of 1909.

Now whatever may have been the intentions of the Government, the results of the working so far of the recent Act have not been satisfactory. We, as professional men, know only too well that land purchase negotiations have practically terminated since the passing of the Act of 1909, and the alterations in, or abrogations of, certain of the Sections of the Act of 1903, which had worked for years so successfully.

The provisions of the Act of 1909 are familiar to you all, but, shortly stated, the effect of the law of the Act of 1909 was to raise the tenants' purchase annuity from  $3\frac{1}{4}$  per cent.—the rate under the Wyndham Act—to  $3\frac{1}{2}$  per cent. This at once affected possible tenant purchasers. Then, as regards the

landlords or vendors who had sold. The Act provided that at the option of the Vendor, instead of cash being paid, advances should be made in whole or in part by means of Land Stock, Guaranteed  $2\frac{1}{2}$  per cent. Stock; and that this Stock should be issued at the rate of £92 for an amount of Stock of the nominal value of £100; and as regards future vendors who come in under the 1909 Act, they are to be paid all in Land Stock bearing 3 per cent. The rate of bonus, too, was materially varied and other alterations, such as the well-known "Priority Register," introduced. What has been the result?

In this Hall on former occasions various speakers pointed out the danger of interfering with the then existing Act under which sales had been facilitated, and unfortunately the prophetic views then presented have proved to be only too true. It had been shown from time to time that the reason for passing the Wyndham Act of 1903 was because previous land purchase Acts had failed to attain their object, namely, to promote negotiations for land sales; and now with the new Act what do we find? Purchase negotiations increased? On the contrary, they are practically killed. We are all painfully cognisant of the fact that sales are not at all what they used to be; we all know that owing to regulations issued and lists of priorities for various cases being established in the department, instead of sales of estates brought into the department years ago being expedited, they have as a result been blocked. We are quite aware that facilities have been given to owners to accept the purchase price of estates in Stock in the place of cash; but Land Stock to-day is quoted in the Public Stock Exchange Market value per hundred for about £81 cash, and who can blame owners if they hesitate to accept payment in such a depreciated security when they know that their incumbrancers have to be paid in hard cash. Acceptance of Stock by vendors who sold under the Act of 1903 means in effect a loss of the bonus of 12 per cent., for that is, speaking broadly, the rate of loss in a sale of Land Stock at the present time. What is the effect? A complete block. It looks very like a want of good faith with vendors and tenants when those who entered into agreements for sale with *bona fide* intentions

in the years 1905, 1906 and 1907 find themselves postponed almost indefinitely before they can calculate on receiving the purchase money of their estates and discharging their liabilities. Meantime, as to the tenant purchasers, they are kept out of their ownership because their holdings are not vested, and have to pay interest instead of instalments of purchase money.

A few figures to illustrate the situation will prove interesting. Under the various facilities provided by the Wyndham Act about a quarter of a million of Irish tenants have purchased or agreed to purchase their holdings, and down to October, 1909, the amount agreed on as the purchase price was  $75\frac{1}{2}$  millions sterling—six years' work, or on an average of over 12 millions a year. This proves the popularity and workability of the Act of 1903. Now look at the other side of the picture. According to the returns the first six months' working of the Act of 1909, under which vendors are to be paid in 3 per cent. Land Stock with a varied scale of bonus, and purchase rates of annuity are increased, we find that but 352 tenants agreed to buy, and the gross total purchase money was only £106,000. Can anything more be required to show that the new Act does not commend itself to vendors or purchasers, and is to a large extent not fulfilling the objects of its framer? The results must be most disappointing.

The arrears of estates under the 1903 Act are appalling. According to a statement of Mr. Birrell on the 8th March last the amount waiting to be paid in in respect of direct sales to tenants was 47 millions; in respect of sales to the Estates Commissioners, 4 millions, as well as a considerable sum in respect of sales to the Congested Districts Board. Think what all this means to the country at large. Realise the unsettlement and uncertainty, to say nothing of the direct hardships which necessarily follow to the parties directly concerned—hundreds and hundreds of vendors, tens of thousands of tenants. These people agreed to sell and purchase on the faith of distinct parliamentary undertakings. Surely there should be some means devised by the Treasury to relieve the situation? Apparently payment in a heavily

depreciated Stock is the only solution of the difficulty which the Treasury can find.

It appears from an answer given in the House last April that out of the thousands of direct pending sales 707 vendors had agreed to accept payment partly in cash and partly in  $2\frac{3}{4}$  per cent. Stock, amounting to in or about  $7\frac{1}{2}$  millions, and that 255 vendors were accepting payment wholly in Stock representing about 2 millions. But what are these figures as compared with the whole?

The question now arises: what is best to be done by us in such a difficult situation? What can we as a profession advise our clients who have already sold? What can we as a meeting say to the public as to the solution of this trouble?

I have not referred to the hardships which are entailed on land agents and on Solicitors by reason of the delay. Is it not hard on us, professional men that year after year should roll by before we get a penny remuneration for all our trouble and outlays? We, as a body, are guilty of no delay whatsoever in connection with the proceeding; we have loyally endeavoured to facilitate sales, and yet we are absolutely impotent and helpless in the matter of affecting expedition in the realisation of the purchase money of an estate sold.

Can it be a matter of wonder if already discontent at the present situation is being expressed? Now to formulate an answer to the points suggested is not an easy matter, but for whatever they may be worth I venture to express my personal views. I know I am speaking in the presence of men of large experience in connection with the negotiations for the disposal of estates and the carrying through of sales in the Land Commission, and in all humility I give my personal opinions.

My experience has been that amendments of Land Acts which have involved drains on the British Treasury have not been as favourable to vendors and purchasers as the original design of the parent Act, and, therefore, profiting by that experience, it seems to me desirable before matters become worse, as possibly they may, that advantage should, as far as possible, be taken of the 1909 Act on the part of vendors who have already disposed of their estates

under the Wyndham Act, but who now see no immediate prospect of payment for the estates thus sold.

I venture to suggest that vendors whose circumstances are such that they can fairly afford to hold Land Stock permanently, had better take it. Thus they would be practically investing their purchase money in a 3 per cent. security, which, you know, is equivalent to that of Consols. If in the future Land Stock recovers from its present much depreciated price to the figure, say, of 92, then it is evident sales could be effected without loss, and if by any chance Land Stock went over 92, vendors would make a profit.

Now as regards vendors whose estates were lodged in the Land Commission late in the year 1908, they seem to me to be in that position that they cannot reasonably hope, as things are at present, to be reached for payment for very many years to come. Their cases are so far down on the general list that the prospects are not at all encouraging. Would it not be better for them at once to apply for half Stock and half cash or whole Stock? If they did so, in all probability they would expedite their sales by possibly two or three years, and if they found that their expectation of a realisation within a reasonable period was not likely to be accomplished, why then they might apply to replace their cases on the "All Cash Register." I know that such a replacement on the "All Cash Register" might involve their estates being placed at the bottom of the list as it then may stand, but would they be worse off than they are to-day?

Uncertainty looms large, as I have already pointed out; political complications may further depreciate the value of Land Stock; future legislation may not be even as beneficial to vendors and tenant purchasers as the Act of 1909, although, as I have shown, that Act has little to boast of, and the result of the best deliberation that I personally have been able to give to the subject is that, having regard to all the circumstances and the position of affairs generally in Ireland, it would be well for vendors to reconsider the situation and see whether they cannot accept Stock under the 1909 Act, and so bring into

the near future a realisation of the receipt of the purchase money for which they have been so long in a state of expectancy.

I do not wish to be regarded as a pessimist, but I have grave doubts as to the prudence of waiting for many years on the all cash register in the hope of payment.

I have not dealt so far with the position of landlords who have not as yet sold. They must, as a matter of course, come in under the 1909 Act; but to them I would say: You, too, should consider the position of public affairs, the difficulties of Treasury finance, the situation of those who have sold, and last, but not least, the possibility of less advantageous terms to those who hold out for better times; and if I were asked to advise I would say: You had better sell now and take payment in 3 per cent. Stock with the guarantee of the Imperial Government.

I trust that any observations which may be made to-day on this subject will really go to assist us as practitioners as to the advice we should give our clients, who naturally are looking to us for some light on the subject.

MR. C. A. STANUELL:—It was not my intention to intervene in this debate to-day, but inasmuch as Mr. Fry has introduced the subject of the Land Act, there is a point to which I should like to refer. We know the procedure by which Land Stock depends upon the value of Consols, and I really do not think the public quite understand how unpopular the formalities are in connection with dealings in that Stock. All the companies deal by post with transfers, and they receive certificates. But the Bank of Ireland gives no certificate, the Bank of England gives no certificate, and the formalities connected with the necessary power of attorney for personal attendance are more than those required in connection with the execution of a deed or will. Further, as the holder of Consols has no evidence of his title, it may be lost altogether.

I think that these formalities cause a great depreciation in the value of Consols, and Consols are at present lower than they have been for a hundred years. I believe they are now touching 80—they were 79 on Friday. I think there should be some representation made to the Government that these for-

malities had all been thrown aside by public companies, and that they should introduce a system of giving certificates to the holders of stock and should accept the ordinary transfer form. We as a profession know how very numerous the mistakes are in executing these perfectly unnecessary powers of attorney. I only wish to call attention to the matter in the hope that the Government may see fit to devise a system better than the present, which is a hundred years too old (hear, hear).

MR. GERALD BYRNE said:—I think it right on the present occasion, as I take a personal interest in the County Court procedure in Ireland, and being a member of the County Court Committee of the Incorporated Law Society and President of the Dublin Sessions Bar, that I should say a few words explaining the present position of affairs in regard to that procedure.

A Bill was brought into Parliament early this year, called "The Civil Bill Courts Dublin Bill," by which it is proposed to give power to the rule-making authority for Dublin to make such alterations as they might think fit in the Civil Bill procedure, and when made, by simply publishing these in the *Dublin Gazette*, they would become law without any discussion or consideration whatever by persons interested.

The proposal to hand over to any rule-making authority the making of laws was viewed with disfavour by the Incorporated Law Society, and their wisdom in disapproving of it was marked by the introduction of a Bill which they brought in applicable to the entire of Ireland (Dublin included), clearly showing to the public, the Professions and the Judges the remedies proposed to be applied to the existing state of affairs.

Owing to the valuable suggestions received by your Society from many persons, the printer had to make no less than 14 reprints of the Bill before it arrived at that stage in which it was presented to Parliament. Suggestions and recommendations came from all quarters to your Council suggesting amendments and additions and further powers to be conferred on County Courts, it was no easy matter for the Committee who had charge of this Bill to deal with all these suggestions. However, they were at last enabled, by yielding a little to

the suggestions of some and revising the demands of others, to bring forward a Bill which your Council think will fairly represent the wishes of the public and Professions, and one over which they can stand as a substantial benefit to the merchants and traders, as well as to the Professional bodies.

And now this Bill is in print in Parliament, and may for the present, by the sudden termination of this Session, fall to the ground. Still it is there, to be re-introduced at the earliest opportunity in the new Parliament, and we do trust that any person who has any suggestion to give or alteration to make in it will send them in at once to our Council and allow them to be considered, so that a Bill which definitely sets out the amendments sought to the existing law may be presented to the Law Officers of this country, and through them be taken up by the Government and passed into law as a Government or uncontested measure; for we feel confident that the present condition of affairs in Parliament will forbid any contentious matter being carried unless adopted by the Government of the country.

The particular matters sought to be amended by our Bill are:—The mode of service of process upon Corporations and Limited Companies, and legalising acceptance of service of Civil Bills by Solicitors for their clients; enabling a plaintiff to get a decree for the costs of his proceedings against a defendant, notwithstanding that the defendant may have sent him through post or otherwise the full amount of his debt after costs have been incurred. The attachment of debts within Civil Bill jurisdictions is a new jurisdiction sought. There is also an important one: it is the question of "speedy interpleader." We all know the return made by the Sheriffs of persons other than the defendant claiming the goods in the defendant's house. The Sheriff at present has to withdraw, and the plaintiff is without remedy unless he takes a very round-about procedure. What we seek is, that when the Sheriff seizes and a claim of this class is made, that the Sheriff can bring the parties, claimant and plaintiff, before the Judge in a short space of time and have the ownership of the goods so seized decided upon by the Judge. Also we seek that if property under a Bill of Sale or on

hire-purchase with very small sums remaining due to the holder of the Bill of Sale or person from whom they are hired, is seized under Civil Bill decree, the Judge should have power to ascertain the amount due upon these instruments, and if the creditor will pay the amount to the owner or holder of the Bill of Sale, to direct the Sheriff to realise the decree and money so paid by sale of these goods. Another most important improvement we seek to make is in what is known as the "Default Process Procedure." As it exists at present a defendant served with a default process (which is issued when plaintiff files the affidavit that a debt is due to him) can give notice that he intends to defend (which notice is provided for him at the end of the process served) by sending this notice to the Clerk of the Peace, the affidavit filed thus becomes a dead letter, and the plaintiff or his witness, no matter where he may live, must attend before the judge to prove the debt as in an ordinary process; and it is our experience that in many instances this notice is served where a defendant has no defence whatever, and upon the chance that the plaintiff will not think it worth his while to come such a long distance from his residence, wherever it may be, to the Court to prove the case, it might cost too much for time and travelling expenses; and were he to do so, and get a decree, it may not be capable of being entirely realised. Unless the plaintiff does attend no decree can be made against the defendant, though he may honestly owe the debt. Our proposal is that in cases of mercantile debts up to the extent of £20, the affidavit filed in the first instance will not fall to the ground by a notice of defence, but may be permitted to be used by the Judge as evidence of the debt, the defendant will be obliged to state what his defence is, and if a defence is shown which requires investigation of the Plaintiff's claim, the Judge will have full power to adjourn the case for the attendance of the plaintiff's witnesses or make such other order as the Judge may think fair to all parties. We do not propose that the affidavit should be conclusive, but that it should be capable of being used in case no reasonable defence is suggested to the claim.

We also deal with affidavits connected with the renewals of decrees, etc., by whom they



may be made and before whom they may be made.

We also deal with the question of renewal of decrees. At present a decree must be renewed every year for the six years it is in force. On the first year it is renewed by affidavit of the plaintiff and without notice to the defendant, and each subsequent year upon notice to him. It was thought by some persons that these renewal proceedings were really matters for putting costs into Solicitors' pockets, and for that purpose alone. Now let me draw your attention to this matter. Judgments in the High Court must be renewed every year and are executed by the Sheriff alone, who is an officer of the Court and amenable to the High Court and answerable for his actions to the Court; and if he made a seizure and was met by a statement on behalf of the defendant that the debt had been paid or almost paid by him since the judgment was marked, the Sheriff, as an officer of the Court, would naturally stay his hand and make some enquiry.

But then let us come to the procedure under decrees. A decree need not be executed by the Sheriff, but may be executed by the plaintiff himself and his bailiffs. Now it cannot be said that it is not necessary to have a periodical enquiry as to the amount that may be due upon that decree, and that the defendant should not be asked to attend on the renewal hearing with a view to seeing that he is not unjustly treated by the plaintiff. I say it would be a monstrous thing to put into the hands of any pedlar or trader, no matter what his position, a decree against a defendant and enable him to have that in his pocket for six years without being subject to any revision, and that at the end of, say, five years he would be entitled to walk in and seize the goods of the defendant for the entire amount of the decree. Such a proposition, to my mind, could not for one moment be acceded to, and I am glad to have to say that some of the authorities who were consulted upon this Bill were in the first instance opposed to the renewal of decrees, but when they heard our statement as to what actuated us in favour of the renewals and the periodical revision of the sums due on these decrees they did not press their objection further, we waived the renewal without

notice, but we think that the early revision thereafter provided by our Bill is necessary, and merchants or defendants cannot grumble if they have to pay some small costs for the hearing on renewal, which sum generally falls on the defendant who has obtained the long credit. The first renewal will be within two years from the date of the decree.

There is a clause providing for the Court to issue decrees in undefended cases after six days from the date they are pronounced by limiting the time for appeal; this will prevent decrees from being hung up until the termination of a prolonged Sessions.

We also give powers to defendants to lodge money in Court in full settlement of claims for debts or for damages, and if on the hearing, the amount tendered or lodged is deemed by the Judge sufficient, that the defendant who has so lodged that money will be indemnified from costs after the judgment was made by him.

There are other matters dealing with the professional side, such as enabling firms of Solicitors to act in Court by any member of their firm, etc.

And then there is a clause that the President of the Incorporated Law Society shall be one of the rule-making authorities, and there shall also be added a member of the Council of the Bar of Ireland, to be nominated by that Council, because we consider that the Bar of Ireland have as great an interest in the carrying on of the County Court business as Solicitors, and that it is not out of place that they should be represented on the court of the rule-making authority.

I do not think it necessary to allude to letters which have appeared in the press over the name "A Correspondent," or any other such *nom de plume*. If it is worth any individual's while to discuss the subject of the Bill in the Public Press we always like to see the true name of the writer appended to his letter, it would guide us as to the amount of attention to be given to his remarks. I therefore refrain from making any further reference to them.

I am sorry I have kept you so long, but I felt it my duty to go into this matter of County Court Practice in Ireland at some length, and the importance of the subject, especially during the coming year, must be my apology.

Our thanks are due to Mr. Patrick J. Brady, M.P., who, I am glad to say, has been elected a member of this Council, and the other Members of Parliament, members of our Profession and the Bar, who have so kindly introduced our Bill.

MR. JAMES BRADY:—I desire to make one or two remarks about the County Court Bill. Personally, I think it does not go far enough. I think there should be some provision to institute actions for breach of promise, actions for libel and slander, in the County Court. We are bound at present, at great expense, to institute such actions in the Superior Courts. They are generally remitted, and when the case comes before the County Court, the County Court Judges or Recorders proceed to abuse the parties for instituting the action in the Superior Courts. I am sure Mr. P. J. Brady will give my remarks the best attention, and try and have this grievance redressed by the present Bill.

There is another matter, as far as Dublin is concerned. I don't think that Dublin is as well served as regards procedure as the County Court. A great deal of new business is cast upon the Judges, and I think, therefore, they ought to be relieved of what I call minor business. I think if the Court of Conscience business was extended to £5 it would be a great benefit to the mercantile community of the city and would be a great relief to the congestion that at present exists in the Recorder's Court in Dublin. I know the feeling of the mercantile community is to have the jurisdiction of the Court extended to £5, and have a legal gentleman put there to carry out its duties.

MR. P. J. BRADY, M.P.:—There are some occasions on which it is difficult to make a speech, and this, at any rate, for me is one of them. But lest my complete silence might be misunderstood, with the permission of the President and Council, I would like to say one or two words.

The first is that I can assure you I feel inordinately proud of the distinction you have conferred upon me to-day by making me a member of the Council of the Incorporated Law Society. It is a distinction of which any Solicitor might be proud, and I take this opportunity of thanking all the members of my profession who have brought about that result. All I can say as to the

future is that I shall use every opportunity given me, either in Dublin or elsewhere, of promoting the interests of the profession of which I am a member (applause).

I know full well that this is no place to introduce politics. It would be highly improper, and I have no intention of doing so. But I do not think I would be introducing politics if I suggest to you that my experience of Parliament has brought me to the very firm conclusion that a Solicitor was eminently fitted to discharge parliamentary duties. And no thanks to him for that, for I believe the training which I received was one which enables me to discharge my duties as a Member of Parliament perhaps a little better than the ordinary layman who approached parliamentary work.

It has been my privilege to serve for five consecutive weeks on a Private Bill Committee. During that time one of the Bills that came before us was the Great Northern Railway Bill. That was a Bill in which our profession and the public of Ireland were vitally interested (hear, hear). It may be that the accident that I was serving on the Committee led to the elimination from the Bill of a highly objectionable clause, and one prejudicial to the public interest—a clause whereby no appeal would lie from a decision of the Arbitrator. I do not think I am violating any secrets when I say that I told my colleagues that the clause would not be got with my consent. The promoters of the Bill did not get the clause.

Reference has been made to the County Court Bill, which it was my privilege to introduce into the late Parliament. I hope that Bill will be introduced into the next Parliament, and certainly, as far as I am concerned—apart altogether from the fact that it was a Bill promoted by the Incorporated Law Society—I was very proud and glad of having been given the opportunity of being its sponsor, along with other Members of Parliament. If the Bill finds its way to the Statute Book, a great benefit will be conferred on the mercantile community and on all classes of litigants who practise in the Recorder's Court and in the County Courts throughout Ireland. Whoever is a member for Dublin—while not subordinating his political principles—ought to take every opportunity and make opportunities for him-

self to promote the interests of the community, the commercial community in this city (hear, hear).

We all know that Dublin wants to be commercially improved, and I believe that if the facilities afforded by this Bill were obtained by the passage of this Bill into an Act of Parliament it would promote very materially the interests of the commercial classes of Ireland generally and of Dublin particularly. The very least acquaintance with County Court procedure leads one to the conclusion that many of its forms and most of its practices are absolutely archaic and much behind the age (hear, hear).

My colleagues and myself had the benefit of consultation with the experienced members of the Society who had charge of the Bill. We went over it clause by clause, and considered all the suggestions made by various people. Whilst the Bill may not be perfect and may not please everybody, it is at any rate a well and carefully thought out measure, and one well calculated to promote the interests of those concerned.

Again, I would like to assure you, one and all, that I deeply appreciate this, one of the greatest honours that has ever been conferred upon me, and that I can only show my gratitude by doing everything to promote the interests of the profession of which I am a member (applause).

MR. CHRISTOPHER FRIERY:—I should like to mention a matter which, although not strictly under the control of the Council, is one that attention should be directed to. The General Election is now at hand; and it is a time-honoured custom that the position of election agent should be occupied by a Solicitor (hear, hear). I don't think I can be accused of any selfishness in these matters, because I have always given my services *pro patria*. But I don't think there are any cases recorded in which the services of Conservatives have been similarly given. I understand that at the last election in Stephen's Green the position of agent on the Conservative side was occupied by a non-legal man, and it is in the air that a similar state of things is going to take place now. In my opinion they should appoint a Solicitor to the office. There are a very large number of Solicitors in the St. Stephen's Green Division, and they could withhold from their

candidate who did not employ a Solicitor as his election agent their support during the election.

THE PRESIDENT then put to the meeting the resolution adopting the Annual Report of the Council, and the resolution was passed.

SIR GEORGE ROCHE:—I beg to move that the President do now leave the chair, and that Mr. A. Lloyd-Blood, Vice-President, do take it.

This having been done,

SIR GEORGE ROCHE, proceeding, said: I beg to move that our best thanks be given to our valued President, not only for presiding now, but during his term of office. Mr. Macnamara during the year he has been President has occupied nearly the entire of his time in doing good and furthering the interests of our profession. During his term of office many matters have been dealt with affecting the interests of the profession generally, and I must say on every occasion he has given his support, his time, in fact his entire energy for the benefit of our profession, and I think it is due to him that our best thanks should be given (applause).

MR. R. S. REEVES:—I beg to second the vote of thanks to our President. During his year of office he worked hard but quietly, and rendered good service to the Society.

The motion was passed with acclamation.

THE PRESIDENT:—I beg to thank Sir George Roche, Mr. Reeves, and the members present for their kind vote of thanks. During the year I have done my best to discharge the duties of the high office to which you did me the honour of electing me.

The proceedings then terminated.

### Meetings of the Council.

November 2nd.

#### The late Mr. Galloway.

A LETTER in reply was read from Mr. Joseph W. Dyas, thanking the Council for their resolution of sympathy upon the occasion of the death of his father, Mr. Joseph Galloway.

#### Results of Examinations.

The Report of the Court of Examiners upon the October Preliminary and Final Examinations and as to the award of the Findlater

Scholarship, was submitted and adopted. The list of successful candidates appears in this GAZETTE.

### **Certificate.**

An application, under Section 47, by a Solicitor for liberty to take out his certificate was submitted and was granted.

### **Annual Report.**

The Draft Annual Report of the Council was considered and amended, and as amended was adopted.

*November 16th.*

### **House of Lords Appeals.**

A letter was read from the Hon. Secretary of the General Council of the Bar of Ireland intimating that the Bar Council saw no reason for altering their view, already expressed, relative to fees to Irish Counsel in House of Lords Appeals. The correspondence on this subject appears in this GAZETTE.

### **Transfers for Nominal Consideration.**

The attention of the Council was drawn to the circular to Secretaries of public companies, issued upon 17th June by the Board of Inland Revenue, intimating that in cases of transfers for nominal consideration, where the transferee is a well-known bank, a certificate as to the correctness of the fixed duty by an accredited representative of the bank may be accepted, or a satisfactory certificate given by a member of a Stock Exchange acting for one or other of the parties to the transfer may be accepted. It was resolved to request the Board of Inland Revenue to intimate to Secretaries of companies that the certificate of a Solicitor acting for either of the parties as to the correctness of the fixed duty on a transfer might also be accepted.

### **Court of Examiners.**

A report of the Court of Examiners upon two applications by law clerks for leave to be bound under Section 16 was considered; one of the applications was granted, the other was refused.

### **Preliminary Examination.**

A Memorial from a law clerk seeking a modified preliminary examination under

Section 18 was considered, and it was decided not to oppose the granting of the application.

### **Solicitors (Ireland) Act, 1898, section 17:**

It was resolved, upon the Report of the Court of Examiners, to recommend the rule-making authority under the Solicitors (Ireland) Act, 1898, to make a regulation exempting those seeking to be bound as apprentices who have passed the Matriculation Examination of the National University of Ireland or of the Queen's University of Belfast, from being required to pass the Preliminary Examination of the Society. The regulation will be found in this GAZETTE.

### **Costs Committee.**

In reply to a query as to the liability of a lessor who is himself a lessee, to furnish at his own expense to his sub-lessee his title to make the lease and also searches, the Committee reported as follows, and the report was adopted:—"In the absence of an agreement to the contrary, a lessor, who is himself a lessee, is bound at his own expense, if required, to show his title to make the lease and to furnish searches."

*November 30th.*

### **Extra-Ordinary Members.**

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

A letter was read from the Southern Law Association submitting the names of the following members of that Association to be extra-ordinary members of the Council:—Mr. W. Guest Lane, Mr. A. Blake, Mr. F. Hall, Mr. A. H. Julian, and Mr. W. Thornhill.

The ten members nominated were declared duly elected as the ten extra-ordinary members of the Council for the year ending 26th November, 1911.

### **Bankruptcy Costs.**

The President informed the Council that, as requested, he had asked Mr. Justice Boyd to give directions to have the form of affidavit of credits applicable to Bankruptcy Costs altered so as to obviate the necessity of personal attendance at Court of the

Solicitor when making the affidavit, and that the Judge had complied with the request.

#### **Taxing Office.**

It was resolved to request the Lord Chancellor to have an additional Junior Clerk appointed to the Taxing Office, in accordance with a recommendation contained in the Report of the Committee appointed last year by His Lordship to enquire into the working of the Taxing Office.

#### **Registration of Title.**

In reply to a letter requesting that the Council might have an opportunity of expressing their opinion upon the site to be selected for the Central Office for Registration of Title in the event of its being removed from Henrietta Street, a letter was read from Mr. Justice Madden stating that it had been his intention to request the views of the Council upon this subject when a new site would have been provisionally selected, and that the Council would be so consulted.

#### **Illegal Conveyancer.**

A letter was read from a country member drawing attention to the preparation of a deed by a person who is not a Solicitor. A reply was directed to be written stating that the Society would proceed against the offender for the recovery of a penalty under 27 Victoria, cap. 8 upon receipt of a declaration by the party for whom the deed was prepared, containing a statement as to the remuneration paid for the work.

#### **Solicitors' Apprentices' Debating Society.**

At the request of the Solicitors Apprentices' Debating Society, the Council agreed to engage a room in the Antient Concert Rooms in which the ordinary meetings of the Debating Society will in future be held.

#### **"Gazette."**

It was resolved that the December number of the Society's GAZETTE, containing the report of the proceedings of the General Meeting, should be sent to the whole Profession, and that a circular as to membership be sent to those members of the profession who have not yet joined the Society.

#### **Costs Committee.**

In reply to a query as to the liability of a lessee to a lessor for the costs in connection

with assessment of increment value duty, the Committee reported as follows, and the report was adopted:—

"In the absence of an agreement to the contrary the Lessor's costs of having the increment value duty stamp affixed to the lease are payable by the Lessor, and are not recoverable by him from the Lessee."

#### **Council Meetings.**

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

January 11th and 25th.

#### **Committee Meetings.**

THE following Committee Meetings were held during November:—

County Courts, 1st.

Costs, 9th and 23rd.

Court of Examiners, 10th.

Gazette, 11th.

#### **Obituary.**

MR. GEORGE McILLOWIE, Senr., Solicitor, Belfast, died upon the 29th November, 1910, at his residence, Fountainville Avenue, Belfast.

Mr. McIldowie, who served his apprenticeship with the late Mr. William Seeds, Belfast, was admitted in Easter Sittings, 1879, and practised (up to the year 1908, when he retired) at Belfast, in partnership with his sons, Messrs. George and William McIldowie, who carry on the business, under the style of Messrs. George McIldowie & Sons.

#### **New Members.**

THE following have joined the Society during November:—

Bonass, Henry H., City Hall, Dublin.

Creagh, Lancelot G., Listowel.

Crozier, George, Armagh.

Hanna, George B., Ballymena.

Hanratty, Simon E., Newry.

Jefferson, Charles G., 4 Donegall Square, Belfast.

Lynam, Richard V., 16 Dame Street, Dublin.

McGrath, Daniel J., 1 Talbot Street, Dublin.

Murphy, Joseph V., 46 Dawson Street, Dublin.

Sheil, John J., 18 Bachelor's Walk, Dublin.

Turnbull, Martin H., 7 Chichester Street, Belfast.

### Legal Appointments.

THE Lord Lieutenant has been pleased to appoint Mr. Robert Henderson Todd, of Londonderry, and 3 Suffolk Street, Dublin, to be Crown Solicitor for the County of Londonderry in room of Mr. Thomas Fitzgerald, resigned.

The Lord Lieutenant has been pleased to appoint Mr. Henry Thomas Gallagher, of Strabane, and 121 Saint Stephen's Green, West, Dublin, to be Crown Solicitor for the County of Donegal, in room of Mr. Thomas Fitzgerald, resigned.

### New Solicitors.

#### ADMISSIONS DURING NOVEMBER, 1910.

Name	Served Apprenticeship to
Currie, William ..	John K. Currie, Ballymena.
Hanratty, Simon E. ..	J. H. Russell, Newry, and John Fisher, Newry.
Lynam, Richard V. ..	D. O'Connell Miley, Dublin.
McGrane, John Joseph	M. L. Hearn, Dublin, and Thomas F. Burke, Dublin
Wallace, John E. ..	T. W. Delany, Longford.

### Petty Sessions Court Proceedings.

IN the year 1890 queries were submitted by the Society to the then Solicitor-General (now Lord Atkinson) in reference to the conduct of proceedings in Petty Sessions Courts in Ireland by persons other than complainants or their Solicitors. It is considered desirable to reproduce these queries for the information of members. The following are the queries and the replies thereto:—

*Query*:—1. What is the legal meaning of the word "agent" in the Petty Sessions Act?

*Reply*:—1. I have carefully considered this case, and upon the construction of the several sections, from the 9th to the 20th inclusive, of the Petty Sessions Act, am of opinion that the word "agent" means legal agent—i.e., either counsel or attorney. The only other meaning it could have would be, the person authorised by complainant or defendant to appear and conduct the case for the person

so authorising him. There is nothing in the statutes or in the general law to require that such an agent should be appointed in writing, nor is there anything to circumscribe the class from which such an agent should be chosen. The word "agent," therefore, must mean either legal agent or any adult in the community whom the complainant or defendant may authorise to appear for him. But the 45 & 46 Vic., cap. 24, clearly shows that the latter is not the true meaning of the word "agent," and the persons named in the statute could have appeared independently of its provisions, save, possibly, the wife, if the word were to be taken in its general sense in the Petty Sessions Act, and that, too, without the restrictions imposed by the latter statute. It is, in my opinion, clear that the latter statute was passed to meet the difficulties that arose when the principal party was unable to attend, and it was desirable from the nature of the case or position of that party to avoid the expense of employing a professional man. It was, therefore, because agent means legal agent in the earlier statute that the latter statute became necessary in the main.

*Query*:—2. Is a land agent authorised in law to represent and act in court for his principal in proceedings at the suit of or against his principal under section 20 of the Petty Sessions Act, and to conduct such proceedings and examine witnesses?

*Reply*:—2. See answer to last preceding query.

*Query*:—3. Can an agent, appointed under power of attorney "to do all acts" for his principal, conduct proceedings personally in any court, in which proceedings his principal is plaintiff or defendant?

*Reply*:—3. No.

NOTE—Section 1 of 45 and 46 Vic., cap. 24, referred to in the above reply to Query 1, provides as follows:—

"In the Petty Sessions (Ireland) Act, 1851, the word 'agent' shall include the father, son, husband, wife, or brother of the complainant or defendant; provided that any such person be thereunto authorised in writing by the complainant or defendant (as the case may be), and to receive no remuneration therefor, and have the leave of the Court to appear and be heard,

“and that the Court is satisfied that such complainant or defendant is from infirmity or other unavoidable cause, unable to appear.”

### **Stamp Duty on Premium Leaseholds.**

Finance (1909-10) Act, 1910.

THE following correspondence has appeared in the *Times* :

41 Moorgate Street,  
London, E.C., Aug. 10, 1910.

The Right Hon. D. Lloyd George, M.P.,  
Chancellor of the Exchequer,  
Treasury, Whitehall, S.W.

SIR.—We beg to direct your attention to what appears to be a somewhat anomalous position under the Finance (1909-10) Act, 1910.

Under Section 73 of the Act, the Stamp Duty on a conveyance or transfer on sale of any property, where the consideration does not exceed £500, remains as under the Stamp Act, 1891, viz., 10s. per cent., but the new Act is silent as to the relative Stamp Duty in respect of the premium on the demise of leasehold property at a ground rent. There is a scale applicable to the ground rent, but, as before stated, no provision is made as to the duty on the premium, and the Inland Revenue authorities construe this to mean that the duty on the premium, even if the latter is less than £500, is to be at the rate of 1 per cent., and charge accordingly.

This would appear to be either an oversight on the framing of the Act, or obviously an injustice, for, for the sake of argument, supposing in the purchase of a freehold house the consideration is £500, the Stamp Duty would be £2 10s., whereas in the case of the demise of a leasehold house at, say, a ground rent of £5, where the consideration is a premium of, say, £400, the Stamp Duty would be £4, plus the scale on the ground rent.

We have taken the liberty of writing to you on the matter, as, of course, the Inland Revenue authorities say their duty is simply to administer the Act.

We are, Sir,  
Your obedient Servants,  
BENNETT & LEAVER.

Treasury Chambers,  
Whitehall, S.W., Nov. 4, 1910.

GENTLEMEN.—With reference to your letter of August 10th last, relative to the Stamp Duty on the purchase of leaseholds when the consideration is less than £500, I am desired by the Chancellor of the Exchequer to inform you that he has under consideration the question of amending Section 75 of the Finance (1909-10) Act, 1910, so as to remove the hardship to which you refer.

Yours faithfully,

M. H. SANDS.

Messrs. Bennett & Leaver.

### **Land Registry of Ireland.**

THE attention of members is drawn to the new rules under the Local Registration of Title (Ireland) Acts and the Small Dwellings Acquisition Act, which were issued on the first day of September last. A Blue Book containing the Local Registration of Title (Ireland) Act, 1891, the Small Dwellings Acquisition Act, 1899, the Local Registration of Title (Ireland) Amendment Act, 1908, the Local Registration of Title (Ireland) Act, 1909, the Orders and Rules under these Acts issued in September last, and a general index, can be obtained by post for one shilling and twopence from Messrs. E. Ponsonby, Ltd., 116 Grafton Street, Dublin.

### **Fees to Irish Counsel in House of Lords Appeals.**

THE attention of the Council has been directed to a case in which an Irish Solicitor, acting for respondents in an Irish Appeal to the House of Lords, had marked on the briefs and had paid to Senior Counsel one hundred guineas, and to Junior Counsel sixty-six guineas.

The Appeal was dismissed with costs, and on the taxation of the costs of the respondent, the Solicitor for the appellant objected to the amounts of the fees paid to Counsel on their briefs. The Taxing Officer allowed to the respondent, as against the appellant, seventy guineas on brief to Senior and forty guineas on brief to Junior Counsel.

The Council communicated with the General Council of the Bar of Ireland, and suggested a conference between representatives of both Councils with a view of arriving

at an understanding as to the fees payable on briefs to Irish Counsel appearing in Irish Appeals to the House of Lords.

The suggested conference took place in the month of June last, when those representing the General Council of the Bar put forward the view that there should be no departure from the practice that the fees in such Appeals for Irish Counsel should be one hundred guineas on the brief of Senior and fifty guineas on the brief of Junior Counsel. The representatives of the Council of this Society urged that it was not desirable to have a definite practice to govern all cases, as such a stereotyped practice as suggested by those representing the Bar might be injurious to the interests of Irish Counsel, and if followed always by Irish Solicitors might entail considerable loss to them.

Subsequent to this conference the following resolution was received and correspondence passed:—

RESOLUTION OF GENERAL COUNCIL OF BAR OF IRELAND:

9th June, 1910.

The Council of the Bar of Ireland is of opinion that, except in cases originating in inferior Courts (as to which there does not appear to be any settled practice), the practice of the Irish Bar has been, and is, that in Appeals to the House of Lords from the Court of Appeal in Ireland the minimum fees for Counsel are, in the case of Senior Counsel £105, and in the case of Junior Counsel £52 10s. 0d.

Law Library,  
18th June, 1910.

DEAR MR. WAKELY.—In enclosing above Resolution, I am directed by the Bar Council to explain that after making exhaustive enquiries they find that the minimum fees paid to Irish Counsel have always been as stated. The Bar Council do not consider that the amount of the fees which may be accepted by Counsel of the English Bar can be deemed to affect the question. The tribunal is an Imperial tribunal, and parties are at liberty to employ English Counsel if they so desire; but it has not been found in the past that the fees mentioned are in any way excessive or deterrent to the employment of Irish Counsel. The fees mentioned

are not in fact particularly remunerative, having regard to the expense incurred and to the delay and loss of time, and the fees cannot be considered solely from the point of view of what English Counsel might be ready to accept, as it will be conceded at once that Counsel practising in Ireland could not in that respect enter into competition with Counsel residing in London. The fees as stated by the Council have been the accepted and recognised fees as far back as the Council have been able to investigate, and they consider that it is in the interest of all parties that the well understood fees should continue, and that in fact it would not be fair to ask Irish Counsel to accept any smaller fees. Unless there was some rule on the subject pressure would be put on Counsel who had been engaged in a case not to abandon it in the House of Lords although wholly inadequate fees were offered, and the Council consider that the minimum of £105 and £52 10s. 0d. is very reasonable.

Yours truly,

(Signed), HENRY HANNA,  
Hon. Sec., Council of the Bar of  
Ireland.

W. G. Wakely, Esq.,  
Secretary, Incorporated Law Society,  
Four Courts.

Incorporated Law Society of Ireland,  
Solicitors' Buildings,  
Four Courts, 30th June, 1910.

DEAR SIR.—The Council of this Society have at present under consideration the matter of the fees payable to Irish Counsel in Appeals from Ireland to the House of Lords.

The disallowance on taxation of portion of the fees paid by Irish Solicitors to their Counsel on briefs in such Appeals has given rise to the consideration of this matter.

An interview has taken place between representatives of the Bar Council of Ireland and the Council of this Society, and subsequently the Bar Council passed upon the 9th instant a resolution, of which I enclose a copy, and that resolution was communicated to me by letter of the Hon. Secretary of the Bar Council of the 18th instant, of which I also enclose a copy.

I am directed by the Council of this Society to request you to be so good as to inform me



whether the terms of the resolution of the Bar Council will in future be acted upon in party and party taxations, and the fees mentioned therein allowed to the party who has paid same and who has been awarded his costs of the Appeal.

I am, Dear Sir,

Yours obediently,

(Signed), W. G. WAKELY,  
Secretary.

H. P. St. John, Esq.,  
Taxing Officer,  
House of Lords,  
London.

House of Lords,  
Judicial Office, July, 1910.

SIR.—Your letter of June 30, on the subject of brief fees to Irish Counsel, has been referred to the Clerk of the Parliaments for consideration.

The practice in taxing Bills of Costs relating to Appeals in this House has been to fix the amounts to be allowed for brief fees by comparing the Appeal with other Appeals of somewhat similar importance and difficulty, but no minimum fee has ever been fixed, nor has any difference been made between cases argued by Irish Counsel and those Irish Appeals in which both Counsel are Englishmen.

The Clerk of the Parliaments quite understands that an Irish Counsel may not think it worth his while to come to London to conduct an Appeal to the House of Lords unless he can be sure of getting a remunerative fee, and that to some extent his position, as regards these Appeals, compares unfavourably with that of the English Counsel who is on the spot and can undertake an Appeal to this House without any very great interference with his ordinary work; but in his opinion it is not desirable to lay down any hard and fast rule as to the amount of fees to be allowed on taxation. He prefers to adhere to the established rule of considering each case upon its merits, and except that in view of the resolution of the Council of the Irish Bar he may feel justified in being influenced to a greater extent in favour of the Counsel who are handicapped by their

distance from London, he is disposed to treat all Appeals impartially, irrespective of the nationality of the Counsel who argue them.

I am, Sir,

Your obedient Servant,  
(Signed), H. P. St. JOHN.

W. G. Wakely, Esq.,  
Secretary, Incorporated Law Society  
of Ireland.

Incorporated Law Society of Ireland,  
Solicitors' Buildings,  
Dublin, 28th July, 1910.

MY DEAR SIR.—I am directed by the Council of this Society to send you enclosed copies of letter from me to Mr. St. John, Taxing Officer of the House of Lords, and of his reply thereto, and to request that you will bring same before the next meeting of the General Council of the Bar of Ireland, with a view to seeing if the Bar Council would modify its resolution of the 9th June, 1910.

I remain,

Faithfully yours,  
(Signed), W. G. WAKELY,  
Secretary.

Henry Hanna, Esq.,  
Hon. Secretary,  
General Council of the Bar of  
Ireland,  
54 Lansdowne Road, Dublin.

Law Library,  
Four Courts,  
Dublin, 7th Nov., 1910.

DEAR MR. WAKELY.—Referring to your letter to me of the 28th July, 1910, the General Council of the Bar of Ireland have again considered carefully the matter of fees on the House of Lords Appeals, and they can see no reason for altering their views as already expressed to you.

Yours faithfully,  
(Signed), HENRY HANNA,  
Hon. Sec., Council of the Bar of  
Ireland.

W. G. Wakely, Esq.,  
Solicitors' Buildings,  
Four Courts

**Solicitors (Ireland) Act, 1898.**

## [ PRELIMINARY EXAMINATION.

NATIONAL UNIVERSITY OF IRELAND AND  
QUEEN'S UNIVERSITY OF BELFAST.

REGULATION UNDER SECTIONS 17 AND 57.  
By virtue, and in pursuance of the Solicitors (Ireland) Act, 1898, Sections 17 and 57, We, The Right Honourable Sir Samuel Walker, Baronet, Lord High Chancellor of Ireland; The Right Honourable Peter, Baron O'Brien, of Kilfenora, Lord Chief Justice of Ireland; The Right Honourable Richard Edmund Meredith, Master of the Rolls; The Right Honourable Christopher Palles, Lord Chief Baron; and Richard Arthur Macnamara, President of the Incorporated Law Society of Ireland, do make and publish the following Regulation:

A certificate of having passed a Preliminary Examination under the Solicitors (Ireland) Act, 1898, shall not be required from any person who has passed an open public Matriculation Examination of the National University of Ireland, or of the Queen's University of Belfast.

Dated this 18th day of November, 1910.

(Signed) S. WALKER, C.  
O'BRIEN, C.J.,  
R. E. MEREDITH, M.R.  
C. PALLES, C.B.  
RICHARD A. MACNAMARA,  
President, I.L.S.I.

**Results of the Society's Examinations.**

AT the Preliminary Examination held upon the 6th and 7th days of October, the following passed the examination, and their names are arranged in order of merit:—

1. James O'Connor.
2. Edward V. Coolican.
3. Thomas Campbell.
4. David W. McGonigal.
5. Henry G. Morris.
6. Robert W. McGonigal.
7. Reginald A. Sainsbury.
8. James Boston.
9. Alexander M. Turnbull.
10. Samuel Hatton.

Edmund J. Duggan, Patrick Hannan, Robert S. Magee, and James Semple, have

passed the modified Preliminary Examination, for which they had liberty to present themselves.

Twenty candidates attended the examination; fourteen passed; six were postponed.

At the Final Examination, held upon the 11th and 12th days of October, the following passed the examination, and their names are arranged in order of merit:—

1. Peter C. Furlong, B.A., R.U.I.
2. John E. Wallace.
3. Robert Hunter.
4. David A. Twomey.
5. John H. Collins.
6. Richard V. Lynam.
7. Simon E. Hanratty.
8. Michael J. O'N. Quirk.
9. Joseph J. McGrane.
10. Brendon I. Taylor.
11. William M. Wright.
12. John H. M. Molyneux, B.A., Oxon.
13. William Meagher, Junr.
14. William Currie.
15. Samuel W. McKee.
16. John H. King.
17. Samuel Roche.
18. John E. McCourt.
19. John P. Dillon.
20. Fintan-Fitzpatrick.
21. Patrick McCormack, Junr.

The Court of Examiners awarded a Gold Medal to Peter C. Furlong, B.A., R.U.I.; Silver Medals to John E. Wallace and Robert Hunter; and Special Certificates to David A. Twomey and John H. Collins.

Thirty-three candidates attended the examination; twenty-one passed; twelve were postponed.

**Findlater Scholarship.**

THE Findlater Scholarship for 1910 has been awarded to Mr. William Shaw, of Ballymena, who served his apprenticeship with Mr. Norman C. Caruth, of Ballymena, and obtained first place and a gold medal at the Final Examination held in October, 1909.

**Hilary Sittings Lectures.**

PROFESSOR QUIRKE will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing, on the following dates in Hilary Sittings, 1911:—

January 13, 17, 20, 24, 27, 31.  
February 3, 7, 10, 14, 17, 21.

PROFESSOR SHARPE will deliver lectures to the Junior Class upon Common Law, on the following dates in Hilary Sittings, 1911:—

January 12, 16, 19, 23, 26, 30.

February, 2, 6, 9, 13, 16, 20.

### **Solicitors' Apprentices' Debating Society**

PROGRAMME FOR HILARY SITTINGS, 1911.

THE meetings of the Society will be held at eight o'clock, p.m., in the Antient Concert Rooms, Great Brunswick Street, Dublin.

January 16th.—Legal Debate.—“That the Case of *Byrne v. Rogers* (1910), 2 I.R. 220, was wrongly decided.”

January 23rd.—Debate.—“That Federalism is the proper solution of the Irish Question.”

January 30th.—Impromptu Speeches.

February 6th.—Debate.—“That Members of Parliament should be Paid.”

February 13th.—Debate.—“That the State should be invested with drastic powers to settle all Industrial Disputes.”

### **Additions to the Library.**

THE following books have been added to the Library from May to November, 1910:—

#### *Banking:*

Grant (James): A Treatise on the law relating to Bankers and Banking Companies. 6th ed. By A. M. Langdon, H. Jacobs and A. C. F. Boulton. 8vo; London, 1910.

#### *Company Law:*

Palmer (Sir Francis Beaufort): Company Law. 8th ed. 8vo; London, 1910.

#### *Conveyancing:*

Encyclopædia of Forms and Precedents: Irish Forms and Precedents, being a Supplementary volume to the “Encyclopædia of Forms and Precedents,” Edited by William Cotter Stubbs and James Sinclair Baxter. Consulting Editor, John H. Edge. 8vo; London, 1910.

#### *Costs:*

Benest (J. L. M.): An Alphabetical Guide to the Law of Costs as regulated by the Rules of the Supreme Court. 8vo; London, 1910.

King (George Anthony): Costs on the High Court Scale, being Appendix N to the

Rules of the Supreme Court, 1883, with practical notes, etc. 8vo; London, 1910.

#### *County Courts:*

Osborne (Robert Ernest): The Jurisdiction and Practice of County Courts in Ireland in Equity and Probate Matters. 2nd ed. By A. B. Babington. 8vo; Dublin, 1910.

#### *Criminal Law:*

Archbold (John Frederick): Archbold's Pleading, Evidence and Practice in Criminal Cases. By Sir John Jervis. 24th ed. By W. F. Craies and H. D. Roome. 8vo; London, 1910.

Russell (Sir William Oldnall): A Treatise on Crimes and Misdemeanours. 7th ed. By W. T. Craies and L. W. Kershaw. 3 Vols. 8vo.; London, 1910.

#### *Easements:*

Goddard (John Leybourn): Law of Easements. 7th ed. By the Author and Noel Leybourn Goddard. 8vo; London, 1910.

#### *Elections:*

Rogers (Francis Newman): Rogers on Elections. Vol. I.—Registration. 17th ed. By Maurice Powell. 8vo; London, 1909.

#### *Finance (1909–1910) Act, 1910:*

Konstam (Edwin Max): The Law relating to the Duties on Land Values and Mineral Rights, and to the Valuation of same; being Part I. of the Finance (1909–1910) Act, 1910. 8vo; London, 1910.

Wylie (James): The Duties on Land Values and Mineral Rights under Part I. of the Finance (1909–10) Act, 1910. 12mo; London, 1910.

#### *Food and Drugs:*

Bell (Sir William J.): Sale of Food and Drugs Acts, 1875 to 1907. 5th ed. By C. F. Lloyd and R. A. Robinson. 8vo.; London, 1910.

#### *Fraud and Mistake:*

Kerr (William Williamson): The Law of Fraud and Mistake. 4th ed. By S. E. Williams. 8vo; London, 1910.

#### *Friendly Societies:*

Fuller (Frank Baden): Law relating to Friendly Societies and Industrial and Provident Societies. 3rd ed. 8vo; London, 1910.

Pratt (William Tidd): Law of Friendly Societies and Industrial and Provident Societies. 14th ed. By J. D. S. Sim. 8vo; London, 1909.

*Husband and Wife :*

Lush (Montague) : Law of Husband and Wife. 3rd ed. By Walter Hussey Griffith. 8vo ; London, 1910.

*Income Tax :*

Fry (Thomas Hallett) : Income Tax : its Return, Assessment, and Recovery. 8vo ; London, 1909.

Pratt (John Tidd) : Income Tax Law. 8th ed. By J. H. Redman. 8vo ; London, 1910.

*Justice of the Peace :*

Gillespie (Joseph) : Supplementary Justice of the Peace ; being an epitome and compilation of Summary Jurisdiction Acts of Parliament relating to Ireland, enacted since 1907. 8vo ; Dublin, 1910.

*Labourers Acts.*

Bolton (Albert D.) : Some Recent Decisions on the Labourers (Ireland) Acts, 1883 to 1906. 8vo ; Dublin, 1910.

*Limitation of Actions :*

Lightwood (John M.) : Time Limit on Actions ; being a Treatise on the Statute of Limitations and Equitable Doctrine of Laches. 8vo ; London, 1909.

*Maintenance and Desertion :*

Martin (Temple Chevallier) and G. T. Martin : The Law of Maintenance and Desertion and Affiliation. 3rd ed. 8vo ; London, 1910.

*Motor Cars :*

Mahaffy (Robert P.) and G. Dodson : The Law of Motor Cars. 8vo ; London, 1910.

*Patents and Designs :*

Fulton (David) : Law and Practice relating to Patents and Designs. 4th ed. 8vo ; London, 1910.

*Public Health.*

McDonnell (Robert P.) : A Manual of Sanitary Law, specially arranged for Candidates for Public Health Qualifications. 12mo ; Dublin, 1910.

*Wills :*

Jarman (Thomas) : A Treatise on Wills. 6th ed. By Charles Sweet, assisted by Charles Percy Sanger. 2 Vols. 8vo ; London, 1910.

*Workmen's Compensation :*

Beverley (Frank) : Digest of Cases decided under the Workmen's Compensation Acts, 1897-1906. 8vo ; London, 1910.

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

SOLICITORS' BUILDINGS, FOUR COURTS, DUBLIN.

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Telegrams: "Law Society, Dublin."

Telephones 2807 (2 lines).

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# THE INCORPORATED LAW SOCIETY OF IRELAND.

## COMMITTEES OF THE COUNCIL FOR THE YEAR ENDING 26TH NOVEMBER, 1911.

<i>No. 1. House, Library, and Finance.</i>	<i>No. 2. Parliamentary.</i>	<i>No. 3. Costs.</i>	<i>No. 4. Court and Offices.</i>
F. C. E. BLAND.	SIR J. P. LYNCH.	SIR GEORGE ROCHE.	J. G. FOTTRELL.
C. G. GAMBLE.	P. J. BRADY, M.P.	J. A. DENNING.	G. H. LYSTER.
R. S. REEVES.	GERALD BYRNE.	T. C. FRANKS.	A. V. MONTGOMERY.
J. W. RICHARDS.	GEORGE COLLINS.	JAMES HENRY.	W. V. SEDDALL.
H. J. SYNNOTT.	WILLIAM FRY.	C. ST. G. ORPEN.	R. B. WHITE.
	I. J. RICE.		
<i>No. 5. Gazette.</i>	<i>No. 6. County Courts.</i>	<i>No. 7. Land Act.</i>	
F. C. E. BLAND.	THE EXTRA-ORDINARY	SIR GEORGE ROCHE.	
C. G. GAMBLE.	MEMBERS.	SIR A. F. BAKER.	
W. S. HAYES.	THE PROVINCIAL DELEGATES.	SIR J. P. LYNCH.	
A. LLOYD-BLOOD.	S. J. BROWN.	S. J. BROWN.	
C. A. STANUELL.	GERALD BYRNE.	W. FRY.	
	J. A. DENNING.	C. ST. G. ORPEN.	
	R. B. WHITE.	J. W. RICHARDS.	
		C. A. STANUELL.	
		H. J. SYNNOTT.	

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

## COURT OF EXAMINERS FOR 1911.

### *President :*

FREDERICK W. MEREDITH.

### *Vice-Presidents :*

ARTHUR E. BRADLEY.	ROBERT G. WARREN.	
SIR J. P. LYNCH.	C. G. GAMBLE.	C. ST. G. ORPEN.
F. C. E. BLAND.	JAS. HENRY.	H. J. SYNNOTT.
M. BUGGY.	W. P. KELLY.	R. B. WHITE.
J. G. FOTTRELL.	A. V. MONTGOMERY.	G. B. WILKINS.

### *Special Examiners :*

C. H. DENROCHE, B.A., LL.D., R.U.I.      THE REV. J. P. MAHAFFY, S.F.T.C.D.  
F. V. GORDON, B.A., Ex-Scholar (T.C.D.)

### *Professors :*

THOMAS G. QUIRKE, B.A., LL.D., R.U.I.      FREDERICK G. SHARPE, B.A., LL.D., T.C.D.

### *Secretary :*

WILLIAM GEORGE WAKELY.

# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. IV, No. 7.]

January, 1911.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*December 7th.*

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

THE Council elected Mr. Frederick W. Meredith to the office of President of the Society, and Mr. Arthur E. Bradley and Mr. Robert G. Warren to the office of Vice-Presidents of the Society for the year ending 26th November, 1911. Mr. Meredith having taken the chair, a cordial vote of thanks was passed to the outgoing President and Vice-Presidents for the manner in which they had discharged the duties of their respective offices during the past year.

#### Transfers for Nominal Consideration.

A letter was read in reply from the Board of Inland Revenue stating that they were unable to comply with the request of the Council that the Board should intimate to Secretaries of Companies that the certificate of a Solicitor acting for either of the parties as to the correctness of the fixed duty on a transfer, might be accepted.

#### Illegal Conveyancing.

A letter was read from a country member giving particulars of a deed which had been prepared in 1908 by a Clerk of Petty Sessions presumably for remuneration. It was resolved that, as proceedings for the recovery of a penalty would not lie owing to the offence having been committed more than twelve months ago, the facts be communicated to the Registrar of Petty Sessions Clerks, with a

request that he should require the Clerk not to engage in conveyancing work.

#### Labourers (Ireland) Acts.

It was resolved that a further case be submitted to Counsel relative to the disallowance against District Councils by the Taxing Officer appointed under the Labourers (Ireland) Order, 1909, of the Vendor's Solicitor's costs of preparing and lodging in the Land Commission the necessary consents for the exclusion of the acquired plots from holdings agreed to be sold under the Land Purchase Acts.

#### Taxing Office.

A letter was read from a Dublin firm of Solicitors drawing attention to the "Notice to Solicitors" appearing daily in the *Legal Diary*, in which it was intimated in reference to cases appearing in the Taxing Master's lists, that those not answered at the first or the second calling, would be adjourned to the next Sittings, unless special reason should be shown to the contrary. It was decided to write to the Taxing Masters enquiring whether the notice was intended to apply beyond the present Sittings.

#### Board of Trade Inquiry.

Attention having been drawn to the fact that at a Board of Trade Inquiry, under the Merchant Shipping Acts, then proceeding at the Four Courts, an English Solicitor was appearing on behalf of one of the parties concerned in the Inquiry. Instructions were given that objection should immediately be

taken upon behalf of the Society to the English Solicitor so acting in this country.

*December 14th.*

### **Board of Trade Inquiry.**

The Secretary reported that, as instructed, he had upon the 7th inst. attended at the Board of Trade Inquiry then being held at the Four Courts under the Merchant Shipping Acts, and that he had objected, upon behalf of the Society, to the appearance upon behalf of one of the parties interested in the Inquiry, of an English Solicitor, and that the presiding Magistrate (Mr. E. G. Swifte) had ruled that it was not competent for the English Solicitor so to act.

### **Taxing Office.**

A letter was read from the Taxing Masters in reply intimating that the notice which had appeared in the *Legal Diary*, and relative to which the Council had made inquiry, was applicable to cases appearing in the lists for taxation during the present sittings only.

### **Petty Sessions Proceedings.**

A letter was read from a country member drawing attention to proceedings at a Petty Sessions Court, brought for trespass in pursuit of game, in which the land agent of the complainant stated in Court that he appeared upon behalf of the complainant. It appeared that the defendants pleaded guilty, and the agent stating that he did not press the case, it was dismissed. It was decided to write to the agent drawing his attention to the illegality of his appearing upon behalf of the complainant, and requiring an explanation of his action in doing so.

### **Receipts for Fees to Counsel.**

The attention of the Council having been drawn to the announcement made by the Assistant Secretary and Comptroller of Stamps and Taxes, to the effect that an acknowledgment by a Barrister for a fee of £2 and upwards, whether in the form of a receipt or by initials, is liable to the stamp duty of one penny as a receipt, it was decided to communicate with the Bar Council upon this subject in order to secure uniformity of practice in the matter.

### **Certificates.**

Affidavits of two Solicitors in support of applications to obtain certificates to practise were considered: in one case an order was made granting the application, the consideration of the other case was postponed.

### **Illegal Conveyancing.**

A letter was read in reply from the Registrar of Petty Sessions Clerks stating that he had communicated with the Petty Sessions Clerk in reference to the allegation made to the Council, and which is referred to in the proceedings of the Council of the 7th inst., that he had prepared a deed for remuneration in the year 1908, and that he had received a reply from the Clerk stating that he did not receive any remuneration for the preparation of the deed in question, nor had he ever received any remuneration for any deed prepared by him.

### **Statutory Committee.**

A letter was read from the Secretary to the Lord Chancellor, intimating that His Lordship had appointed the following seven members of the Council to be the Statutory Committee under Section 34 of the Solicitors (Ireland) Act, 1898, for the year ending 26th November, 1911:—Mr. Meredith, Sir A. F. Baker, Mr. Fry, Mr. Hayes, Mr. Macnamara, Mr. Shannon and Mr. Stanuall.

### **Court of Examiners and Committees.**

The Court of Examiners and the Committees of the Council for the year ending 26th November, 1911, were appointed.

### **Parliamentary Elections.**

The following resolution was adopted:—

Resolved: "That in the opinion of the Council of the Incorporated Law Society of Ireland the practice of appointing a person other than a Solicitor to act as Election Agent at a Parliamentary Election, adopted in the Saint Stephen's Green Division of Dublin in January, 1910, and followed in the same Division in December, 1910, is contrary to the practice which has heretofore prevailed in Ireland, and should be discouraged."

A copy of this resolution was directed to be sent to the Honorary Secretaries of the City of Dublin Unionist Registration Association,



**Council Meetings.**

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

January 11th and 25th.  
February 8th and 22nd.

**Committee Meetings.**

THE following Committee Meetings were held during December :—

Costs, 5th.  
Gazette, 14th.  
Court of Examiners, 19th.

**Commissioners to administer Oaths.**

THE Lord Chancellor has appointed the following to be Commissioners to Administer Oaths :—

John E. Cullen, Solicitor, 48 Upper Sackville Street, Dublin.  
Bernard McKernan, Clerk to Urban Council, Warrenpoint, Co. Down.  
Henry E. Monteith, Clerk of Petty Sessions, Dromore, Co. Down.  
Frank C. W. Thorp, Bagenalstown, Co. Carlow.

**Obituary.**

MR. PETER MACAULAY, LL.D., Solicitor, Belfast, died upon the 3rd December, 1910, at his residence, Rupert Lodge, Malone Road, Belfast.

Mr. Macaulay, who served his apprenticeship with the late Mr. Alexander O'Rorke, 83 Donegall Street, Belfast, was admitted in Hilary Term, 1867, and practised at Belfast.

MR. HUGH A. BUCHANAN, Solicitor, Fintona, died upon the 4th December, 1910, at his residence, Liskey House, Fintona, Co. Tyrone.

Mr. Buchanan, who served his apprenticeship with Mr. Joseph A. Hardy, Omagh, was admitted in Trinity Sittings, 1896, and practised at Omagh and Fintona.

MR. WILLS C. BENNETT, Solicitor, Dublin, died upon the 6th December, 1910, at his residence "Benoit," Serpentine Avenue, Dublin.

Mr. Bennett, who served his apprenticeship with Mr. Thomas C. Franks, 21 Lower

Fitzwilliam Street, Dublin, was admitted in Trinity Term, 1877, and practised, formerly at 15 Wicklow Street, Dublin, in partnership with Mr. A. W. Glover, under the style of Bennett and Glover, and latterly in his own name at 34 Dawson Street, Dublin, at which address the business will be carried on by Mr. David Dunne, previously of 18 Dame Street, Dublin.

MR. ROBERT KELLY, Solicitor, Belfast, died upon the 13th December, 1910, at his residence Seaview House, Green Island, Co. Antrim.

Mr. Kelly, who served his apprenticeship with his father, the late Mr. Robert Kelly, was admitted in Easter Sittings, 1880, and practised (formerly in partnership with his father) at 41 Donegall Street, Belfast, under the style of Robert Kelly & Son, at which address the business will be carried on by Mr. Hugh C. Kelly.

**New Members.**

THE following joined the Society during December :—

Boyle, Edwd. M. F., Limavady.  
Early, William, Aughnacloy.  
Fetherstonhaugh, Rupert J., Mountmellick.  
Harte, Edward, Rathdowney.  
McCartie, M., Killarney.  
Moriarty, David M., Killarney.  
Thornhill, William W., 46 South Mall, Cork.  
Tiernan, Thos. J., Kells.

**New Solicitor.**

ADMISSION DURING DECEMBER, 1910.

Name	Served Apprenticeship to
Hunter, Robert ...	John Quigg, Letterkenny.

**Solicitors' Annual Certificates.**

MEMBERS are reminded that annual certificates for the year ending 5th January, 1912, should be taken out, and the duties paid thereon, between the 5th January and 6th February, 1911.

### Calendar of the Incorporated Law Society, 1911.

THE Calendar and Law Directory, published by the Society, for 1911, can be obtained in the Secretary's Office, price Three Shillings, or by post Three Shillings and Fourpence.

### Irish Land Commission.

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

Place of Sitting	Date of Sitting	Districts Listed.
	1911	
Dublin ...	January 12th	Leinster (part of).
Killarney ...	" 17th	Co. Kerry.
Limerick ...	February 7th	Co. Limerick and Cos. Tipperary and Clare (parts of)
Cork ...	" 9th	Co. Cork.
Belfast ...	" 21st	Cos. Antrim and Down.
Armagh ...	" 22nd	Co. Armagh.
Monaghan ...	" 23rd	Co. Monaghan.
Cavan ...	" 24th	Co. Cavan.
Ennis ...	March 7th	Co. Clare.
Galway ...	" 9th	Co. Galway.
Dublin ...	" 16th	Leinster (part of).

### Solicitors' Benevolent Association.

The Directors met upon the 7th December. The Secretary reported having received £16 16s. 0d. in annual subscriptions since last

meeting, making a total of £569 19s. 0d. received since 1st January, 1910. Donations of £5 5s. 0d. from Mr. A. C. Cameron, £2 2s. 0d. from Mr. Norman C. Caruth, and £1 from the Trustees of Arnott Bequest Fund were also received. Grants amounting to £180 were made to nineteen applicants, bringing the total amount granted during the year up to £697 1s. 0d. It was resolved to invest £200 in New Consols. Directions were given for the preparation of the Annual Report for 1910, and Sir George Roche consented to draft same.

The Annual General Meeting of the Association will be held in the Hall of the Incorporated Law Society at the Four Courts, at two o'clock, p.m., on Friday, 27th January, 1911.

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.

# THE GAZETTE

OF THE

Incorporated Law Society of Ireland,

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. IV, No. 8.]

February, 1911.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*January 11th.*

#### **Sir John P. Lynch.**

THE President, on behalf of the Council, expressed to Sir John P. Lynch the congratulations of his colleagues on the occasion of the honour of Knighthood being conferred upon him. Sir John P. Lynch thanked the President and Council.

#### **Payment for Advertisements in Chancery Proceedings.**

A letter was read from a firm of Solicitors stating that in Chancery proceedings they had been required to insert advertisements in an English journal, that the proceedings are still pending and no allocation yet made, and that the proprietors of the journal had required immediate payment of the cost of the advertisements amounting to a considerable sum of money. This matter was referred to the Costs Committee.

#### **Petty Sessions Proceedings.**

A letter was read in reply from a land agent, to whom a letter had been written by direction of the Council drawing his attention to the illegality of his appearing upon behalf of a complainant in a prosecution for trespass in pursuit of game. The land agent expressed his extreme regret for having unintentionally been guilty of an infringement of the rights of the Solicitors' profession, and stating that he would not repeat the offence. The apology was accepted by the Council.

### Labourers Act.

An opinion of Senior Counsel was submitted advising that a vendor of land is entitled to compensation from a District Council in respect of the costs of the consents necessary to be lodged in the Land Commission where the District Council has acquired, for the purposes of the Labourers' Acts, portion of a holding for the sale of which holding an agreement has been entered into under the Land Purchase Acts. It was decided to submit a further query to Counsel asking him to state how payment of such compensation could be enforced against a District Council.

### Certificates.

Affidavits in support of applications by two Solicitors for orders permitting them to renew their annual certificates were submitted, and both applications were granted.

*January 25th.*

### Smoking-room.

The suggestion by a member, entered in the Suggestions Book, that a smoking-room for members should be supplied was referred to the House Committee.

### Land Commission—Certificates of Appearances.

The attention of the Council was drawn to the amount of work now involved in the preparation of a certificate of appearances in the Land Commission. The Council, having considered the matter, expressed the opinion that the requisite contents of the certificates could not with advantage be curtailed.

**Money Lenders Act.**

A letter was read from a member asking whether the Council entertain any objection to a Solicitor registering himself as a Money Lender, and was adjourned for consideration.

**County Courts Bill.**

A report from the County Courts Committee was submitted, giving details of further amendments proposed to be made in the County Courts Bill, and recommending the Council to ask the concurrence of the Bar Council in the proposal to insert an additional clause, providing for the bringing, in the County Court, of actions for slander, libel, breach of promise of marriage, and *crim. con.*, limited to £50 damages, none of which actions can, under the existing law, be originated in the County Court. The report was adopted, and it was resolved that the suggested amendments be inserted, and that the suggested new clause be sent to the Bar Council with a request that they would pass a resolution in favour of its insertion in the Bill. It was further resolved that the Bill be introduced in the approaching Session of Parliament.

**Examinations.**

A report of the Court of Examiners giving the results of the January Preliminary and Final Examinations was adopted. The results appear in this GAZETTE.

**Certificates.**

Affidavits in support of applications by three Solicitors for orders permitting them to renew their annual certificates were submitted, and the three applications were granted.

**Council Meetings.**

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

February 8th and 22nd.  
March 8th and 22nd.

**Committee Meetings.**

THE following Committee Meetings were held during January:—

Costs, 9th.  
Gazette, 16th.

County Courts, 18th.  
Court of Examiners, 23rd.  
House, Library and Finance, 30th.

**New Members.**

THE following joined the Society during January, 1911:—

Gordon, Herbert C., Enniskillen.  
Lendrum, Chas. H., 26 South Mall, Cork.  
McGrane, J. J., 79 Dame Street, Dublin.  
O'Brien, Thos. F., 13 Abbey Street, Clonmel.  
O'Grady, Wm. M., 5 St. Andrew Street, Dublin.  
Sutton, Wm. H., 9 Bachelors' Walk, Dublin.

**Obituary.**

MR. SAMUEL CROZIER MCCORMICK, Solicitor, died upon the 11th January, 1911, at his residence, Carhoo Mhor, Carrowmore, Ballina, Co. Mayo.

Mr. McCormick, who served his apprenticeship with the late Mr. Theodore Cronhelm, 18 Dame Street, Dublin, was admitted in Michaelmas Term, 1854, and practised formerly at 7 Bachelor's Walk, and latterly at 10 Upper Ormond Quay, Dublin.

MR. WILLIAM BOYLE, Solicitor, died upon the 21st January, 1911, at Ballymoney.

Mr. Boyle, who served his apprenticeship with Mr. John Boyle, Jun., Ballymoney, was admitted in Trinity Sittings, 1896, and practised formerly at Portadown and latterly at Cootehill.

**Notary Public.**

THE Lord Chancellor has appointed the following to be a Notary Public:—

Herbert C. Gordon, Solicitor, Enniskillen.

**Commissioners to Administer Oaths**

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

Michael Cavanagh, Clerk of Petty Sessions, Johnstown, County Kilkenny.  
Ernest A. G. Ellis, Justice of the Peace, Miltonmalbay, County Clare.  
Henry J. S. Fullerton, Solicitor, 30 South Frederick Street, Dublin.

John Hawthorne, Solicitor, 32 Bachelor's Walk, Dublin.  
 Timothy Murray, Assistant to the Clerk of the Crown and Peace, Dundalk, County Louth.

**Recent Decision affecting Solicitors.**

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

CHANCERY DIVISION.  
 (Before Barton J.)

*Tench v. Sandes.*

Jan. 13, 1911.—*Solicitor Mortgagee—Money lent to client—Moneylenders Act, 1900.*

This action was brought by Mr. Gerald Tench, Solicitor, Dublin, against Mr. John Sandes, to have it declared that a sum of £350, advanced by the Plaintiff to the defendant, was well charged on certain lands in County Kerry by virtue of a deposit of a land certificate by the defendant with the plaintiff.

On the 13th July, 1910, the defendant called at the plaintiff's office and informed the plaintiff that he urgently required £400, and offered an equitable deposit of the land certificate referred to as security. The plaintiff informed the defendant that he would require to look into the title, and that he would require map, valuation, certificate and evidence of the value of the lands. On the following day, 14th July, defendant called on the plaintiff and signed an undertaking or declaration as to the value of the lands, and the plaintiff thereupon gave the defendant a cheque for £335, having deducted £15 to cover interest and costs, the loan being for £350, and the plaintiff retained the land certificate as security, the defendant having signed a promissory note to the plaintiff for £350, payable within two months.

The defence was that the plaintiff was a money-lender within the meaning of the definition in the Money-lenders Act, 1900.

The plaintiff, in his evidence, stated that he never lent money except in furtherance of his business as a Solicitor; that he constantly lent money to persons for whom he acted as Solicitor; and that he had previous transactions with the defendant, who had paid him law costs in respect of such transactions. The plaintiff further stated that he

had lent sums of money to farmers who were clients of his, and that he had allowed the moneys to remain out on loan for a considerable time, and that he seldom had to take proceedings for the recovery of any such moneys.

*Held*, that the onus of proof that plaintiff was a money-lender lay upon the defendant, and that he had not discharged that onus, and judgment given in favour of the plaintiff with costs.

**New Solicitors.**

ADMISSIONS DURING JANUARY, 1911.

<i>Name</i>	<i>Served Apprenticeship to</i>
Collins, John Henry	Daniel McCartan, Downpatrick
Fitzpatrick, Fintan	D. O'Connell Miley, Dublin
Furlong, Peter Claude	Bernard J. O'Flaherty, Enniscorthy
Huggard, William S.	Edward White, Dublin
King, John H.	Daniel McCartan, Downpatrick
Macaulay, Austin G.	Peter Macaulay, Belfast
Meagher, William	Laurence J. Ryan, Thurles
McCourt, John Edward	Robert H. Wallace, Downpatrick
McKee, Samuel William	John W. Bell, Downpatrick
Pollock, Hugh Roger	John G. Fottrell, Dublin
Quirk, Michael J. O'Neil	Joseph F. Quirk, Carrick-on-Suir
Taylor, Brendon I.	Michael A. Hayden, Ballinasloe
Twomey, David Ambrose	Henry A. Wynne, Cork

**Examination Results.**

At the Preliminary Examination for persons seeking to be bound as apprentices to Solicitors, held upon the 2nd and 3rd days of January, the following passed the examination, and their names are arranged in order of merit:—

1. Terence Byrne, Junr.
2. John O'Dwyer.
3. Robert A. Macaulay.
4. John P. MacGovern.
5. Arthur P. Orr.
6. William J. Norman.

John Cottrell passed the modified Preliminary Examination, for which he had liberty to present himself.

Nine candidates attended; seven passed, two were postponed.

At the Final Examination for apprentices seeking admission as Solicitors, held upon the 4th, 5th and 6th days of January, the following passed the examination, and their names are arranged in order of merit;—

1. John M. Hamill, B.A., R.U.I.
2. John W. Buggy.
3. John V. Fahy.
4. William F. O'Connor.
5. William Anderson } equal.
- Walter Beatty }
7. Albert M. Conyers.
8. Edward Counihan.
9. Charles B. W. Boyle.
10. John Skeffington.
11. Thomas H. Hayes.
12. Peter Murray.
13. James T. Moon, Junr., B.A., T.C.D.
14. Hugh Galbraith.
15. Francis S. Collins.
16. Cyril Triscott.
17. Daniel C. Bergin.

The Court of Examiners have awarded a Gold Medal to John M. Hamill, B.A.; R.U.I., Silver Medals to John W. Buggy and John V. Fahy, and Special Certificates to William F. O'Connor, William Anderson, and Walter Beatty.

Twenty-seven candidates attended; seventeen passed, ten were postponed.

### March Intermediate Examination.

THE Intermediate Examination for Apprentices will be held upon Thursday, the second day of March, at twelve o'clock, noon. Notices to be lodged on or before Thursday, 16th February.

### Calendar of the Incorporated Law Society, 1911.

THE Calendar and Law Directory, published by the Society for 1911, can be obtained in the Secretary's Office, price three shillings, or by post, three shillings and fourpence.

### Irish Land Commission.

#### AMENDED LIST.

THE following Sittings of the Court of the

Land Commission for hearing Appeals have been provisionally arranged:—

Place of Sitting	Date of Sitting	Districts Listed.
1911		
Cavan	Feb. 28th	Co. Cavan.
Monaghan	March 1st	Co. Monaghan.
Armagh	" 2nd	Co. Armagh.
Belfast	" 3rd	Cos. Antrim and Down
Galway	" 7th	Co. Galway.
Ennis	" 9th	Co. Clare.
Dublin	" 16th	Leinster (part of).

### Dates of Spring Assizes, 1911.

#### MUNSTER CIRCUIT.

Co. Clare.—At Ennis, Wednesday, March 1st, at 11 o'clock.

Co. Limerick.—At Limerick, Saturday, March 4th, at 11 o'clock.

City of Limerick.—At Limerick, Saturday, March 4th, at 11 o'clock.

Co. Kerry.—At Tralee, Thursday, March 9th, at 12 o'clock.

Co. Cork.—At Cork, Thursday, March 16th, at 11 o'clock.

City of Cork.—At Cork, Monday, March 20th, at 10.30 o'clock.

*Judges*—The Lord Chief Baron and Mr. Justice Dodd.

*Registrars*—Mr. Francis Kennedy, Marino Park, Blackrock, Co. Dublin; and Mr. Huston Dodd, 94 Marlborough road, Donnybrook, Co. Dublin.

#### CONNAUGHT CIRCUIT.

King's County.—At Tullamore, Wednesday, March 1st, at 11.30 o'clock.

Co. Leitrim.—At Carrick-on-Shannon, Friday, March 3rd, at 2 o'clock.

Co. Sligo.—At Sligo, Tuesday, March 7th, at 12 o'clock.

Co. Roscommon.—At Roscommon, Friday, March 10th, at 11 o'clock.

Co. Mayo.—At Castlebar, Tuesday, March 14th, at 12 o'clock.

Co. Galway.—At Galway, Monday, March 20th, at 11 o'clock.

*Judges*—Mr. Justice Gibson and Mr. Justice Madden.

*Registrars*—The Hon. E. Gibson; Clonlea, Sandycroft, Co. Dublin; and Mr. W. H. Atkinson, Nutley, Booterstown, Co. Dublin.



**LEINSTER CIRCUIT.**

Co. Wicklow.—At Wicklow, Wednesday, March 1st, at 12.15 o'clock.

Co. Wexford.—At Wexford, Thursday, March 2nd, at 3.15 o'clock.

Co. Waterford.—At Waterford, Friday, March 3rd, at 12 o'clock.

City of Waterford.—At Waterford, Friday, March 3rd, at 12 o'clock.

Co. Tipperary (S.R.)—At Clonmel, Tuesday, March 7th, at 11 o'clock.

Co. Tipperary (N.R.)—At Nenagh, Thursday, March 9th, at 11 o'clock.

Queen's Co.—At Maryborough, Saturday, March 11th, at 11.30 o'clock.

City and Co. of Kilkenny.—At Kilkenny, Tuesday, March 14th, at 11 o'clock.

Co. Carlow.—At Carlow, Thursday, March 16th, at 11 o'clock.

Co. Kildare.—At Naas, Saturday, March 18th, at 11 o'clock.

*Judges*—The Lord Chief Justice and Mr. Justice Kenny.

*Registrars*—Mr. Cholmondeley Clarke, Airfield, Donnybrook, Co. Dublin; and Mr. E. H. Kenney, Marlfield, Cabinteely, Co. Dublin.

**NORTH-EAST CIRCUIT.**

Co. Meath.—At Trim, on Wednesday, March 1st, at 11.30 o'clock.

Co. Louth.—At Dundalk, on Friday, March 3rd, at 11 o'clock.

Co. Monaghan.—At Monaghan, on Tuesday, March 7th, at 11 o'clock.

Co. Armagh.—At Armagh, on Friday, March 10th, at 11 o'clock.

Co. Down.—At Downpatrick, on Wednesday, March 15th, at 12 o'clock.

Co. Antrim.—At Belfast, on Saturday, March 18th, at 12 o'clock.

City of Belfast.—At Belfast, on Tuesday, March 21st, at 11 o'clock.

*Judges*—The Right Hon. Lord Justice Cherry and the Hon. Mr. Justice Boyd.

*Registrars*—Mr. J. Briscoe Cherry, 92 Stephen's Green, Dublin; and Mr. Robert R. Boyd, 66 Merrion Square, Dublin.

**NORTH-WEST CIRCUIT.**

Co. Westmeath.—At Mullingar, Wednesday, March 1st, at 11.30 o'clock.

Co. Longford.—At Longford, Friday, March 3rd, at 12.30 o'clock.

Co. Cavan.—At Cavan, Monday, March 6th, at 1.30 o'clock.

Co. Fermanagh.—At Enniskillen, Wednesday, March 8th, at 11 o'clock.

Co. Tyrone.—At Omagh, Friday, March 10th, at 11 o'clock.

Co. Donegal.—At Lifford, Wednesday, March 15th, at 11 o'clock.

Co. Londonderry.—At Londonderry, Saturday, March 18th, at 11 o'clock.

City of Londonderry.—At Londonderry, Monday, March 20th, at 10.30 o'clock.

*Judges*—Lord Justice Holmes, and Mr. Justice Wright.

*Registrars*—Mr. Valentine Holmes, 33 Trinity College, Dublin; and Mr. G. W. Wright, 1 Fitzwilliam Square, Dublin.

**Solicitors' Benevolent Association.**

THE Directors met on Wednesday, the 11th January. The Secretary reported having received in annual subscriptions £238 7s. 0d. since 1st January. The following donations were received:—£26 5s. 0d. from Mr. F. W. Meredith (President of the Incorporated Law Society), £10 10s. 0d. from Mr. R. G. Warren (Vice-President, Incorporated Law Society), £10 10s. 0d. from Sir Benjamin Whitney, £10 10s. 0d. from Mr. Richard S. Reeves, £5 5s. 0d. from Mr. W. Milward Jones, £5 5s. 0d. from Mr. Joseph H. Bennett, and £1 1s. 0d. from Mr. Robert Crookshank. Seven applications for relief were received, and grants amounting to £99 10s. were made to the applicants.

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.

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# THE GAZETTE

OF THE

Incorporated Law Society of Ireland.

Vol. IV, No. 9.]

March, 1911.

[ FOR CIRCULATION  
AMONGST MEMBERS.

## Meetings of the Council.

February 8th.

### County Courts Bill.

THE following letter, from the Honorary Secretary of the Bar Council, was read in reply to the request of the Council that the Bar Council would pass a resolution in favour of the insertion of a clause in the County Courts Bill which is to be introduced by Mr. Brady, M.P., extending the jurisdiction of the County Court to actions for slander, libel, breach of promise of marriage, and *crim. con.*, limited to £50 damages:—

" Law Library,

" Four Courts,

" Dublin, 6.2.1911.

" DEAR MR. WAKELY,

" The General Council of the Bar had before them the consideration of the proposed extension of the County Court jurisdiction so as to include slander, libel, etc. They have also had before them the amended proposal to confine the jurisdiction asked for, merely to actions for slander under £20. They cannot approve of this in any form, as they consider that the original limitations were imposed to restrain frivolous and trivial litigation, and they apprehend that there is no reason to suppose that those arguments against the extension have lost any of their force.

" Faithfully yours,

" (Signed), HENRY HANNA."

It was resolved to request Mr. Brady, M.P., to introduce the Bill as originally drafted, and without the insertion of the clause to which the Bar Council had objected.

### Increment Duty.

The subject of the mode of assessment of increment duty and the new forms containing the particulars required to be delivered in order to have an increment value duty stamp affixed, were referred to the Costs Committee.

### Smoking Room.

It was resolved that the room opening off the gallery of the Society's large Hall, formerly used as a Library, should be furnished as a Smoking Room for the use of members of the Society.

### Certificates.

Applications by six Solicitors for renewals of their certificates were considered, and orders were made in each case granting the application.

February 22nd.

### Four Courts, Stamp Office.

In accordance with a suggestion of a member of the Society, it was resolved that a letter be written to the Controller of the Inland Revenue requesting that arrangements should be made for expediting the impressing of judicature fee funds in the Stamp Office.

### Grants of Probate and Administration.

A regulation having been made that in future, Grants of Probate and Administration will be issued upon paper instead of parchment as heretofore, it was resolved that a letter be written to Mr. Justice Madden requesting that arrangements be made, so that the person applying for the grant could have it upon parchment by payment of a fee to cover the cost price of the parchment.

### Registration of Title Office.

A letter was read from Mr. Justice Madden stating that the ground facing the Metropolitan Police Courts had been selected as the site for the new Central Office for Registration of Title, the entrance being situate near the Judge's entrance to the Probate Court, and that this site had been selected with a special view to the convenience of Solicitors.

### Land Purchase Remuneration.

The following letter was read :—

"The Irish Land Commission,  
"16th Feb., 1911.

"DEAR SIR,

"A case came before the Land Commission Court to-day, in which the facts are as follows :—

"The Vendor formally agreed with his Solicitor to pay him a sum, calculated at the rate of 2 per cent. on the purchase money, etc., as costs of carrying out the sale to the tenants.

"On the completion of the sale, when the fund was being distributed, the Solicitor produced a later agreement (by which the Vendor agreed to pay at the rate of 3 per cent.), and stated to the Court, through the person who represented his Dublin agent, that in the course of the proceedings he had found that the sum originally agreed to was not a sufficient remuneration for his services.

"He claimed that in such a case, a Solicitor had a perfect and recognised right to decline to be bound by the first agreement, and to obtain a fresh one from his client.

"I am directed by Mr. Justice Wylie to ask you whether there is any foundation, in practice for this claim.

"Faithfully yours,  
"(Signed), HUGH POLLOCK,  
"Registrar."

The following is the reply of the Council :—

"The Incorporated Law Society of Ireland,  
"Solicitors' Buildings, Four Courts,  
"Dublin, 24th February, 1911.

"DEAR SIR,

"I have submitted your letter of the 16th instant to the Council of this Society, and I am directed in reply to inform you that in the experience of the Council there is no

foundation, in practice, for the claim that a Solicitor had a perfect and recognised right to decline to be bound by the first agreement and to obtain a fresh one from his client.

"My Council are of opinion that where a Solicitor has entered into an agreement with a Vendor to accept a percentage on the purchase money in lieu of his costs of sale, and the Vendor has sold on the basis of such agreement, no alterations should be made in the terms thereof.

"Faithfully yours,  
"(Signed), W. G. WAKELY,  
"Secretary.

"Hugh Pollock, Esq.,  
"Registrar,  
"Irish Land Commission."

### Labourers Act.

A letter in reply was read from the Local Government Board acknowledging the receipt of Counsel's opinion, which advised that a vendor of land is entitled to compensation from a District Council in respect of the costs of the consents necessary to be lodged in the Land Commission where the District Council has acquired, for the purposes of the Labourers Acts, portion of a holding for the sale of which holding an agreement has been entered into under the Land Purchase Acts. The letter of the Board promised a further communication on the subject.

The Labourers (Ireland) Bill, 1911; was referred to the Costs Committee for consideration.

### Parliamentary Elections.

The following letter was read in reply to a resolution of the Council, which had expressed the opinion that the practice of appointing a person other than a Solicitor to act as Election Agent is contrary to the practice which has heretofore prevailed in Ireland, and should be discouraged :—

"City of Dublin Unionist Association,  
"62 Dawson Street,  
"Dublin, 14th Feb., 1911.

"DEAR SIR,

"On Friday last, your letter of 15th December last, was laid before the first meeting of the Executive Council of this Association held since it was received. On

the consideration of your letter the following resolution was passed in reply:—

‘That the Association had no part in the appointment of the Election Agent in the St. Stephen’s Green Division in January, 1910, and December, 1910, but that they have ascertained the appointments referred to were made with the concurrence of the Solicitor to the Association.’

“Yours faithfully,

“(Signed), H. ROBT. TOPPING.

“The Secretary,

“The Incorporated Law Society of  
“Ireland.”

### **Apprentices’ Debating Society.**

“The British Policy of Free Imports” was the subject selected by the Council for the medal to be awarded for Composition for Session 1910–11.

### **Wood Pavement outside Courts.**

It was resolved to again draw the attention of the Corporation of Dublin to the necessity for wood pavement being laid down in the streets surrounding the Four Courts and Dublin Metropolitan Police Courts.

### **Apprentices.**

An application by a Law Clerk for liberty to be bound under Section 16 was considered and granted.

### **Council Meetings.**

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

March 8th and 22nd.

April 19th.

### **Committee Meetings.**

THE following Committee meetings were held during February:—

Costs, 3rd and 15th.

Gazette, 9th.

Court of Examiners, 17th.

Land Act, 24th.

### **New Members.**

THE following joined the Society during February, 1911:—

Beatty, Walter, 9 Eustace Street, Dublin.  
O’Shea, Michael, Kilrush, Co. Clare.

### **Commissioner to Administer Oaths.**

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

Henry Ernest Benner, Actuary, Waterford.

### **Legal Appointments.**

MR. WILLIAM HEALY, Solicitor, of Ennis, has been appointed to the united office of Clerk of the Crown and Peace of County Clare.

MR. WILLIAM FRY, J.P., Solicitor, 14 Lower Mount Street, Dublin, has been elected to the office of Honorary Secretary of the Dublin Chamber of Commerce.

### **Obituary.**

MR. JAMES DONNELLAN, Solicitor, Dublin, died upon the 12th February, 1911, at his residence, 5 Brighton Road, Rathgar, Co. Dublin.

Mr. Donnellan, who served his apprenticeship with the late Mr. Patrick King, Upper Dorset Street, Dublin, and with the late Mr. Alfred H. Middleton, 27 York Street, Dublin, was admitted in Trinity Term, 1872, and practised formerly at 10 South Frederick Street, Dublin, and subsequently at 43 Dame Street, Dublin, up to the year 1890, when he retired.

MR. CORNELIUS O’RORKE, Solicitor, Dublin, died, upon the 19th February, 1911, at his residence, Whitehall Terrace, Clontarf, Co. Dublin.

Mr. O’Rorke, who served his apprenticeship with Mr. M. J. O’Farrell, of 29 Bachelor’s Walk, Dublin, Mr. Frederick Kennedy, 4 Lr. Ormond Quay, Dublin, and Mr. Michael C. Hackett, of 5 Lr. Sackville Street, Dublin, was admitted in Hilary Sittings, 1898, and practised formerly at No. 5 and latterly at No. 1 Lower Sackville Street, Dublin.

MR. BINDON SCOTT, Solicitor, Dublin, died upon the 20th February, 1911, at his residence, 1 Grosvenor Place, Rathmines, Co. Dublin.

Mr. Scott, who served his apprenticeship with the late Mr. Stawell Webb, of 25 College Green, Dublin, was admitted in Hilary Term, 1850, and practised at 4 Kildare Street, subsequently at 7 Dawson Street, and latterly in partnership with the late Mr. John W. Seymour, and Mr. W. Bindon Scott (who carries on the business, at 55 Dawson Street, Dublin, under the style of Webb, Scott and Seymour).

### Assessment of Duties on Deeds.

THE following questions and answers have appeared in the Parliamentary Papers:—

MR. MAURICE HEALY.—To ask the Secretary to the Treasury, if he will state what the administrative reasons are which render it impossible to receive documents at stamp offices, such as Cork, for adjudication (*i.e.*, for transmission to Dublin for that purpose); what are the facilities which it is intended to grant in Ireland for the purpose mentioned; and what facilities have been granted for the same purpose in Great Britain since the passing of The Finance (1909-10) Act, 1910. [13th February, 1911.]

MR. HOBHOUSE.—The honourable Member's previous Question of the 8th instant was understood as asking whether documents could be adjudicated at all Government stamp offices. This is not possible, because adjudication is conducted by a trained legal staff, under the personal supervision of the solicitors of Inland Revenue, and the work must necessarily be centralised at the head offices in London, Edinburgh, and Dublin.

In Ireland it is contemplated (following the practice in Great Britain) to allow documents to be sent through the post to Dublin for adjudication there, and it is hoped that the honourable Member's suggestion will be adequately met by the adoption of this course. [13th February, 1911.]

MR. MAURICE HEALY.—To ask Mr. Chancellor of the Exchequer, whether his attention had been called to the inconvenience and risk of loss resulting from the necessity of having deeds assessed for increment duty prior to registration in the Registry of Deeds and the Land Registry of Title in Ireland; whether any similar question has arisen in counties where registry of land or deeds

exists in England; and whether, in view of the fact that priority of right may, in many cases, depend on priority of registration, and that such priority may, without any fault of those concerned, be lost by delay in having increment duty assessed, he will make such amendment in the law as will enable deeds to be registered without having increment duty first assessed. [13th February, 1911.]

MR. HOBHOUSE.—It is not the fact that deeds are required to be, or are, assessed for increment value duty prior to registration in the Registry of Deeds and the Land Registry in Ireland. Reasonable particulars only of the transaction carried out by a deed are required to be presented to the Inland Revenue Department, and normally the deed is stamped with an Increment Value Duty (Particulars Delivered) stamp without delay, and in the great majority of cases is handed back on the same day as the particulars are delivered. Any inconvenience or delay is thus reduced to a minimum, and the same practice prevails in England.

With regard to the third part of the Question, I do not consider that any amendment of the law is required. [14th February, 1911.]

### New Solicitors.

#### ADMISSIONS DURING FEBRUARY, 1911.

Name	Served Apprenticeship to
Beatty, Walter	John J. Beatty, 9 Eustace Street, Dublin.
Bergin, Daniel Charles	David J. O'Meara, Mal-low, Co. Cork.
Buggy, John W.	Michael Buggy, Kilkenny
Collins, Francis Stanislaus	George M. Collins, 21 St. Andrew Street, Dublin.
Conyers, Albert Maiben	Arthur Blood - Smyth, Limerick.
Dillon, John Plunkett	John L. Scallan, 25 Suffolk Street, Dublin.
Fahy, John Vincent	William L. B. Cochrane, 29 South Frederick St., Dublin.
Hamill, John MacFarland	George H. Wheeler, Belfast.

### Calendar of the Incorporated Law Society, 1911.

THE Calendar and Law Directory, published by the Society for 1911, can be obtained in the Secretary's Office, price three shillings, or by post, three shillings and fourpence.



**Easter Sittings Lectures.**

LECTURES will be delivered to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing, on the following dates in Easter Sittings, 1911.

April 21st, 25th, and 28th.

May 2nd, 5th, 9th, 12th, and 16th.

Lectures will be delivered to the Junior Class upon Common Law, on the following dates in Easter Sittings, 1911:—

April 20th, 24th, and 27th.

May 1st, 4th, 8th, 11th, 15th, & 18th.

**Dates of Examinations.**

THE following are the dates of the May, 1911, Examinations:—

May 18th and 19th, Preliminary (Notices to be lodged before April 19th).

May 22nd, 23rd, and 24th, Final (Notices to be lodged before April 22nd).

**Solicitors' Benevolent Association.**

THE Directors met on 22nd February. The Secretary reported having received £100 16s. in annual subscriptions since the previous meeting. Life subscriptions of £10 10s. 0d. each were received from Mr. Charles J. McGahon and Mr. Herbert Malley, and a donation of £5 5s. 0d. from Mr. Joseph H. Bennett. Four applications for relief were received, and grants amounting to £49 were made to the applicants.

The Scrutineers' report on the voting for

the election of a "James Weir" annuitant of £30, was submitted and Mr. Henry W. Geoghegan, having received the highest number of votes was declared elected.

Directions were given for an election to be held in July next, for the "Fulton" Annuity of £15.

The return of the voting for the election of Chairman, Vice-Chairman and Honorary Secretary for the current year was submitted, with the result that Mr. Fry was re-elected Chairman, Sir George Roche, Vice-Chairman, and Mr. M. Barrington Jellett, Hon. Secretary.

The following new members have been enrolled since 1st January, 1911:—

Conyers Baker. Herbert Malley.

Charles Corcoran. G. A. Overend.

Thomas Early. J. D. Vance.

Henry T. Gallagher.

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. IV, No. 10.]

April, 1911.

[ FOR CIRCULATION  
AMONGST MEMBERS.]

### Meetings of the Council.

*March 8th.*

#### Visit of His Majesty the King to Ireland.

It was resolved that an address from the Council be presented to His Majesty the King upon the occasion of his approaching visit to Ireland, and a Committee was appointed to prepare the address.

#### Estate Duty Accounts.

A letter was read from a Belfast firm drawing attention to the delays which they experience at the Custom House, Dublin, in the passing of Estate Duty accounts. A reply was directed, stating that the experience of members of the Council was that where there is personal attendance at the Custom House, upon the passing of Estate Duty accounts, no serious delay occurs, and requesting detailed particulars of any case where such delay had been experienced, so that inquiry might be made as to the cause.

#### Four Courts Stamp Office.

A letter in reply was read from the Comptroller of Inland Revenue stating that owing to pressure of work at the Mint, there has been unavoidable delay in providing the requisite dies for the fee presses at the Stamp Office, Four Courts, which are at present unused, and that he had forwarded a copy of the letter from the Society on the subject to the Board of Inland Revenue, with a request that steps be taken to have the dies engraved with as little delay as possible.

#### Certificate.

An application by a Solicitor for renewal of his certificate was considered, and an order was made granting the application.

#### Court of Examiners.

The report of the Court of Examiners upon the Intermediate Examination was submitted and adopted.

#### Preliminary Examination.

A memorial from a Law Clerk seeking a modified Preliminary Examination under Section 18 was submitted, and it was decided that the application be not opposed.

#### Parliamentary Committee.

A report upon the Under-Sheriffs (County Boroughs) (Ireland) Bill was submitted, and it was resolved in the event of the Bill reaching Committee stage, that action should be taken to have amendments moved to the Bill in accordance with those which had been prepared by the Committee.

A report upon the Belfast Corporation Bill was submitted, and it was resolved to take action in opposition to Clause 36, under which there would be no appeal from the award of an Arbitrator awarding a sum less than £1,000 for land compulsorily acquired under the Bill.

*March 22nd.*

#### Increment Value Duty.

Attention was drawn to the requirement of the Inland Revenue authorities where a deed is presented in order to obtain one of the

stamps mentioned in Section 4 of the Finance (1909-10) Act, 1910, it must have been already executed by the transferor or lessor. The matter was referred to the Costs Committee.

Upon the recommendation of the Costs Committee the Council passed a resolution dealing with the remuneration in respect of the work in connection with the obtaining of one of the stamps mentioned in Section 4 of the Finance (1909-10) Act, 1910. The resolution appears in this GAZETTE.

### Wood Pavement outside Courts.

A letter in reply was read from the Secretary of the Paving Committee of the Corporation of Dublin stating that the estimated cost of wood paving round the Four Courts and Police Courts would be £3,000, and the Paving Committee stated their regret it was not possible for them to charge this sum on the rates.

### Labourers Acts.

The Secretary reported that at the Donegal Assizes the appeal by the defendants in the case of *Benar and Gallagher v. Stranorlar District Council*, in which appeal the respondents (plaintiffs) had assistance from the Society, the appeal had been dismissed, and the decree in favour of plaintiffs for two guineas costs for showing title was confirmed, the Labourers (Ireland) Order, 1910, being held to be not retrospective in its effect. A report of this decision will be found in this GAZETTE.

### Land Commission.

On the suggestion of a member it was resolved to again request the Land Commission to have a telephone supplied at 18 Nassau Street, for use in connection with the Land Commission offices there.

### Northern Law Society.

The Draft Memorandum of Association and Articles of Association, for the purpose of incorporating the Northern Law Society, were submitted, and were referred to the Parliamentary Committee.

### Council Meetings.

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

April 21st (Friday).  
May 3rd and 17th.

### Committee Meetings.

THE following Committee meetings were held during March:—

Costs, 1st, 15th, and 31st.  
Parliamentary, 3rd and 28th.  
Court of Examiners, 6th.  
Gazette, 10th.

### New Members.

THE following joined the Society during March, 1911:—

Doyle, John T., 12 Lr., Ormond Quay, Dublin.  
Kerley, Patrick J., Dundalk.  
McCormack, Patrick F., Strokestown.  
Roper, Henry C., 51 Merrion Square, Dublin.

### Legal Appointments.

MR. GEORGE J. BALL, Solicitor, Assistant Solicitor to the Chief Crown Solicitor, Dublin Castle, has been appointed by the Army Council to be War Department Property Agent and Adviser in Ireland, and is attached to the Head Quarter Staff at Island Bridge Barracks, Dublin, where he has assumed his new duties.

M. JOHN C. ROBERTSON, Solicitor, of Castlebar, has been appointed an Assistant Solicitor in the office of the Chief Crown Solicitor, Dublin Castle.

### Notaries Public.

THE Lord Chancellor has appointed the following to be Notaries Public:—

John Corr, Solicitor, Coalisland.  
George Wheeler, Solicitor, Omagh,

**Commissioners to Administer Oaths**

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

John S. Farrell, Solicitor, Banbridge.  
 James L. McDonnell, Solicitor, Belfast.  
 Harper Crawford, House Agent, Belfast.  
 Theodore Curry, Clerk of Petty Sessions,  
 Glynn.  
 Jeremiah H. Long, General Agent,  
 Youghal.

**Obituary.**

MR. JEREMIAH MANGAN, Solicitor, died upon the 5th March, 1911, at his residence, Leeson Street, Dublin.

Mr. Mangan, who served his apprenticeship with Mr. John Stanton, of 50 South Mall, Cork, was admitted in Trinity Sittings, 1892, and practised at Tralee and Killarney up to the year 1897, when he retired.

MR. JOHN KEPPLE, Solicitor, Mallow, died upon the 6th March, 1911, at his residence, Mallow.

Mr. Kepple, who served his apprenticeship with the late Mr. Robert Wynne, Mallow, was admitted in Trinity Term, 1874, and practised in Mallow.

MR. STEPHEN O'SHAUGHNESSY, Solicitor, died upon the 11th March, 1911, at Dublin.

Mr. O'Shaughnessy, who served his apprenticeship with the late Mr. William Roche, 7 Upper Pembroke Street, Dublin, was admitted in Easter Term, 1863, and practised at 81 Harcourt Street, Dublin, up to the year 1885, when he was appointed Clerk of Crown and Peace for the County of Louth, which office he held up to the year 1908, when he retired.

MR. RICHARD LACY, Solicitor, died upon the 18th March, 1911, at Dublin.

Mr. Lacy, who served his apprenticeship with Mr. John C. Sullivan, Navan, and with the late Mr. Mathew J. White, 42 Fleet Street, Dublin, was admitted in Trinity Sittings, 1904, and practised at Navan.

MR. ROBERT DOBBYN, Solicitor, died upon the 22nd March, 1911, at his residence, Ballinakill House, Waterford.

Mr. Dobbyn, who served his apprenticeship with the late Mr. Usher Glanville, 20 North

Earl Street, Dublin, was admitted in Trinity Term, 1851, and practised at No. 2 Beresford Place, Dublin, and at Waterford, in partnership with Mr. Shapland M. Tandy and Mr. Archibald S. McCoy, under the style of Dobbyn, Tandy and McCoy, up to the year 1891, when he retired.

**Assessment of Increment Value Duty.**

SECTION 1 of the Revenue Act, 1911 (which received the Royal Assent upon the 31st day of March, 1911), provides as follows:—

“Any contract made after the passing of this Act between a transferor and transferee or a lessor and lessee for the payment by the transferee or lessee, as the case may be, of increment value duty, or any expenses incurred in connexion with the payment or assessment of the duty, or for the repayment or re-imbusement by the transferee or lessee to the transferor or lessor in any manner of any payments made by the transferor or lessor in respect of that duty or any such expenses, shall be void.”

The Council have passed the following resolution:—

“The Council suggest to the Profession in ordinary cases the sum of one pound and ten shillings (in extra-ordinary cases to be increased or diminished) as reasonable remuneration for all the work in connection with the obtaining of one of the stamps mentioned in Section 4 of the Finance (1909-10) Act, 1910, the sum of one pound and ten shillings having already been sanctioned by rule of the Land Judge as remuneration for this work when performed in connection with a Land Judge's conveyance.”

The Stamps referred to in the foregoing resolution are defined as follows in the fourth section of the Finance (1909-10) Act, 1910:—

(a) “A stamp denoting that the Increment value duty has been assessed by the Commissioners and paid in accordance with the assessment; or

(b) “A stamp denoting that all particulars have been delivered to the Commissioners, which, in their opinion, are necessary for the purpose of enabling them to assess the duty, and that security has been given for the

payment of duty in any case where the Commissioners have required security; or

(c) "A stamp denoting that upon the occasion in question no increment value duty was payable."

### Irish Land Act, 1909.

#### INVESTMENTS SANCTIONED BY THE PUBLIC TRUSTEE.

IN the House of Lords upon 20th March, 1911, the EARL OF DONOUGHMORE asked His Majesty's Government whether any investments had been sanctioned by the Public Trustee under the Irish Land Act, 1909, in addition to those mentioned in the list given by the Chief Secretary in another place on July 6 last.

THE EARL OF GRANARD.—The securities sanctioned by the Public Trustee (Ireland) under the Irish Land Act, 1909, in addition to those mentioned in the list given by the Chief Secretary on July 6, 1910, are:—

Argentine Government  $4\frac{1}{2}$  per Cent. Internal Gold Loan, 1888; Argentine Government 4 per Cent. Rescission Bonds; Argentine Government 5 per Cent. 1884 Bonds; Argentine Government 4 per Cent. 1897 Bonds; Brazilian Government 4 per Cent. 1910 Loan; Brazilian Government  $4\frac{1}{2}$  per Cent. 1888 Loan; Brazilian Government 5 per Cent. 1908 Loan; Brazilian Government 5 per Cent. 1895 Loan; Cuban Government  $4\frac{1}{2}$  per Cent. Gold Bonds; Chilian Government 5 per Cent. 1905 Loan; Chilian Government 5 per Cent. 1896 Bonds; Chinese Government 5 per cent. 1896 Gold Bonds; Chinese Government 5 per Cent. Tientsin-Pukow Railway Loan; Chilian Government 5 per Cent. New Loan; Egyptian Government  $3\frac{1}{2}$  per Cent. Preference; Greek Government 4 per Cent. Railway Loan, 1902; Mexican Government 5 per Cent. Gold Loan; Russian Government  $4\frac{1}{2}$  per Cent. Gold 1909 Loan; Siamese Government  $4\frac{1}{2}$  per Cent. Sterling Bonds; Salvador Republic 6 per Cent. Sterling Bonds; Spanish Government 4 per Cent. Sealed Bonds; San Paulo 5 per Cent. Treasury Bonds; Uruguay  $3\frac{1}{2}$  per Cent. Bonds; Baltimore and Ohio Railway Company 4 per Cent. First Mortgage Gold Bonds; Chesapeake and Ohio Railway  $4\frac{1}{2}$  per Cent. 20

Years' Convertible Gold Bonds; Chicago, Milwaukee, and St. Paul Railway 4 per Cent. General Mortgage Bonds, 1989; Illinois Central Railway 4 per Cent. Gold Bonds, 1953; Minneapolis, Sr. Paul, and Sault St. Marie Railway 4 per Cent. First Mortgage Gold Bonds; New York Central and Michigan Collateral  $3\frac{1}{2}$  per Cent. 1998 Gold Bonds; Norfolk and Western Railway 4 per Cent. First Lien and General Mortgage 1944 Gold Bonds; Pennsylvania Railway 4 per Cent. Consolidated Mortgage Bonds, 1948; Southern Pacific Railway 4 per Cent. Central Pacific Collateral Gold Bonds; Southern Pacific Railway 4 per Cent. 20 Years' Convertible Gold Bonds; Southern Pacific Railway 4 per Cent. First Refunding Gold Bonds; Union Pacific Railway 4 per Cent. First Lien and Refunding Mortgage Gold Bonds; Argentine Great Western Railway 4 per Cent. First Debenture Stock; Argentine Great Western Railway 4 per Cent. Second Irredeemable Debenture Stock; Buenos Aires and Pacific Railway 4 per Cent. First Debenture Stock; and the Buenos Aires and Pacific Railway  $4\frac{1}{2}$  per Cent. Second Debenture Stock.

In reply to a question by LORD ORANMORE AND BROWNE,

THE EARL OF GRANARD stated that the additions to the list would in future be published quarterly.

NOTE.—The list of investments previously sanctioned, appeared in the GAZETTE of August, 1910.

### Recent Decisions affecting Solicitors.

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

#### KING'S BENCH DIVISION.

(Before Dodd J.)

*Bishop v. Bishop.*

Feb. 20, 1911.—*Petition for divorce a mensa et thoro—Husband petitioner—Decree granted—Order made for payment by respondent of petitioner's costs.*

THIS was a petition by the husband for divorce *a mensa et thoro* on the ground of the wife's adultery; the petition was not



defended, and there was no appearance for the respondent. A decree was granted, and evidence having been given that the respondent had considerable property of her own, an Order was made that the respondent should pay the petitioner's costs of the proceedings.

DONEGAL SPRING ASSIZES, 1911.

(Before Holmes L.J.)

*Patrick Benar and H. T. Gallagher v. The Stranorlar District Council.*

March 16, 1911.—*Labourers (Ireland) Acts and Orders—Costs of furnishing title to District Council—Labourers (Ireland) Order, 1910.*

APPEAL by the defendants against decree granted by His Honor Judge Cooke, K.C., for the fee of two guineas claimed under the Labourers (Ireland) Order, 1909, in respect of furnishing, prior to the date of the Labourers (Ireland) Order, 1910, title upon behalf of a judicial tenant from year to year, portion of whose holding had been acquired by the District Council under the Labourers (Ireland) Acts.

Held on appeal, affirming the decree granted by the County Court Judge, that the Labourers (Ireland) Order, 1910, is not retrospective in effect, and, accordingly, that it does not apply to the costs for work done prior to its date.

Holmes L.J., in affirming the decree, said:—I affirm the decree of the County Court Judge in this case. The Order of 1909 allowing a Solicitor for a lessee or owner to exercise his option and take two guineas in lieu of his taxed costs was in force at the date at which Mr. Gallagher brought his process, and is still in force. Under that Order Mr. Gallagher exercised his option, as he was entitled to do, provided Patrick Benar was a lessee at the time the work was done, as he admittedly was under the decision of Pales C.B. in *Elliott v. Stranorlar R. D. C.* That being so, Mr. Gallagher was entitled, beyond question, to his two guineas when he issued his process, and the Council's sole contention is that the Order of 1910 relates back so as to make Patrick Benar an occupier and not a lessee from the very beginning of the proceedings. This Order has no such

effect. It cannot retrospectively affect cases in which proceedings have been taken before its issue and which are pending, and the right to succeed here depends on the right to succeed at the time the proceedings were begun. I am also of opinion that an Order of this sort made under the Labourers Acts cannot affect the legal status or the rights of the parties retrospectively whatever effect it may have upon procedure, and that this Order does not operate to convert Patrick Benar from a lessee into an occupier for the purpose of depriving his Solicitor of the two guineas fee to which he is entitled.

NOTE.—The decision of the County Court Judge in above case appeared in GAZETTE of November, 1910.

COURT OF APPEAL (ENGLAND).

(Before Cozens-Hardy M.R., Fletcher Moulton and Buckley L.J.J.)

*Simmons v. Liberal Opinion (Lim.) ; Re Dunn.*

Feb. 22, 1911.—*Solicitor—Retainer to conduct defence to an action—Company—Non-registration—Implied warranty of existence of authority—Liability of Solicitor to pay plaintiff's costs.*

THIS was an appeal from Darling J. The matter arose out of an action of *Simmons v. Liberal Opinion (Limited)*. The plaintiff obtained a verdict for £5,000 damages, and judgment for this amount was entered against *Liberal Opinion (Limited)*. At the conclusion of the trial application was made on behalf of the plaintiff that the Solicitors for the defendants, Messrs. Dunn, Baker and Co. should be asked to show cause why they should not be made personally responsible for the plaintiff's costs, on the ground that the defendants were not a limited company, as stated in the pleadings, and that, therefore, Messrs. Dunn, Baker and Co. had improperly accepted instructions to appear for them in that capacity. Darling J., came to the conclusion that Mr. Dunn had authority to act for certain defendants who carried on business under the style of *Liberal Opinion (Limited)*, and it, therefore, could not be said that he had no clients. The application therefore failed, each party to pay their own costs. The plaintiff appealed.

Cozens-Hardy, M.R., in giving judgment, said:—In my opinion the proceedings in the action have been futile, and the costs incurred by the plaintiff have been absolutely thrown away by reason of the appearance entered by Mr. Dunn for a non-existing corporation. A Solicitor must be held to warrant the authority which he claims as representing his client. *Youge v. Toynbee* (1910, 1 K. B. 215) is a recent illustration of this well established principle. I do not think this is seriously contested, but it is sought to escape by arguing that Mr. Dunn had some persons for whom he was authorised to act, though, strange to say, he even now declines to say who were his clients. If A., B. and C. publish a newspaper under the style of the X. Company (Limited), the rules contain provisions that they may be sued under that style, but they must appear in their own names. The whole proceedings in the present action are inconsistent with the theory now set up. In my opinion the judgment is not available against Mr. Dunn's unknown clients, and I fail to see that the plaintiff, by signing judgment in the only way in which it could be signed, viz., against *Liberal Opinion (Limited)*, has in any way altered the position. I think we have jurisdiction to order Mr. Dunn to pay the plaintiff's costs of the action (less £150 which has been received from a co-defendant against whom the action had been discontinued on terms), and that we ought to exercise this jurisdiction. The appeal must be allowed, with costs both here and below.

Fletcher Moulton and Buckley L.JJ., delivered judgment to the same effect.

(Reported 46 L. J. 135; 55 S. J. 315; 27 T. L. R. 278 [1911], W. N. 52).

PROBATE, DIVORCE, AND ADMIRALTY  
DIVISION (ENGLAND).

(Before Evans, P.)

*Jinks. v. Jinks.*

March 13, 1911.—*Divorce—Judicial Separation—Wife petitioner—Change of Solicitors for petitioner—First Solicitor's costs.*

IN a suit for judicial separation at the instance of the wife, notice was given, on December 21, 1910, of a change of Solicitors by the petitioner. Thereafter the parties

resumed cohabitation, and the respondent applied to have the petition dismissed.

*Held*, that the application should be refused until security was given for, or actual payment of, the costs incurred on behalf of the wife by her first Solicitor.

The President, in giving judgment, said:—This is in form an application on the part of the respondent for an order dismissing the petition of his wife for a judicial separation from him on the ground of his cruelty. The question that arises is whether or not the petition ought to be dismissed without security being given for, or actual payment made of, costs incurred on behalf of the wife by her first Solicitor, she having changed her Solicitors during the course of the proceedings. If properly instructed, and if his action has been reasonable, a Solicitor can get his costs if properly incurred. I have to decide in this case whether the determination of the matter rests with the officials of this Court, or whether the petition should be dismissed and the Solicitor be left to recover his costs by an action at common law. I do not think the solution presents any great difficulties. The petition was filed in September, 1910, and is still on the file, and therefore the suit is still alive. Mr. Grazebrook (Counsel for the respondent) says that the suit practically ended in November, 1910, but I do not agree with this view. The Court minutes say, that between October 26 and December 19 of that year five or six orders were made relating to custody, alimony, and other matters. On December 21, 1910, notice was given of a change of Solicitors by the petitioner. Mr. Whitehead ceased to be the petitioner's solicitor on the record, she being now represented by Messrs. Newton and Co. After the petition was filed the parties resumed cohabitation. There was, however, another separation later, and on December 21 the parties were still living separate and apart. After this there were various negotiations, which resulted in another resumption of cohabitation. I have considered the steps which Mr. Whitehead took to recover his costs, and the dates on which he took them, and I consider that there was no unreasonable delay on his part; but, on the contrary, that it might be laid to the charge of the other side. Mr. Glazebrook does not contend that a change

of Solicitors, which brings the position of Solicitor on the record automatically to an end, necessarily takes away any right of proceeding in this Division with regard to the payment of his bill. It was not unreasonable for Mr. Whitehead to send his bill to the Solicitor who succeeded him and, subsequently, to the lady herself. Rules 154 and 155 deal with taxation. The Court may say there shall be a stay of proceedings until the costs are paid and discharged. In the case of *Nairne v. Nairne* (85 L. T. 649) the Solicitors themselves put an end to the relation of Solicitor and client. In this case it ceased by the act of the petitioner. The question is different here. The question is: Can a client, by merely giving notice of a change of Solicitors, take away the ordinary position of Solicitors as to security for their costs? In my judgment it is not fair that it should be so. This Solicitor should be able to secure some protection against the husband for the costs which he has incurred for the wife without having recourse to common law proceedings. Therefore, the proceedings in this application must be stayed in order that the suit may be kept alive, and in order to give the Solicitor an opportunity to carry in his bill. The costs of this application and in Chambers may be added to the bill, without prejudice to any subsequent order as to costs, in order to avoid a second taxation. Leave to appeal was granted.

(Reported *Times Law Reports*, Vol. xxvii., 326; *Solicitors' Journal*, Vol. lv., 366).

#### KING'S BENCH DIVISION (ENGLAND).

(Before Joyce J.)

*Re Shuttleworth; Lilley v. Moore.*

March 16, 1911.—Costs—Taxation—Will—Solicitor—Executor—Insolvent estate—Administration action—Profit costs.

A SOLICITOR who is sole executor and trustee of a will is not entitled, if the estate is found to be insolvent, to his costs of defending an administration action in person, nor to any other costs, except his out-of-pocket expenses, even though the Will contained a clause empowering him to make professional

charges, and the order in the action on further consideration directed the costs of the defendant to be taxed as between Solicitor and client, and retained by him out of the balance due from him.

This was a summons by the defendant in an administration action for a review of taxation. The testator, by his Will, appointed the defendant (who was a Solicitor) and another, executors and trustees thereof, and declared that the defendant should be entitled to charge for professional work done by him in the course of administration. The second executor predeceased the testator. The testator died in 1908, and an administration action was commenced by a creditor of the estate. The Defendant appeared in person. The Master's certificate found that the estate was insolvent, and an order on further consideration was made in Chambers by which it was ordered (*inter alia*) that it be referred to the Taxing Master to tax as between Solicitor and client the costs of the plaintiff and defendant of the action, including in the costs of the defendant any charges properly incurred by him as executor of the testator's Will and not already taxed or allowed beyond his costs of the action; and that the defendant should retain the amount of his costs when so taxed out of the balance certified to be due from him. The defendant brought in a bill of costs which was taxed by the Taxing Master at £15 8s. The defendant thereupon brought in objections to the taxation, on the ground that the Taxing Master had not followed the order on further consideration, and that he ought to allow the Defendant ordinary costs in the action as between Solicitor and client. The Taxing Master overruled the objections on the ground that the case was concluded by authority; and in his answer to them, he said that the sum which he allowed to the defendant was "sufficient to amply cover his disbursements." The defendant then took out the present summons for review, and appeared in person at the hearing.

The Judge, in giving judgment, said:—In this case my sympathies, if I am entitled to have any, are with the applicant. He was appointed executor by the testator, with full power to charge for his costs. Proceedings were taken by a creditor to administer the estate, and in those proceedings the applicant,

being a Solicitor, instead of instructing another Solicitor, did the work himself, and appeared in person. Of course, if he had employed another Solicitor, that Solicitor would have been entitled to charge for the work done; but he did not. The estate turning out insolvent, it is impossible for me to give effect to the provision in the Will relating to his costs; and, apart from that, it is decided by authority which I, of course, must follow, whether it seems hard or not (and there are some things, as Lord Lindley says, which are settled, whether we like it or not), that, where a Solicitor appears in person in administration proceedings, and when an order is made giving him his costs, the only costs he gets are his out-of-pocket expenses. Therefore, there being no question as to the *quantum*, this application fails. I dismiss it without costs. The plaintiff's costs will be paid out of the estate as his costs in the action.

(Reported *Solicitors' Journal*, Vol. lv., 366).

### Irish Land Commission.

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

Place of Sitting	Date of Sitting	Districts Listed.
	1911	
Sligo ...	April 19th	Co. Sligo and Co. Leitrim (part of)
Carrick-on-Shannon	„ 20th	Co. Leitrim (part of)
Waterford ...	„ 25th	Co. Waterford
Clonmel ...	„ 26th	Co. Tipperary (part of)
Cork ...	„ 28th	Co. Cork
Roscommon	May 9th	Co. Roscommon
Galway ...	„ 11th	Co. Galway.
Londonderry	„ 16th	Co. Londonderry and Co. Donegal (part of)
Strabane ...	„ 17th	Cos. Tyrone and Donegal (parts of)
Omagh ...	„ 18th	Co. Tyrone (part of)

### Results of Intermediate Examination.

At the Intermediate Examination held upon the 2nd March, the following apprentices passed the examination:—

#### CLASS I.

1. William P. Triston.

2. William R. Richards.
3. Louis O. Owens.
4. Hugh C. F. O'Doherty.

#### CLASS II.

- Louis A. Meldon.

The remaining candidate was postponed. Five candidates attended; four passed; one was postponed.

### New Solicitors.

#### ADMISSIONS DURING MARCH, 1911.

Name	Served Apprenticeship to
Boyle, Charles B. W. ...	J. Blood-Smyth, 29 Lower Gardiner Street, Dublin.
Counihan, Edward ...	Thomas Kelly, Kiltrush.
McCormack, Patrick F.	Thomas J. Furlong, 11 Eustace Street, Dublin.
O'Connor, William	Barry C. Galvin, 36 South Mall, Cork.
Francis	Francis H. Downing, Tralee.
Roche, Samuel ...	George M. Meares, 16 Molesworth St., Dublin.
Triscott, Cyril ...	

### Easter Sittings Lectures.

LECTURES will be delivered to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing, on the following dates in Easter Sittings, 1911.

April 21st, 25th, and 28th.

May 2nd, 5th, 9th, 12th, and 16th.

Lectures will be delivered to the Junior Class upon Common Law, on the following dates in Easter Sittings, 1911:—

April 20th, 24th, and 27th.

May 1st, 4th, 8th, 11th, 15th, & 18th

### Dates of Examinations.

THE following are the dates of the May, 1911, Examinations:—

May 18th and 19th, Preliminary (Notices to be lodged before April 19th).

May 22nd, 23rd, and 24th, Final (Notices to be lodged before April 22nd).

**Solicitors' Apprentices' Debating Society.**

MEETINGS during Easter Sittings, at eight o'clock p.m., in Antient Concert Rooms.

April 24th.—Legal Debate.—“That the case of *Hulton (E) and Co. v. Jones* (1909), A. C. 20, was wrongly decided.”

May 1st.—Debate.—“That the writings of George Bernard Shaw are ephemeral.”

May 8th.—Impromptu Speeches.

May 15th.—Debate.—“That the Hunger for Amusement is the bane of Modern times.”

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

THE GAZETTE will accept advertisements for sale and purchase of property, loans, securities offered, and money for investments on mortgages, partnerships, clerkships, and generally such advertisements as would be of service to the members of the Society and the Profession. Communications as to advertisements should be addressed to Messrs. Hely's Ltd., 28 Dame Street, Dublin.

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