Secretary

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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
THOMAS A. O'REILLY

Vice-Presidents
DESMOND J. MAYNE
JOHN J. SHEIL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL.

APRIL 21ST: The President in the Chair. Also present, Messrs. Desmond J. Mayne and John J. Sheil, Vice-Presidents; James J. O'Connor, John J. Nash, Peter E. O'Connell, John J. Dundon, John Maher, Edmund Hayes, Reginald J. Nolan, Charles J. Downing, John J. Horgan, John R. Halpin, Cornelius J. Daly, Ralph J. Walker, William J. Norman, George G. Overend, Dermot P. Shaw, Derrick M. Martin, Thomas Q. King, Francis J. Lanigan, Nathaniel Lacy, Desmond J. Collins, Francis Gallagher, Niall S. Gaffney, Patrick R. Boyd, John Carrigan, Henry St. J. Blake, Patrick F. O'Reilly, Joseph P. Tyrrell, Sean O'hUadhaigh, Joseph Barrett.

The following was among the business transacted:

Sales with loans under the Small Dwellings (Acquisition) Acts, and sales by local authorities to tenant-purchasers.

THE Council considered a report from a Committee which considered the memoranda received from the Department of Local Government on the subject of costs in these matters and it was decided to list them on the agenda for the ordinary general meeting of the Society on May 12th as special business.

Taxation of personal representatives' costs. Representation of beneficiaries.

NINETEEN residuary legatees under a will were represented by one solicitor for the purpose of taxing the executors' costs. Two of the residuary legatees subsequently consulted another solicitor and instructed him to obtain a copy of the bill as certified from the solicitor for the personal representatives who was unwilling to furnish it. They asked the opinion of the Council whether they were entitled to receive the bill for perusal and return free of charge. On a report from a Committee the Council expressed the opinion that as all the beneficiaries employed one solicitor to represent them on the taxation of the costs querists were not entitled free of charge to a copy of the bill as a voucher for the amounts claimed in the distribution account and the solicitor who appeared on the taxation cannot be compelled to furnish it. The clients would be entitled to inspect the bill at the solicitor's office. On the other hand the Council thought that the facilities ought to be given. If they were not given

querists could inspect the original bill with the deductions in the taxing masters' office.

Sale of registered land. Completion.

A MEMBER asked the opinion of the Council whether a solicitor acting for the purchaser of registered land from a vendor who resides out of the jurisdiction is entitled to hold the purchase money until the transfer deed has been registered in the Land Registry. He thought that as the vendor resided abroad the purchaser might be in a difficulty if any technical hitch arose in connection with the registration and that it is never completely safe to part with the purchase money in the case of a sale of registered land until the purchaser is registered as owner. On a report from a Committee the Council expressed the opinion that the purchaser is not entitled to delay completion of the sale in the absence of an express stipulation to this effect in the conditions or contract for sale.

Local Government Bill 1954. Liability of solicitors to local authorities for negligence.

A COMMITTEE reported to the Council that representations had been made to the Minister for Local Government on the subject of section 50 of the Bill which as drafted provided that certain professional persons acting for local authorities might be liable to sur-charge by the Local Government auditor for negligence in certifying for moneys payable by the local authority without any finding of negligence by a Court of Justice. Following these representations the Department had written to the Society stating that the section is not intended to apply to solicitors who normally do not certify for the payment of moneys in the course of their professional duties. Senator Cox subsequently had the Bill amended in Seanad Éireann in such a way as to give better protection to professional advisers.

Professional practice, conduct, and discipline Regulations.

THE Council considered draft regulations submitted by a Committee and referred them back for reconsideration.

MAY 12TH: The President in the Chair. Also present:—Messrs. Desmond J. Mayne and John J. Sheil, Vice-Presidents; William J. Norman, James J. O'Connor, John R. Halpin, Francis J. Lanigan, Joseph P. Tyrrell, Cornelius J. Daly, John J. Nash, John B. Jermyn, Peter E. O'Connell, John Maher, Reginald J. Nolan, George A. Nolan, George G. Overend, Ralph J. Walker, Dermot P. Shaw, Arthur Cox, Patrick F. O'Reilly, Niall S. Gaffney, Desmond J. Collins, Henry St. J. Blake, Charles J. Downing, Joseph Barrett, Sean O hUadhaigh.

The following was among the business transacted:

Land Registry. Solicitor's Lien.

A MEMBER held two original land certificates as security for costs due by the personal representatives of a deceased registered owner. Other solicitors acted for a person who acquired title to the lands by reason of an order under section 52 of the Registration of Title Act, 1891. When the owner under section 52 applied for registration he was informed that the land certificates had been issued in 1936 to another solicitor whose practice had been acquired by purchase by member. The Council were asked to decide on a submission to arbitration between the parties whether member could retain the land certificate in furtherance of his lien against the present owner who had acquired title under section 52. Reference was made to sections 15, 67, 81, and 87 of the Registration of Title Act, 1891. In the opinion of the Committee which considered the matter and which was adopted by the Council member would have to lodge the certificates subject to his lien in the Land Registry if required to do so in accordance with section 81 of the Registration of Title Act, 1891.

Appearance of counsel at non-judicial tribunals.

THE Secretary was directed to write to the Hon. Secretary of the Bar Council stating the Council's view that clients are unwilling to pay for two counsel in many cases and that the result of any rule of the Bar that senior counsel may not appear alone may be that junior will be briefed alone or alternatively that the business will be lost to both branches of the profession.

ORDINARY GENERAL MEETING.

A GENERAL meeting of the Society was held in the Society's Library on Thursday, 12th May, 1955. The President, Mr. Thomas A. O'Reilly, in the Chair. The following members of the Society signed their names as being present:— Desmond Mayne, Vice-President, John J. Sheil, Vice-President; Joseph Barrett, Henry St. J. Blake, Patrick R. Boyd, Desmond J. Collins, Senator Arthur Cox, Cornelius J. Daly, Charles J. Downing, Niall S. Gaffney, John R. Halpin, Francis J. Lanigan, John Maher, John J. Nash, George A. Nolan, William J. Norman, Peter E. O'Connell, James J. O'Connor, Sean O hUadhaigh, Patrick F. O'Reilly, George

G. Overend, Dermot P. Shaw, Joseph Tyrrell, Ralph J. Walker, Reginald J. Nolan, John B. Jermyn, John Bolton, Desmond Moran, Sean O hUadhaigh, Peter Prentice, William White, Patrick Noonan, John P. J. Smyth, John B. McCann, Thomas D. McLoughlin, Denzil O'Donnell, Gerard Doyle, John Gibbons, Patrick C. Moore, Oliver G. Fry, Samuel V. Crawford, Matthew Purcell, Robert Osborne, J. R. Downes, S. H. Lynch, Edward Barrett, James J. Hickey, T. Finbarr O'Reilly, Brendan T. Walsh, Donough O'Donovan, Gerard Lyons, Kevin Burke.

The notice convening the meeting was by permission of the meeting taken as read. The minutes of the ordinary general meeting held on 25th November 1954, and of the special general meeting held on the same day, were read, confirmed, and signed by the Chairman.

The Chairman announced that he nominated the following members of the Society to act as scrutineers of the ballot for the election of the Council to be held on 17th November 1954— John R. McC. Blakeney, James R. Green, Thomas Jackson, Brendan P. McCormack, Roderick J. Tierney.

The President addressing the meeting said:—

Since our last meeting, death has taken its toll of our members and we have lost Mr. Louis O'Dea (Galway), Mr. John Meldon (Dublin), Mr. Patrick McCarthy formerly of Dublin, Mr. Thomas Williams (Dungarvan), Mr. William Hodgins (Nenagh), Mr. Francis O'Connor (Dublin), Mr. Herbert McClenaghan (Dublin) and Mr. Colin Maidment (Dublin).

I must refer particularly to Mr. Louis O'Dea of Galway, who was a member of the Council from 1933 to the time of his death. He was President of the Society in 1944 and was elected to the Senate in the same year. Mr. O'Dea was a man who stood for everything good in the profession. He had practised for just 50 years, and the high esteem in which he was held not only in Galway but all over the West of Ireland was clearly shown by the very large and representative attendance at his funeral. In his passing the Society and the Council have lost a very able administrator.

I must also refer to the recent death of Mr. Herbert McClenaghan, of Dublin, who died under such tragic circumstances only a few days ago. Mr. McClenaghan was a comparatively young Member of the Society, but those of us who knew him had come to hold him in very high regard, and it will be remembered that at a Meeting of the Society held in November last, he contributed very materially to matters arising at that meeting.

This is the first Meeting of the Society at which we can refer to the Solicitors' Act. For many years back my predecessors have referred, with a certain amount of pessimism to the delay in having the Solicitors' Bill passed into legislation, and I am very pleased that at this meeting I can at last refer to the Solicitors' Act, and not to the Solicitors' Bill. As you are aware this Act was initiated by the Society as far back as 1937, and I feel that it is no small tribute to the profession that eventually it passed through both the Dáil and the Seanad as an agreed measure and went through all its stages and was signed by the President of Ireland within a month after it was introduced into the Dáil. In referring to the passing of the Bill through the Dáil and Seanad I would like to express our thanks and appreciation to Senator Cox for the assistance he gave when the Bill was before the Seanad. As you are aware the Act places many burdens on us, but we welcome the Act, as a good Act for the profession, and a good Act for the public. It gives us much greater facilities in the management and control of our own affairs and particularly in the education of our apprentices.

A concession to the Society has been made in the abolition of Stamp Duties on Practising Certificates and partial remission of the Stamp Duty on Indentures of Apprenticeship, but it has been agreed that the Society will pay an annual sum of £500 to the Incorporated Council of Law Reporting and relieve the Government from responsibilities for the publication of students' legal text books. The publication of legal text books in this country has been practically impossible, due to lack of finance, and it will be necessary for the Society to consider building up a fund for the purpose of publishing text books in due course. About the year 1945 the Government voted a sum of £7,500 for the purpose of publishing specified works, but this sum does not appear to have been utilised and if it can be obtained as the nucleus of a fund it should be possible in due course for young barristers and solicitors to consider offering their services in the writing of text books, in the knowledge that the necessary finance will be available for that purpose.

It will be remembered that at a General Meeting held in October last, it was arranged that the Council should endeavour to have some amendments made to the Bill, provided that it did not unduly hold up its passing. Immediately after the Meeting a deputation called on the Department of Justice with a view to having these recommendations implemented. One of the recommendations from the Meeting was that the quorum of the Disciplinary Committee should be raised from 3 to 5, and this amendment was agreed. A recommendation was also made on the suggestion of Captain Cowan in

connection with the working of the Disciplinary Committee to the effect that the Disciplinary Committee should not have any knowledge of an application until the application actually came before the Committee for oral hearing, and it was suggested that section 13 of the Bill should be amended to provide that the members of the disciplinary Committee who read the affidavit of the applicant should not sit on the taking of the oral evidence. This matter was discussed with the Department, and after careful consideration it was felt that the suggestion made by Captain Cowan would be met by Section 73 of the Act, which provides for the setting up of Committees of the Council, and under this Section a special Committee has been set up to deal with and investigate complaints, other than direct applications to the Disciplinary Committee and it is provided that no member of the Disciplinary Committee shall sit on this special Committee. In this way no Member of the Disciplinary Committee will have prior knowledge of any complaint until it actually comes before the Disciplinary Committee, in the first instance on the Affidavit of the complainant and subsequently, if the Committee think fit, on the hearing on oral evidence.

The Council was also approached by a deputation from the Dublin Solicitors' Bar Association with reference to certain amendments. It was suggested that the words "Civil Service Solicitor" in section 3 should be amended to "Solicitor in the full time service of the State" and this amendment was agreed. It was also suggested that the penalties in the case of a Body Corporate implying that it was qualified to act as a Solicitor should be the same as in the case of an individual but this amendment was not agreed to. This Association also suggested that a special list would be kept of solicitors who were exempt from taking out Practising Certificates, and this will be done.

The Council have since January last been engaged in the work of drafting regulations to be made by the Society under various sections of the Act. Draft Solicitors' Accounts' Regulations have already been prepared and circulated to Bar Associations for their observations and the replies which have been received from the Bar Associations have been carefully considered by a Committee of the Council to whom the matter was referred. The Committee has been fully occupied with this exacting task for some time but has now completed a draft which will shortly be submitted to the Council. The draft regulations submitted by the Committee embody most of the important amendments to the first draft suggested by the Provincial Bar Associations. The object of the Committee has been to simplify the regulations as much as possible and while fully protecting the interests of the client in the manner required by the Act to avoid placing any unnecessary burdens on practising solicitors. The Council wish to acknowledge the assistance which has been received from the Bar Associations. The drafting of these regulations is an extremely technical and complicated matter and it is of the utmost importance that the Council should have before them the views of bodies representing solicitors throughout the country so that due regard may be paid to the infinite variety and differences of practice due to local customs and conditions. When the final draft of the regulations has been approved by the Council it will be their duty to submit them to the Chief Justice for his approval.

Of equal importance with the Solicitors' Accounts' Regulations are the Apprenticeship and Education Regulations which are still under the Council's consideration. Under section 40 of the Act the entire control and regulation of the system of education is vested in the Society acting through the Council and in their view the education and equipment for practice of future generations of solicitors is one of the most responsible duties imposed upon the Society. I do not wish to anticipate the report of the Court of Examiners which will in due course be considered by the Council but I would like to refer to the information which has from time to time been published in the annual report of the Council on this matter. You will recollect that in these statements references have been made to the desirability of providing lecture courses on a number of practical subjects which have hitherto been outside the Society's educational curriculum although part of the course of study for the final examination. I refer particularly to lectures on company law, taxation, with special reference to death duties, conveyancing and Land Registry practice, and similar branches of what I might term "applied law" with which every solicitor must be familiar in daily practice. In the view of the Court of Examiners the lectures and courses of tuition have in the past laid too much stress on what I refer to as theory subjects and it has been suggested that these should be entrusted to the Universities to enable the Society to concentrate on practice. There are difficulties and the subject is a complicated one. It is unlikely that any change which may result from the Court of Examiners recommendations will take effect for a year or two, but after all we are legislating for the future and it is better to take time for consideration even at the cost of some delay than to enter upon hasty or ill advised courses.

Section 40 of the Act gives important relief to solicitors' apprentices in the matter of the second Irish examination, which, under the Legal Practitioners Act, 1929, could not be taken earlier than one year before the expiration of the term of in-

dentures. The new Act enables the Council to make regulations extending this period to two years before the expiration of the term and the Council propose to make this regulation immediately. It will be in effect before the date of the next Irish examinations in July. I say that it is an important relief to apprentices because there is little doubt that the strain of having to pass the Irish examination within one year or less before the date of the final examination is very heavy and exacting. I think I may say that the solicitors' final examination at the present time on account of the width of the curriculum is one of the most difficult examinations in the country to-day. The path of the student is so beset with examinations that I sometimes wonder whether we are turning out good examinees or good solicitors. The two things are not necessarily the same. In my view the term of 5 years, reduceable to 4 in certain circumstances, is too short for the amount of knowledge both in law and practice which a solicitor's apprentice must acquire to pass the Society's final examination. When you add to this the necessity of studying both oral and written Irish during this short period it will be realised that a solicitor's apprentice has a far more difficult task before him to-day than his predecessor had 50 years ago, when the Act of 1898 was in its infancy. It is therefore a substantial relief to a solicitor's apprentice to be able to take the second Irish examination one year earlier which will leave him two years to prepare himself for the Society's final examination.

I think I may also say without disclosing any secrets that one of the matters which has been considered by the Court of Examiners is the advisability of permitting an apprentice to take the Society's final examination in two parts. As you know under the existing regulations all the subjects must be passed at one sitting. I can see no reason why a solicitor's apprentice should be expected to acquire and retain in his head the sum total of legal knowledge for the three days on which he attends the final examination. This to my mind is an example of the enslavement of our present educational system to examinations which after all are not an end, but merely a means towards an end. The present system of our professional examinations in my view leads to cramming and it would, I think, conduce to the better training of our future legal practitioners if apprentices could study various sections of the curriculum and sit for the appropriate parts of the examination at various stages of the course. The Society would be justified in consideration of this concession in insisting upon a high standard of competence at each examination. I think I have said enough to indicate the lines on which the Court of Examiners are thinking. The final decision in this matter will lie with the Council of the Society but the members of the Society may rest assured that no effort will be spared to devise a system which will conduce in the highest degree to train future solicitors in a way which will maintain and if possible raise the traditions of the past.

The Council are also engaged in drafting Professional practice, conduct, and discipline Regulations under section 71 of the Act. It is not the intention of the Council to seek to provide anything in the nature of a code of professional conduct or what is known in the United States as "canons of professional ethics." Good sense and good taste and the training received from his master will usually be the inner voice which will tell a solicitor what is right and wrong in matters of this kind. We all know that we must not advertise or solicit business or commit any of the breaches of professional etiquette which may be summarised under the heading of attracting business unfairly. In the modern world of high pressure advertising campaigns, sales boosting, and public relations systems, which are no doubt appropriate to commerce and in that sphere of benefit to the public, the professions, and particularly the legal profession, have held fast to the ancient tradition of independence, and the accepted rules of professional conduct are the same to-day as they were 50 or 100 years ago. The Council have been studying the regulations made by the Law Societies of other countries under provisions similar to those which are contained in the Solicitors' Act, 1954, and draft regulations have been prepared dealing with the main branches of professional conduct which it is thought will be of value both to the more experienced members of the profession and those starting in practice. I hope that substantial progress will have been made in this matter before the date of the next ordinary general meeting.

The delay in the framing of new scales of District Court Costs following the increase in the jurisdiction of the District Court by the Courts of Justice Act, 1953, has caused considerable difficulty to both the profession and the public, but I understand that the new scales are likely to be published shortly.

Delays in the various public Departments continue to engage the attention of the Council and representations have been made where necessary to the Department or Minister concerned. It is the daily lot of the practising solicitor to have constant dealings with almost every Department of State and it is our experience that although the cost of public administration grows yearly the difficulty and delay in having business transacted continually increases. Whether this is due to the increasing difficulty and complexity of business, inadequate office organisation or accommodation, or some

other cause, I do not know, but this I do know that solicitors who have to explain these delays to their clients receive most of the blame. The law's delays have become a by-word and almost proverbial but I think that any fair-minded person will admit that the delay in transacting legal business to-day is not to be laid at the door of the lawyer but rather at the door of the Governmental and public institutions with which he has to deal. It seems to me that the more private business the State engrosses and gathers unto itself the slower the turn over of business becomes. The experience of the Society has been that isolated protests lead to a temporary improvement in certain branches or sections but improvement in one sphere is generally accompanied by simultaneous deterioration in another and I can assert without contradiction that since my time on the Council of the Society there has never been a period during which we were not dealing with complaints from the profession of inadequate service in one Department or another. This is primarily a matter for the public but it also affects solicitors in two ways. Firstly, we depend upon the proper functioning of many Governmental Departments in conducting our practices from which we earn our livelihood. Secondly, the reputation of the profession itself suffers from these delays. I cannot suggest the remedy and I do not know whether any is forthcoming. I can only assure our members that every effort will be made to deal with these complaints when they occur.

In conclusion I would like to express to our Secretary, Mr. Plunkett, and to his staff, my very real appreciation and gratitude for their great assistance to me during the last six months.

Arising out of the President's address, Mr. T. D. McLoughlin suggested that instruction should be given to apprentices on the technique of using law reports and standard legal text books. The President said that the matter would be considered.

The meeting then adjourned to private business. The following motion, circulated on the agenda, was moved by Mr. Joseph Barrett, seconded by Mr. John J. Nash :—

"That the bye-laws of the Society shall be amended—

(*a*) By substituting the following bye-law for the existing bye-law 1—Any solicitor in Ireland may become a member of the Society by applying to the Council for admission to membership and if his application is accepted by payment of one year's subscription at the rate or rates hereinafter mentioned and on entry of his name and residence in the members' roll.

(*b*) By substituting the words "members' ro for "roll book of members" in Rule 6.

(*c*) By substituting the following bye-law for existing bye-law 42—Moneys received the Society shall be lodged at least weekly the credit of such current or deposit accounts of the Society and in such Bank as the Council may direct and payments from the Society's main current account shall be made by direction of the Council and by cheque which shall be signed by the President or a Vice-President and counter-signed by the Secretary or acting Secretary. The Council may direct that cheques drawn on subsidiary bank accounts may be signed by the Secretary or acting Secretary alone.

(*d*) By substituting the following bye-law for the existing bye-law 44—

44. (1). The Council shall have the custody of the common seal of the Society and the seal shall not be affixed to any instrument until such instrument shall have been read at a meeting either of the Council or of a Committee of the Council having authority to deal with the matter and approved by the Council or by such Committee. Unless the Council shall have delegated authority to such Committee to seal such document without reference back the report of the Committee authorising the affixing of the seal shall first be submitted to and approved by the Council.

(2). The common seal shall be affixed only by authority of a resolution of the Council or of a Committee as aforesaid and shall be authenticated by the signatures of two members of the Council and the Secretary or acting Secretary.

(*e*) By substituting the following bye-law for the existing bye-law 46—

Minutes of the proceedings of every meeting of the Council or of a Committee of the Council shall be taken by the Secretary, or in his absence by some other person appointed by the Chairman of the meeting and shall be signed by the Chairman of a succeeding meeting.

(*f*) By altering the nomination papers in Schedule A and Schedule B of the bye-laws by stating the address of the member nominated and of his proposer and seconder.

The motion was put to the meeting by the Chairman and passed unanimously.

Mr. Sean O hUadhaigh moved, and Mr. C. J. Daly seconded, the following resolutions :—

1. That in the case of loans by local authorities under the Small Dwellings (Acquisition) Acts and insurance companies, building societies, and similar bodies which carry on the business of advancing money for house purchase or erection the Society approves of the adoption of a scale of mortgagees' costs (where the mortgagees' solicitor is not a whole-time salaried solicitor acting exclusively for the mortgagees and for no other clients) amounting to 1½ per cent. of the amount of the loan in all cases whether or not the title has been registered under the Registration of Title Act, 1891, as amended, and if so registered whether or not the equity note has been discharged.

2. That in the case of sales by local authorities of houses to occupying tenant-purchasers under the provisions of the Housing Act, 1919, the Housing of the Working Classes Acts, and the Labourers' Acts as extended by sections 31 and 35 of the Housing Act 1952 and similar legislation whether by way of conveyance, assignment or lease, the Society approves of the adoption of a scale of costs of 1½ per cent. on the amount of the fine, if any, with a minimum fee of £10, to include the work of the solicitor for the local authority in connection with the conveyance or lease and any mortgage to secure repayment of the purchase money, and a fee of 1½ per cent. as the costs of the solicitor acting for the purchaser to include the costs of perusing and completing the conveyance or lease and any mortgage to secure repayment of the purchase money calculated on the amount of the fine, if any, with a minimum fee of £10.

The following members also spoke:— Messrs. Denzil O'Donnell, P. J. Noonan, R. A. Osborne, J. R. Downes, Joseph Barrett, P. R. Boyd; D. J. Collins, P. C. Moore, J. J. Sheil, J. P. Tyrrell. Mr. Arthur Cox moved and Mr. G. G. Overend seconded the following amendment to both resolutions—

> "That the meeting stand adjourned for a period not exceeding one month and that a Committee of the Council should discuss the resolutions with representatives of the solicitors who act for local authorities and for building societies within 14 days as a matter of urgency and that consideration of the resolutions should be resumed at the adjourned meeting as a matter of urgency."

The amendment having been put to the meeting was carried unanimously.

It was subsequently decided that a Committee of the Council should meet the representatives of the interested solicitors on May 26th., and that the General Meeting should stand adjourned until June 1st.

On the motion of Mr. S. V. Crawford, seconded by Mr. S. H. Lynch, the meeting passed a vote of thanks to the President for his services to the Society since his election and for his conduct of the meeting.

EXAMINATION RESULTS.

At the Preliminary Examination for intending apprentices to solicitors held on the 4th and 5th days of April the following passed the examination and their names are arranged in order of merit.

1. Thomas M. D. Shaw.
2. Kevin John Lyster.

3 candidates attended; 2 passed.

At the Final Examination for apprentices to solicitors held on 4th, 5th, and 6th days of April, the following passed the examination and their names are arranged in order of merit.

Passed With Honours.

1. Hallam J. C. Studdert, B.A., LL.B.
2. Brendan O'R. Rogers.

Passed.

Walter Beatty, Patrick Colfer, William A. P. O'Connor, Noel T. Smith, B.A.; John J. Cooke, Edward J. G. Dillon, Sean F. MacGiollarnath, B.A., LL.B.; Thomas Crowley, Desmond T. Breen, Kevin J. Early, Patrick J. O'Connor, John E. Russell, John E. MacCurtain, B.A.; Cliodna M. Cussen, M.A.; Bernard M. Brennan.

35 candidates attended; 17 passed.

The Council has awarded Special Certificates to Hallam J. C. Studdert and Brendan O'R. Rogers.

FIRST AND SECOND IRISH EXAMINATIONS.

The next examinations will be held on July 1st and 2nd. Notice must be given on or before June 10th.

DISTRICT COURT RULES (No. 2) 1955.

District Court Rules No. 2. 1955

The District Court Rules (No. 2) 1955, prescribing revised scales of costs for transactions in the District Court will come into force on the 1st July, 1955 and are fully set out in S.I. No. 84 of 1955. Members may obtain copies from the Government Publications Sale Office, price 1s. 6d.

DISTRICT COURT RULES 1955

THE District Court Rules 1955 have come into force on the 1st June, 1955 and are fully set out in S.I. No. 83 of 1955. These rules amend the 1948 Rules as regards.

(*a*) Infants suing by the next friend.
(*b*) Enlargement and abridgment of times.
(*c*) Fees of Summons Server.
(*d*) Copies of Orders of Documents.
(*e*) Grant of off Licences.
(*f*) Time for Entry.
(*g*) Preparation of Cases Stated.

Members may obtain copies from the Government Publications Sale Office, price 6d. or 8d. including postage.

MASTER OF THE HIGH COURT DAYS OF SITTING

As a result of the Council's representations, the Master of the High Court has agreed, as an experiment, to sit in future on Mondays, Wednesdays, and Thursdays on and from Monday 4th July, 1955 until the end of Trinity Term.

Members will please note that no application for an undefended judgment can be entertained for a Wednesday sitting unless the necessary papers are filed before 3 p.m. on Tuesday; the same rule will apply to Thursday sittings, save that the necessary papers may be filed until 4 p.m. on Wednesday.

In vacation time, the Master will sit in future on Mondays and Wednesdays only.

NOTICE, TO BANKS, STOCKBROKERS AND SOLICITORS.

ISSUE OF 4¼% TRANSPORT STOCK 1972-77

EXCHANGE CONTROL REQUIREMENTS

1. Permission has been granted under the Exchange Control Order, 1947, for the allotment of stock of the above issue to persons resident outside the Scheduled Territories (including the nominees of persons so resident) and the registration of stock over the names and addresses of such persons provided that

(*a*) (i) in the case of residents of the Dollar Area payment is made in Irish currency or sterling from an account (whether free or blocked) of a resident of the Dollar Area or in U.S. or Canadian Dollars,

(ii) in the case of residents of other countries outside the Scheduled Territories payment is made as above or in Irish currency from any blocked or free foreign account or in transferable or blocked sterling;

(*b*) in the case of registration the form of application is submitted by an Irish or British bank, stockbroker or solicitor if the original allottee has renounced the allotment.

2. Banks, stockbrokers and solicitors should not, without reference to the Department of Finance, submit applications for allotment or registration on behalf of persons whom they know to be resident outside the Scheduled Territories, or to be the nominees of persons so resident, unless they are aware that payment has been made in accordance with paragraph 1 (*a*) above. In the absence of evidence to the contrary an applicant may be assumed to be resident in the country of address shown in the relative application and not a nominee of another person.

3. The Scheduled Territories are Ireland, Great Britain and its dependent territories, the Channel Islands, the Isle of Man, the Commonwealth of Australia and its dependent territories, New Zealand and its dependent territories, the Union of South Africa and South-West Africa, Southern Rhodesia, India, Pakistan, Iraq, Iceland, Burma, Ceylon, the Hashemite Kingdom of the Jordan, the United Kingdom of Libya.

4. The Dollar Area comprises—

Canada, the United States of America and any territory under the sovereignty of the United States of America, Pacific Islands formerly under Japanese administration but now under United States administration, Bolivia, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Guatemala, Haiti, Republic of Honduras, Liberia, Mexico, Nicaragua, Panama, the Philippine Islands, El Salvador, Venezuela.

An Roinn Airgeadais,
Baile Átha Cliath.
20 Aibreán, 1955.

Department of Finance,
Dublin.
20 April, 1955.

SOLICITORS' BENEVOLENT ASSOCIATION.

MR. Richard O'Brien, Chairman of the Association, speaking at the 91st Annual General Meeting said that the income for the year was £2,368, an increase of £106 on the previous year, largely due to increased support from the local Bar Associations. Grants

and annuities reached the record total of £2,245, more than £170 in excess of the net ordinary income of the Association. The Chairman said that the yearly annuities and grants had been substantially increased in recent years, the minimum annuity being now £52 and grants to approved applicants averaging £40 yearly. The Association would like to do more for its beneficiaries as it was felt that the relief was inadequate having regard to the increase in the cost of living. A suggestion had been made that the annual subscription, at present one guinea, should be increased, but that the directors would prefer to leave the subscription to the members themselves and to augment the income by voluntary donations and by means of a drive to increase membership. He again appealed to all members to enlist the support of colleagues who are not already in the Association and formally moved the adoption of the directors' report. Mr. Thomas A. O'Reilly, President of the Incorporated Law Society of Ireland, seconded the resolution which was passed unanimously. On the motion of Mr. Sean O hUadhaigh, seconded by Mr. H. N. Robinson, the directors were re-elected. On the motion of Mr. David R. Pigot, seconded by Mr. V. A. Walker, Mr. Henry D. Hurley and Mr. Terence de Vere White were re-elected as auditors of the Association.

REGISTRATION OF TITLE ACTS, 1891 AND 1942.

NOTICE.

Folio 4780 County Donegal
Registered Owner RICHARD BLAIR

THE Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

A Duplicate Certificate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of May, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

Land Certificate of Richard Blair to 44a. or. 9p. of the lands of Corradooey (E. D. Convoy) situate in the Barony of Raphoe South and County of Donegal being the lands comprised in said Folio.

THE REGISTRY

Section A

REQUIRED assistant solicitor—some experience necessary—southern provincial town. Reply giving particulars of experience and salary expected to Box No. A158.

OBITUARY.

MR. JAMES EDWARD O'DONNELL, Solicitor, died on the 23rd March, 1955.

Mr. O'Donnell served his apprenticeship with the late Mr. James Edward O'Doherty and Mr. William O'Doherty, Londonderry, was admitted in Easter Sittings 1902 and practised at Buncrana up to his retirement in 1944.

MR. HERBERT E. ST. G. MCCLENAGHAN, Solicitor, died on the 3rd May, 1955, following an accident.

Mr. McClenaghan served his apprenticeship with Mr. Samuel R. C. Hemphill, Solicitor, 11 Ely Place, Dublin, was admitted in Michaelmas Sittings, 1950 and practised under the style of Messrs Cathcart & Hemphill, 11 Ely Place, Dublin.

MR. FRANCIS J. O'CONNOR, Solicitor, died at his residence, "Slieve-na-mBan" Road, Thurles, Co. Tipperary, on the 5th May, 1955.

Mr. O'Connor served his apprenticeship with the late Mr. Thomas G. Quirke, Solicitor, 15 South Frederick Street, Dublin, was admitted in Trinity Sittings, 1912 and practised as senior partner in the firm of Messrs. Francis J. O'Connor & Co., up to his retirement in 1943.

MR. COLIN H. MAIDMENT, Solicitor, died at a private Nursing Home on the 9th May, 1955.

Mr. Maidment served his apprenticeship with the late Mr. Richard Fitzsimmons, Solicitor, 9 Suffolk Street, Dublin, was admitted in Easter Sittings, 1933 and practised as a partner in the firm of Messrs Longfield Jameson & Hamilton, 25 Clare Street, Dublin.

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June,
1955

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
THOMAS A. O'REILLY

Vice-Presidents
DESMOND J. MAYNE
JOHN J. SHEIL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL.

JUNE 2ND: The President in the Chair. Also present, Messrs. Desmond J. Mayne and John J. Sheil, Vice-Presidents, Francis X. Burke, John Carrigan, Henry St. J. Blake, Cornelius J. Daly, Francis J. Lanigan, Desmond J. Collins, Francis Gallagher, Patrick R. Boyd, John R. Halpin, Peter E. O'Connell, John Maher, Joseph Tyrrell, William J. Norman, John J. Nash, George G. Overend, Reginald J. Nolan, Terence De Vere White, Ralph J. Walker, Sean O hUadhaigh, Patrick F. O'Reilly.

The following was among the business transacted:

Counsel's fees. Motion for consent.

A MEMBER asked for the Council's guidance on the fees payable to counsel in the following circumstances. When acting for the defendant in a road accident case which was settled senior and junior counsel were retained for the defendant and the action was settled for £250 and taxed costs after service of notice of trial but before briefs had been prepared or handed out. The plaintiff was of full age and sui juris. Member retained senior and junior counsel to appear on the consent; senior counsel appeared alone and was given a copy of the pleadings. Member asked for the Council's guidance as to his professional obligations towards counsel, particularly whether (*a*) counsel were entitled to be paid full trial brief fees; (*b*) whether junior counsel was entitled to a fee although he did not appear on the motion. The Council, although without the benefit of counsel's views in the matter, expressed the opinion that senior counsel was entitled to a fee but not a trial brief fee and that the proper fee appeared to be the minimum fee for senior counsel on a motion to consent to a settlement; that junior counsel was entitled to two-thirds of senior counsel's fee, although he did not appear, and that member's professional obligation was to pay to counsel their proper fees ascertained as stated.

Land Clauses Acts. Election for detailed charges.

THE Council considered a report of a Committee on representations from members arising out of the refusal of a local authority to recognise the validity of a notice of election by a solicitor for an owner of property compulsorily acquired to take detailed charges instead of the commission scale

fee under paragraph 6 of S.R.G.O. 1884. The view of the Council as expressed in the Society's Gazette for March, 1955 at page 74 is that since the rescission of Rule 11, Schedule 1, Part I, S.R.G.O. 1884, the solicitor for the owner or authority is entitled to elect for detailed charges before undertaking any business. On a report from a Committee the case was submitted to senior counsel for his opinion.

Costs of loans under the Small Dwellings' Acts and of sales to tenant-purchasers by local authorities.

THE Council considered the decisions taken at the resumed ordinary general meeting of the Society on June 1st., and appointed a deputation to seek an interview with the Minister for Local Government.

ORDINARY GENERAL MEETING OF THE SOCIETY.

The ordinary general meeting of the Society summoned for Thursday, 12th May 1955 and adjourned was resumed on Wednesday, 1st June 1955, the President in the Chair. The President announced that the matters discussed on May 12th., had since been fully considered at a meeting between a Committee of the Council and solicitors who act for local authorities and that agreement had been reached between the Committee and the solicitors interested on the steps which should be taken. By permission of the meeting the resolutions on the agenda with the notice convening the meeting for May 12th were withdrawn and the following resolutions were substituted.

Proposed by Mr. Sean O hUadhaigh, seconded by Mr. Patrick Noonan :—

That in the case of loans by local authorities under the Small Dwellings (Acquisition) Acts to occupiers or intending occupiers to secure advances for the purpose of the purchase or erection of houses the Society approves of the following scale of charges by solicitors for mortgagees (other than a whole-time salaried solicitor acting exclusively for a local authority)

(*a*) in all cases a commission scale of 2 per cent. on the amount of the loan whether or not the title has been registered under the Registration of Title Act, 1891 and whether or not the equity note has been discharged provided that :—

(*b*) if there is a common root of title the fee shall be 2 per cent. on the amount of the loan in the first mortgage and 1½ per cent. on the amount of the loan in each subsequent mortgage on the same title.

The resolution was put to the meeting by the Chairman and unanimously passed.

Proposed by Mr. Sean O hUadhaigh, seconded by Mr. Patrick Noonan :—

That in the case of sales by local authorities of houses to occupying tenant-purchasers under the provisions of the Housing Act, 1919, the Housing of the Working Classes Acts, and the Labourers' Acts, as extended by sections 31 and 35 of the Housing Acts, 1952 and similar legislation, whether by way of conveyance, assignment, or lease, the Society approves of the adoption of a scale of costs of 1½ per cent. on the amount of the fine or purchase money whether payable in a lump sum or by instalments with a minimum fee of £10, to include the work of the solicitor for the local authority in connection with the conveyance, assignment, or lease, and a fee of 1½ per cent. as the costs of the solicitor acting for the purchaser or lessee, to include the costs of perusing and completing the conveyance, assignment or lease, calculated on the amount of the fine or purchase money whether payable in a lump sum or by instalments with a minimum fee of £10, provided that in all cases an additional fee of 2 guineas shall be chargeable if there is a separate mortgage or other document to secure or guarantee any moneys payable by the purchaser or lessee.

The resolution was put to the meeting by the Chairman and passed unanimously.

The proceedings then terminated.

SOLICITORS' GOLFING SOCIETY

THE Summer Meeting was held at Baltray on Saturday, June 4th. Notwithstanding a downpour of rain in the morning there was a good attendance. The results of the competitions were as follows :—

Society's Challenge Cup with Captain's Prize :—W. A. Menton (13) Milltown, (1 up). Runner-up :—J. R. Downes (18) Mullingar, (5 down).

Veteran's Challenge Cup :—D. J. Collins (9) Foxrock, (7 down).

St. Patrick's Plate (Handicaps 12 and under) :—L. K. Branigan (11) Foxrock, (5 down) (won on last 3 holes against D. P. Shaw, E. F. English, J. P. Feran and M. T. Neary 5 down each). First nine, M. T. Neary (8 Milltown) all square. Second nine, J. J. O'Connor (18 Thurles) (2 down).

Special prize, M. S. Matthews (8 Baltray). Runners-up, T. A. O'Reilly (15 Royal Dublin);

J. C. Griffin (16 Dundalk) and C. R. McAlester (10 Dundalk).

At the Dinner in the Clubhouse the Captain, Mr. Desmond J. Collins, presided and the guests included Mr. T. A. O'Reilly, President of the Incorporated Law Society of Ireland. The toast of the Captain was proposed by Mr. Joseph Barrett and Mr. Collins replied. Mr. T. A. O'Reilly proposed the toast of the Baltray Golf Club and Mr. M. S. Matthews replied on behalf of the Club. Communications with reference to the Golfing Society should be addressed to the Hon. Secretary, Mr. L. K. Branigan, Central Office, Four Courts.

FINANCE BILL, 1955.

THE attention of members is drawn to the following provisions of the Finance Bill 1955 :—

(1) The agreement between the Governments of Ireland and Canada for the avoidance of double taxation with respect to duties on the estates of deceased persons signed at Ottawa on the 28th October, 1954 is confirmed. (Section 10).

(2) If Trustees of a settlement become accountable for estate duty payable by virtue of Section 30 of the Finance Act, 1941 they may obtain from the Revenue Commissioners a certificate of the amount which in the opinion of the Commissioners may be properly treated as the prospective amount of the duty; in such case if the Commissioners have obtained all the information required by them the trustees shall not be liable for the amount of duty in excess of the amount certified. (Section 11).

(3) On or after the passing of the Finance Act, 1955, if the property which passes on a death, but in which the deceased never had an interest includes any policies of life assurance or moneys received under such a policy or interests in such a policy all the policies, moneys and interests so included shall for determining the rate of the estate duty to be paid thereon, be aggregated so as to form one estate, and the duty shall be levied at the proper graduated level thereof. (Section 12).

(4) On or after the passing of this Act where the net value of the property of the deceased to which he was absolutely entitled does not exceed £10,000 that property shall not be aggregated with other property in respect of which estate duty was payable in connection with the death of the deceased but shall form an estate by itself. (Section 13)

(5) The agreement between the Governments of Ireland and Canada for the avoidance of double taxation in respect of income signed at Ottawa on the 28th October, 1954 is confirmed. (Section 14).

(6) The Stamp duty chargeable by virtue of the Stamp Act 1891 on the annual certificate to be taken out by a notary public is abolished. Notaries who have taken out such a certificate since the 26th March, 1955 may apply for a refund by making a claim. (Section 16).

(7) Credit-sale agreements within the Hire-Purchase Act, 1946 or any agreement made relating to the sale of any goods, ware or merchandise, if under hand or under seal shall be hereby exempt from stamp duty if coming under the heading "bond, covenant or instrument" under the Stamp Act, 1891. (Section 17).

FACTORIES BILL, 1954.

ON the Committee stage of the Bill, Senator Cox obtained the Ministers agreement to the amendment of section 77, which provides that any party at an inquest may be represented by Counsel, Solicitor, or Agent, by the deletion of the words "or agent." The Minister stipulated that section 77 (2) should be amended to provide that a relative or friend of the deceased should have a right of audience. In the subsections as drafted the words "or friend" did not appear.

STATE PROPERTY ACT, 1954.

THE main purpose of the State Property Act, 1954 which repeals the State Land Acts, 1924 is to make provision, as contemplated by Article 10 of the Constitution, for the management of and the control of the alienation of certain State lands comprising, in the main, lands which belonged to the British Crown and British Departments in this country immediately prior to the 6th December, 1922, a few pre-Truce Dail properties and lands acquired by the State since 1922. The Bill also provides for various other matters relating to State property of which the more important are :—

(*a*) Administration of former crown rents.

(*b*) Disposition of moneys standing to the credit of the Woods, Forests and Land Revenues Account.

(*c*) Exercise of rights and prerogatives belonging to the People in relation to property, escheat and *bona vacantia*. Such legislative provision is contemplated by Article 49á2 of the Constitution.

(*d*) Acceptance of gifts of property by State authorities, the State, the Nation or the People.

The principal provisions of this Act are :

(1) The powers given in the Bill are declared to be in addition to and not in substitution for any existing statutory powers. (Sect. 3)

(2) State lands formerly belonging to the Crown, Admiralty, Air Ministry, R.I.C., and land devolving on the State as property of a dissolved company or as escheated land or as *bona vacantia* are vested in the Minister for Finance. (Sect. 5)

(3) A State authority (i.e. a Minister or the Commissioners of Public Works) is enabled to convey, assign or transfer State land vested in it to any other State authority. (Sect. 7)

(4) State authorities, in respect of State land vested in them are empowered to sell, exchange, grant gratuitously or lease such land subject to the consent (general or particular) of the Minister for Finance, Certain lands (Forestry lands, State minerals, aerodrome lands, the Bourn Vincent Memorial Park, the National Stud Farm, Johnstown Castle Agricultural College) are excluded from the scope of these provisions (Sects. 9 and 10)

(5) A State authority is enabled to institute legal proceedings as if it were the owner, lessee or tenant of State land vested in it and a sealed certificate of such authority to *prima facie* evidence of its tenure of the land. A sealed certificate may also be *prima facie* evidence that the State land is held from the State authority by a specified person on specified terms, that a specified sum is due as rent, that a notice to quit was served on a tenant and that the tenant refused to surrender possession of the land. (Sect. 16)

(6) A simplified procedure for the recovery of State premises is instituted where premises were overheld by (*a*) State servants (e.g. members of the Defence Forces, Garda Siochana and Civil Service) and ex-State servants who were put, by reason of their being State servants, into occupation of the premises, (*b*) persons who were put into occupation of the premises as servants, herdsmen or caretakers and (*c*) persons remaining in occupation of the premises after the deaths of the State servants etc., who were occupiers. The procedure invoked hitherto involved an application to the Circuit Court for an ejectment order. The procedure now proposed is that the District Court may on the application of a State authority, in whom premises are vested, issue an order to a county registrar, sheriff of under-sheriff, as may be appropriate, to deliver possession of the premises to any person named in the order. To facilitate court proceedings the section provided that a certificate of the State authority shall be *prima facie* evidence of certain matters, e.g., that a specified person was on a specified date in occupation of the premises, was in occupation by reason of his being a State servant, had been served with a demand to quit and had refused to quit. (Sect. 17)

(7) The Statutory limitation of time for an action of suit by a State authority or the Attorney General to recover State land or rent therefor will be a period of 60 years or 30 years according to the circumstances of the case defined in the Nullum Tempus (Ireland) Act, 1876. (Sect. 18)

(8) State debts arising in connection with State lands are given the same priorities which formerly attached to debts due to the Crown. The section is analogous to subsection 38 (2) of the Finance Act, 1924. (Sect. 19)

(9) Provision is made for the acceptance and refusal of gifts of real or personal property to a State authority, the State, the Nation or the People (Sect. 20) and for the custody of title deeds relating to State land (Sect. 23) and that the seal of the Commissioners of Public Works shall be judicially noticed. (Sect. 24)

(10) Provision is made that rights and prerogatives which by virtue of Article 49 of the Constitution belong to the people and relate to any property shall be exercised by the Government through and by the Minister for Finance (Sect. 28) and that the past and present property of dissolved bodies corporate shall be State property (Sect. 29)

(11) All personal property which became or becomes the property of the State either as *bona vacantia* or by virtue of Section 29 shall vest in the Minister for Finance (Sect. 30) and the Minister may if he so thinks fit apply to the High Court for an order declaring that property has devolved upon the State by way of escheat or has become the property of the State as *bona vacantia* or by virtue of section 29, the order so made to be conclusive evidence on the point subject to appeal to the Supreme Court. (Sect. 31)

DECISIONS OF PROFESSIONAL INTEREST.

Costs—Contentious or Non-Contentious Business—Lump Sum Bill.

THE case noted at Page 67, Vol. 48, of the Gazette has now been affirmed by the Court of Appeal (Denning and Parker, L.J.J., and Roxburgh, J.). It will be recalled that Gerrard, J. decided *inter-alia* that whether business was contentious or non-contentious must be determined by its nature and not solely by the questions whether litigious proceedings had been commenced and the business had been done in those proceedings; the true test was whether, if the case went to trial, remuneration for the business (even though done before the litigation began) would be allowed on a party and party

taxation in the proceedings; and, judged by that test, part of the business to which the bill in the present case related was contentious business and therefore the bill was a bad bill.

Per Denning, L.J.: "Non-contentious business is, I believe, more remunerative than contentious business."

Although the difference is so important to solicitors, there is no clear guidance to be found anywhere to enable the profession to distinguish between contentious business and non-contentious business. The Solicitors Act, 1932, evades the issue. The section does not say what "contentious business" means or what "non-contentious business" means. If a clear line is to be drawn there is only one possible place for it, viz., the issue of the writ or other originating process in the courts of law. All business before that date could be said to be non-contentious, and all business afterwards to be contentious. It would be very convenient if we could draw that line, but I do not think we are at liberty to do so for the simple reason that it is not the line drawn by Parliament. The statutory distinction depends on the nature of the business—contentious or non-contentious—not on the time at which it is done.

Now suppose that, after the solicitor had instructed Counsel to draft the writ, but before the writ was actually issued, the case was settled by the defendant paying the claim. Does the work take on a different character simply because the case was settled? Surely not. If it is contentious business if the case goes for trial it is also contentious business if the case is settled before the writ is issued. The issue of the writ does not alter the nature of the business; nor should it alter the method or amount of the solicitor's charges. He should get the same reward for the same work, no matter whether the case goes for trial or is settled the moment before writ issued or the moment after it.

These illustrations persuade me that, where the work done before writ is such that, if the case went to trial, it would properly be allowed as against the other party on a party and party taxation, then it is contentious business, even though a writ is not in fact issued; but, if the work would not be allowed on a party and party taxation, it is not contentious business. I am aware that this test sounds vague and indefinite, but the managing clerks in solicitors' offices have a very good idea of what business will or will not be allowed on taxation, and I feel sure that they will be able to apply this test and say without difficulty what is contentious business and what is not. All work done in the cause itself after writ is, or course, contentious.

Counsel for the solicitors said that, when no writ or other process was issued, there was no scale by which to charge for contentious business, and he pointed out that it might happen that a case was settled before it was decided whether it should be taken in the High Court or the county court. This is no doubt true, but I do not think it should give rise to any difficulty in practice. The taxing masters will act on analogy to R.S.C., Appendix N. They will tax the bill on the same footing as if a writ had been issued. In case of doubt whether it would have been a High Court or county court action, they will, I expect, give the solicitor the benefit of the doubt and allow him to charge on a High Court Scale.

Applying the principles which I have stated, I have no doubt that a good deal of the business contained in this bill was contentious business. The solicitors should have delivered a separate bill of costs for all this contentious business, with detailed items and charges. Another bill should have been delivered for the non-contentious business, and that could have been for a lump sum. The bill which was in fact delivered was a bad bill, because it did not distinguish between the two and treated it all as non-contentious business, which was wrong.

I now proceed to consider the second point, which is this: Assuming that the work was all non-contentious, was the bill a good bill? Until the year 1920 a solicitor's bill, even for non-contentious work, had to be drawn in the traditional way, item by item, with a separate charge against each item. By the Order of 1920, as re-enacted by the Order of 1934, a solicitor was authorised to charge a gross sum for non-contentious business, in lieu of detailed charges, but it was provided that the client could insist within six months on a detailed bill of charges, just as if no gross sum were permissible. In 1953 a new order, the Solicitors' Remuneration Order, 1953, was made, which made great alterations in the method of charging for non-contentious business. The solicitor is now entitled, under Sch. 2 of the Solicitors' Remuneration Order, 1883, as substituted by the Order of 1953, to such sum as may be fair and reasonable, having regard to all the circumstances of the case ...

This, I think, means a lump sum as before, but, whereas previously the client could afterwards insist on a detailed bill of charges, he now has no right to have the lump sum split up into items. He is, however, given a valuable new right. He can require the solicitor to put the bill before the Law Society, so that the Law Society can see whether the sum charged is fair and reasonable. If it is fair and reasonable, they will certify accordingly;

or, if not, they will say what the proper sum should be. We were shown the form of application issued by the Law Society when this procedure is invoked. It seems to be well designed to enable the matter to be properly investigated. The form contains a questionnaire in which the solicitor has to set out all the particular circumstances specified in the Order of 1953. The investigation is held without any expense to the client, and it is a great protection for him. The only drawback about it is that the client has no right to have a bill taxed by the taxing master, and the new order expressly says ". . . it shall be the duty of the solicitor to satisfy the taxing master as to the fairness and reasonableness of his charge."

The taxing master can therefore call for all the details just as the Law Society could, and the taxing master will no doubt see that the client and his new advisers have full opportunity of considering these details, so that the client can challenge them, if he so desires.

Such being the effect of the new order, the question is what must a solicitor's bill for non-contentious business now contain? I think that it must contain a summarised statement of the work done, sufficient to tell the client what it is for which he is asked to pay.

Re A Solicitor (1955 2 *All* E.R. 284)

Witnesses' Privilege.

A firm of solicitors acting for the defendants in an action for damages for personal injuries, having obtained a medical report from a doctor on the plaintiff's injuries wrote a letter to the plaintiff's solicitors in which they quoted extracts from the report. The letter was shown by the plaintiff's solicitors to their client who, regarding those extracts as defamatory, commenced an action for libel against the doctor, and claimed disclosure of the full medical report and of correspondence relating thereto. The doctor claimed the protection of the privilege admitted to be possessed by the defendants in the first action:

Held by the Court of Appeal (per Hodson and Romer L.J.J., Singleton L.J. dissenting) reversing Donovan J. that the privilege which was accorded to litigants to protect them in the preparation of their case belonged only to the litigant or his successors in title and did not extend to a proposed witness who became a party to a subsequent and different action.

Per Singleton L.J. (dissenting):—"It was suggested that the Court might make an order for discovery and inspection to take place after the action for damages for personal injuries had ended. I do not know that any such suggestion was made to Donovan J., against whose order this appeal is made. In any event, I do not consider that any such order should be made in this unusual case. So far as I know, there is no precedent for it. It would be a kind of threat hanging over one who is expected to be a witness in the action for damages for personal injuries. The plaintiff commenced this action, and appears to have let the other action lie. To make an order of the kind now suggested would be a departure from the recognised practice and would have the effect of deterring potential witnesses from giving statements to solicitors whose clients were concerned in, or faced with litigation. I would dismiss the appeal."

Per Hodson L.J.:—"It is conceded by the defendant that the medical reports which form the basis of the libel action were brought into existence in contemplation of the action brought by the plaintiff against the company, and that privilege from production accordingly attaches to the company in the proceedings taken by the plaintiff against it. The question is whether the privilege from production extends beyond the company, so as to protect the defendant in separate proceedings brought against him, although the privilege is not his, but that of the company.

"It is essential to bear in mind that the privilege is the privilege of the litigant accorded to him in order that he may be protected in preparing his case, and not the privilege of his witnesses as such. The litigant can waive the privilege if he chooses, and if he does so the proofs of his witnesses can be shown to the opposing party without the witnesses having any ground for complaint. What is being sought here is, in effect, to extend the umbrella of the protection which the privilege gives the company to the defendant, who is, on the hypothesis that he is the author of the libel, to be looked at for the purpose of this application as a proposed witness on behalf of the company. In this capacity not only has he no privilege of his own, but he is under no duty to assert the right of the company to resist the production of any documents."

Per Romer L.J.:—"In order to establish this claim the defendant must show as it seems to me, either that the privilege in the first action is one which he as well as the company can assert, or that he at least has such an individual right to share in the protection which the privilege affords to the company that the latter cannot waive the privilege without his consent. In my judgment, however, neither of these views is capable of being sustained. The privilege which exists in the first action is, in my opinion, that of the company and of no one else; and the company can at any time waive

the privilege without the defendant's consent and indeed, without any reference to him at all."
(*Schneider* v. *Leigh* (1955) 2 *W.L.R.* 904)

PROBATE OFFICE GRANTS.

As the result of the Council's representations that it was inadvisable for the press to publish details contained in a grant of probate before the grant was received by the solicitor administering the estate, the Probate Registrar has stated that grants when ready may be taken up in one of two ways :—

(1) Grants could be sent by registered post to the solicitor, if having an office in Dublin, or otherwise to his Dublin agent and

(2) The grant could be taken up in person by solicitors or their assistants.

If the grant is sent by post the copy grant will be available to the press on the same morning that the solicitor receives it. Solicitors who have grants taken up by hand may be unable to call or send an assistant to the probate office for some days, and in the meantime the press may have obtained particulars. Solicitors who wish to ensure that grants will be received, with the minimum delay are advised to avail of the facilities for delivery of grants by registered post to themselves or their town agents.

DISTRICT COURT RULES (No. 2) 1955.

The attention of the members is drawn to a corrected version of the District Court Rules (No. 2) 1955, S.I. 84/1955 which has just been published. The corrections refer to figures in tort cases where the claim exceeds £10 and does not exceed £25 (page 11). In the case of a defended decree the certificate fee should be 4/- and the fee for instructions for hearing and preparing proofs should be £2. Members who have received the first version of the rules, are advised to make these alterations.

INTERNATIONAL BAR ASSOCIATION.

The Sixth International Conference of the International Bar Association will take place in Oslo, Norway, from the 23rd July to the 28th July, 1956. For the attention of members who may be interested in attending the following topics were selected for discussion :—

1. International ship-building contracts—particularly legal problems in connection with finance and security.
2. Problems arising from foreign divorces—possible solutions.
3. The legal profession—The work of the organized bar in furthering the legal profession and its public services.
4. Administration of foreign estates—problems of executors and possible solutions.
5. Suggestions for alleviating hardships arising from sovereign immunity in tort and contract.
6. Suggestions for improvement of international treaties to avoid double taxation.

It is proposed that the following topics will be discussed in Committee.

1. Ways and Means of improving facilities for legal aid for foreign nationals, whether resident or non-resident.
2. Immigration and naturalization.
3. Difficulties arising in connection with taking evidence abroad—draft bill prepared.
4. Human rights.
5. Proposals for an international code regulating the handling of property of enemy nationals and residents in enemy-occupied territory.

EXAMINATION RESULTS.

At the Intermediate Examination for apprentices to solicitors held on the 9th and 10th days of May, 1955 the following passed the examination and their names are arranged in order of merit :—

Passed With Merit.

1. John P. C. Goff.
2. Brian V. Hoey.
3. Gregory A. Lynch.
4. Laurence B. Cullen.
5. Niall C. Gibbons.
6. Gerard A. Murphy.

Passed.

Donal M. King, John F. Garavan, Pierce O'Brien Butler, John McKnight, Anne M. B. Derham, Thomas A. Twomey, Gerald J. Crehan, Alban Brian Rigney, Desmond J. Mackey, Michael A. Noonan, Timothy D. Allman, Edward A. G. Lane, Justin MacCarthy, Patrick R. O'Gorman, Michael B. O'Cleirigh, John M. A. Foley, Michael Reynolds.

44 Candidates attended; 23 passed.

The Centenary Prize was awarded to John P. C. Goff.

By Order,
Eric A. Plunkett,
Secretary.

Solicitors' Buildings,
Four Courts,
Dublin.
16th June, 1955.

PRESENTATION OF ADMISSION PARCHMENTS.

On 2nd June, the President at a ceremony in the Society's Library presented certificates of admission to the following solicitors:—

Walter Beatty, B.A., Ardrigh, Temple Road, Rathmines, Dublin; Desmond T. Breen, 29 Shelbourne Park, Limerick; Bernard Matthew Brennan, Tubbercurry, Co. Sligo; Valentine P. Carney, B.A., 12 Leicester Avenue, Rathgar, Dublin; John J. Cooke, 2 Bon View, O'Callaghan Strand, Limerick; Patrick Mark Cooney, B.A., LL.B. Lisdarn, Cavan; Thomas Crowley, Cooraclare, Co. Clare; Edward J. C. Dillon, Ardnagreine, Killaloe, Co. Clare; Michael P. Donnelly, The Abbey, Athy, Co. Kildare; Kevin J. Early, 183 Seafield Road, Clontarf, Dublin; Patrick Jeremiah Gardner, 4 St. Alban's Park, Ballsbridge, Dublin; Nicholas S. Hughes, Ballygar, Co. Galway; Richard D. Kennedy, Cashel, Co. Tipperary; Donough B. McDonough, Moymore, Carrick Road, Dundalk, Co. Louth; Sean F. MacGiollarnath, LL.B., Kingston, Galway; John Laurence Moore, Ray House, Manorcunningham, Co. Donegal; Timothy Murphy, 2 Clonmore Villas, Tralee, Co. Kerry; Patrick Joseph O'Connor, Iona, 130 Howth Road, Clontarf, Dublin; William A. P. O'Connor, Dromhall, Killarney, Co. Kerry; Aidan O'Donnell, Athy, Co. Kildare; Brendan O'Rahilly Rogers, Ballyshannon, Co. Donegal (*2nd Place April Final; Special Certificate*); John E. Russell, Gweebarra, Western Road, Cork; Noel Thomas Smith, B.A., 16 Gilford Road, Sandymount, Dublin; Hallam J. C. Studdert, B.A., LL.B., Enniskerry, Co. Wicklow (*1st Place April Final; Special Certificate*); Patrick Francis Treacy, Nenagh, Co. Tipperary (*1st Place September Final; Silver Medal; Overend Scholarship*)

REGISTRATION OF TITLE ACTS. 1891 AND 1942.

ISSUE OF DUPLICATE LAND CERTIFICATE

Applications have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of June, 1955.

Joseph O'Byrne,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

Schedule.

1. Registered Owner Patrick O'Mahoney
Folio number 1224 County Tipperary
Lands of Moanour in the Barony of Clanwilliam containing 136a. 1r. 19p.

2. Registered Owner Joseph Bradley
Folio Number 1324 County Donegal
Lands of Listellian in the Barony of Raphoe North containing 33a. 1r. 20p.

3. Registered Owner Laurence Murphy
Folio number 274 County Kildare
Lands of Kildare in the Barony of East Offaly containing 16a. 1r. 33p.

4. Registered Owner Peter Mooney
Folio number 2944 County Kings
Lands of Clonroosk Little containing 1a. 1r. 5p., Clonroosk Big, containing, 16a. 2r. 1p., one undivided fourth part of the lands of Clonroosk Big containing 7a. 2r. 2p., in the Barony of Coolestown.

THE REGISTRY.

SECTION A.

FOR SALE—Solicitor's Practice for sale in good provincial town, northern county (Eire), unique opportunity for young man anxious to start on his own. Box No. A159.

SECTION C.

FIFTY-ONE Volumes of Statutes in good condition from the years 1839 to 1920 including two sets of 14 volumes and 15 volumes in calf skin binding.

Irish Law Times Reports and *Digests* for the years 1875 to 1918 in calf skin binding, also some 25 legal works by well-known authors. The above can be seen during business hours. CARTAN O'MEARA & KIERAN, 12 Clare Street, Dublin.

Re: RATHBANE FARM, NAAS, CO. KILDARE.

Re: MYLES MCGRATH AND ELIZABETH MCGRATH (née Quinn)

Will any Solicitor or other person having any knowledge, information or papers concerning the above property around the years 1877/78/79 or the above-named persons who emigrated from Rathbane Farm to Australia about the year 1879 please communicate with John P. King, Solicitor, 13 Anne Street, South Grafton Street, Dublin.

THE SOCIETY'S FINAL EXAMINATION.

The Council have decided that from the Autumn Final Examination 1955, inclusive, an apprentice shall be entitled to take Papers 1, 2, and 3 as Part I of the Examination and Papers 4, 5, and 6 as Part II of the Examination, and that any apprentice who reaches the requisite standard in either part shall be excused further examination in that part.

Parts I and II may be taken together or separately.

An apprentice who takes Parts I and II together may on attaining the requisite standard be excused from further examination in either part.

The existing regulations with regard to the Overend and Findlater Scholarships will not be affected. Competition for the Scholarships will be confined to apprentices who take Parts I and II together.

Fees:- The fee payable on first entry for both or either parts is £12, which will cover one attendance at each part. A renewal fee of £4 4s. 0d. will be payable on each subsequent entry for both or either parts.

SALES UNDER THE LAND CLAUSES ACTS.

Election for Sch. II charges

Members are advised that while notice of election must be given to the client under par. 6 SRGO 1884 (1955 *Calendar* p 461) it would be advisable also to send it simultaneously to the local authority or other body paying the costs.

EXCHANGE CONTROL ACT, 1954

A Circular of interest to solicitors is enclosed with this issue of the Gazette at the request of the Dept. of Finance.

THE SOLICITORS' BENEVOLENT ASSOCIATION

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

Last year over £2,000 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

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

Membership subscription, £1 1s. 0d. (or 10s. 6d. if admitted less than 3 years) a year. £10 10s. 0d. life membership.

Address:

SECRETARY,
SOLICITORS' BENEVOLENT ASSOCIATION,
22 NASSAU STREET,
DUBLIN.

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July,
1955

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
THOMAS A. O'REILLY

Vice-Presidents
DESMOND J. MAYNE
JOHN J. SHEIL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL.

JUNE 30TH: The President in the Chair. Also present, Messrs. Desmond J. Mayne and John J. Sheil, Vice-Presidents, Henry St. J. Blake, James J. O'Connor, Desmond J. Collins, Joseph Barrett, Sean O hUadhaigh, Peter E. O'Connell, John Maher, Nathaniel Lacy, Reginald J. Nolan, William J. Norman, John R. Halpin, Patrick F. O'Reilly, Patrick R. Boyd, Cornelius J. Daly, Ralph J. Walker, George A. Nolan, George G. Overend, Francis J. Lanigan, Francis Gallagher, John J. Nash, Terence de Vere White, Niall S. Gaffney, John Carrigan.

The following was among the business transacted:

Solicitors practising without certificates.

THE Secretary was directed to send a copy of the statutory list of practising solicitors to each County Registrar and District Court Clerk, to the Taxing Masters and to the Secretary of each local Bar Association and to request that particulars of any case in which a solicitor practises without a certificate shall be submitted to the Council so that the institution of proceedings in the name of the Society may be considered.

Society's Final Examination. Parts I and II.

IT was resolved that from the autumn final examination 1955 inclusive an apprentice shall be entitled to take papers 1, 2 and 3 as Part I of the examination and papers 4, 5 and 6 as Part II of the examination and that an apprentice who satisfies the examiners in either Part shall be exempt from further examination in that part. The resolution will not alter the present regulations for the award of the Overend and Findlater Scholarships; competition for these will be confined to candidates taking the two parts together. The first entry fee will cover one attempt at each part and renewal fees will be payable for each subsequent attempt in respect of one or two parts.

Continuation of practices of deceased solicitors.

THREE applications under section 61 of the Solicitors Act, 1954, for permission to carry on the practice of a deceased solicitor on behalf of the persona representatives were considered and granted.

Solicitors Act 1954 (Professional Practice, Conduct and Discipline) Regulations, 1955.

DRAFT regulations circulated with the Agenda were considered and adopted with amendments and it was ordered that the regulations should be tabled to be signed at the next meeting of the Council.

Registry of Deeds delays.

CORRESPONDENCE from the Dublin Solicitors' Bar Association was considered and it was decided that representations should be made to the Registrar of Deeds.

Land Registry Maps.

ON a report from a committee drawing attention to the fact that the Land Commission requires a certified copy of a Folio with an application for sub-division, since the practice of showing the areas on the map has been discontinued by the Land Registry, the Council directed that further representations should be made to the Registrar of Titles that the old practice should be revived.

Sealing of Documents by Local Authorities.

MEMBERS complained of delay in sealing of releases by the Dublin County Council and Dublin Corporation and pointed out that the local authorities concerned will not seal such documents until the money payable under the release has been received by the local authority. It was ordered that a letter should be written to the City and County Manager pointing out the inconvenience to members of the public and suggesting that the ordinary practice of sealing the documents and holding them under a certificate of escrow should be adopted.

PROGRAMME OF LECTURES, 1955-56

Course A.

Common Law (including Personal Property, Contracts and Torts) 42 lectures delivered as follows:— Michaelmas Sittings 12; Hilary Sittings 21; Easter Sittings 9; Minimum attendance for credit is, Michaelmas, 9; Hilary, 16; Easter, 7; Lectures each Monday and Thursday at 2.15 o'clock, save where otherwise notified.

Course B.

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

Course C.

Conveyancing and General Office Practice, 50 lectures. The rights, duties and responsibilities of solicitors, 4 lectures. Lectures will be delivered as follows:— Michaelmas Sittings 18; Hilary Sittings 24; Easter Sittings 12; Minimum attendance for credit is Michaelmas, 14; Hilary, 18; Easter, 9. An apprentice to obtain credit must attend at least 3 of the 4 lectures on rights, duties and responsibilities of solicitors. Lectures each Tuesday and Saturday at 9 a.m., save where otherwise notified.

Course D.

General office practice (taxation with special reference to death duties) 50 lectures. The lectures will be delivered as follows:— Michaelmas Sittings 18; Hilary Sittings 22; Easter Sittings 10; Minimum attendance for credit is, Michaelmas, 14; Hilary, 17; Easter, 7. Lectures each Monday at 9 a.m., and Saturday at 10.15 a.m., save where otherwise notified.

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

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

Course A must be completed before either Course B, C, or D is commenced. Fee, 8 guineas for each course.

EXAMINATIONS, AUTUMN, 1955.

Examination	*Date*	*Latest date for giving notice*
Intermediate	September 5th, and 6th.	August 15th
Final ...	September 5th, 6th and 7th.	August 15th
Preliminary	September 6th, and 7th.	August 16th
First and Second Irish.	September 23rd, and 24th.	September 2nd

MOTOR INSURERS' BUREAU.

THE Minister for Local Government has made arrangements with the vehicle insurers operating in this country whereby the insurers have agreed to establish an organisation to be known as the Motor Insurers' Bureau of Ireland. The Bureau is intended to deal with the problem of the person who suffers personal injury (including death) at the hands of the negligent driver of a motor vehicle, but cannot recover compensation because of the failure of the driver to insure himself or insure himself adequately.

While there has been no evidence of any significant number of cases of failure to receive legal compensation in such circumstances there is no doubt that instances can occur. Insurers elsewhere have entered into voluntary agreements to see that persons obtaining judgment in respect of personal injury to which compulsory insurance applies, recover the amount due to them and the insurers operating here have now formally completed an agreement to make similar arrangements.

The Bureau which the insurers have agreed to establish will start to operate on a date to be fixed shortly and will deal with accidents happening on or after, but not before, that day. In respect of any such accident, if the injured person, being a person towards whom liability is required by law to be covered by insurance, finds that the person responsible for his injury does not satisfy the judgment, then, subject to certain conditions being complied with, the Bureau will see that it is satisfied. It is emphasised that the arrangement does not apply to damage to property.

The scheme will in no way diminish the importance to all motorists of being insured. Not only would a guilty motorist be liable to suffer the penalty for driving without insurance, but he would also remain liable to reimburse any sum paid to the claimant by the Bureau, which will take an assignment of the rights of the claimant.

The Bureau is thus in no sense a substitute for insurance. It is essential, if the scheme is to continue, that this fact should be borne in mind alike by motorists and those responsible for the administration of the law, and that the offence of driving without "third-party" insurance should continue to be regarded as a very serious matter from the point of view of the community.

The scheme cannot cover cases where there is no known defendant and therefore no judgment possible. Examples are the "hit-and-run" case where the defendant remains untraced, or the case of a person found injured on the road with no evidence to show how he met his injuries. The insurers have agreed, however, in addition to their formal undertaking under the agreement, that in such a case where upon the evidence it is clear that the injury was caused by the negligence of the driver of a motor vehicle and that if the driver had been found, judgment could have been obtained against him, the Bureau will, in their discretion, give sympathetic consideration to making some *ex gratia* payment to the injured person. It is not the intention, however, under this part of the arrangement to deal with every trivial injury alleged to be due to a passing car or to deal with cases where the driver of a known vehicle tries to pass on responsibility to some alleged untraced vehicle. Applications for an *ex gratia* payment will only be considered when the injured person has sustained death or serious and permanent disablement.

The State, which is exempt from the requirement of motor insurance, will deal, *ex gratia*, with any personal injuries claim arising out of the unauthorised use of a State-owned vehicle, broadly in the same way as the Bureau will deal with cases arising out of the use of vehicles which ought to be insured. Where there is a policy of insurance covering or purporting to cover the use of a State-owned vehicle, the case will be dealt with by the Bureau.

Coras Iompair Eireann, being an undertaking exempted from insurance, has agreed to treat cases in which its vehicles are involved on the same basis as the State will act in relation to State-owned vehicles.

In lieu of insuring against third-party risks, a person can obtain a guarantee from an authorised guarantor who has made the appropriate deposit with the Courts.

There is only one guarantor operating, the Caledonian Insurance Co., and it will meet claims for compensation arising out of the use of a vehicle in respect of which there is in force a guarantee issued by it, in circumstances similar to those in which the Bureau would meet a claim if any other vehicle were involved.

It is intended that the Minister for Local Government and the Bureau when established, will enter into an agreement, the terms of which will be published.

EXCHANGE CONTROL ACT, 1954.

BY the Exchange Control (Commencement) Order 1955 (S.I. No. 128/1955) the 1st July 1955 was fixed as the day on which the above mentioned Act other than Section 14 and Sub-section (1) of Section 15 thereof shall come into operation.

On 28th June, 1955 the Minister for Finance made the Exchange Control Regulations 1955 (S.I. No. 129/1955) which came into operation on 1st July 1955 and deal with various matters under the Act.

PROCEEDINGS AGAINST SOLICITORS.

Pursuant to an Order of the Chief Justice made under Section 35 of the Solicitors Act (Ireland), 1898, the name of Michael T. Davis who formerly practised at 107 St. Stephen's Green, Dublin, has been struck off the roll.

Pursuant to Orders of the Disciplinary Committee under Section 18 of the Solicitors Act, 1954, the names of the following solicitors have been struck off the roll:

Robert F. Coonan, Naas, Co. Kildare.

William J. Carlos, Galway.

By order of the Disciplinary Committee Andrew J. O'Flynn, Solicitor, Gort, Co. Galway, has been suspended for a period of six months from 1st July, 1955.

SOLICITORS' GOLFING SOCIETY.

THE Autumn Meeting will be held at Royal Dublin Golf Club on Thursday, 29th September, 1955, when the following competitions will be played (Stableford).

1. Incorporated Law Society Challenge Cup (handicap limit 18) with prize presented by Mr. T. A. O'Reilly, President of the Law Society and the Golfing Society. Prize for the runner-up presented by the Golfing Society.

2. Ryan Cup (handicaps 13 and over) with prize for winner and runner-up.

3. There will also be prizes for (*a*) First Nine, (*b*) Second Nine, (*c*) by competitor resident more than 30 miles away and (*d*) best of 3 cards draws by lot.

Competitors may arrange opponents and start from 10.00 a.m. onwards. There will be frequent drawn between 2.00 and 4.00 o'clock.

The Annual General Meeting will be held in the club house at 6.45 p.m., followed by Dinner at 7.00 o'clock (for competitors and non-competitors) at which the President will preside. Members will be circularised in due course. Intending members will be cordially welcomed

RECORD OFFICE REQUEST FOR HISTORICAL DOCUMENTS.

IT is generally known that when the Public Record Office was destroyed in 1922 a vast collection of valuable historical and legal documents perished. The loss of practically the whole of the collection of wills and related documents prior to 1904 (1900 or 1901 in the case of District Registries) except some District Registry Will Book, has been felt particularly severely by the legal profession and its clients.

Since 1922 efforts have been made to repair the losses so far as possible by obtaining substitutes for destroyed documents, especially original probates and official copies of testamentary documents. An appeal to solicitors to deposit in the Public Record Office any such documents in their possession not currently needed was issued by the Government in 1924, and in 1926 a further appeal by the Assistant Deputy Keeper was published in the Law Society's journal. Many solicitors and others responded generously to this appeal, with the result that in the testamentary section there are now over 10,000 of such substitute documents, which applicants have often made use of in the absence of the originals. The donors of these documents have thus done a valuable public service.

It is greatly to be hoped that such presentations will continue in the future, for it seems likely that further substitute documents might still be collected. The Keeper of Records will be extremely grateful if anyone possessing documents of this kind would deposit them in the Public Record Office, either permanently or temporarily. In the case of temporary deposits, copies would be made and the originals returned to the lenders.

Original probates and administrations and certified copies are of special value, but plain copies and extracts are also worth preservation owing to their genealogical interest. Copies of any legal documents obtained from the Public Record Office before 1922 are also valuable, e.g., extracts or copies from census returns, patents, hearth money rolls, Exchequer and Chancery bills and pleadings, and marriage licence bonds.

Donors will always, of course, be able to inspect documents presented by them and to obtain certified copies free of charge.

DECISIONS OF PROFESSIONAL INTEREST.

Solicitors' Common Law privilege and obligation not to disclose professional communications.

An important decision has recently been given by the High Court in New Zealand on the question of a solicitor's obligation to supply information concerning clients' affairs to the Commissioners of Inland Revenue. The defendant was a solicitor who was charged with an offence under section 149 of the New Zealand Income Tax Act, 1923, of failing or refusing to furnish in writing information and to produce documents which the Commissioner considered necessary or relevant for a purpose

relating to the administration or enforcement of that act or any other act imposing taxes or duties. (*There appears to be no corresponding statutory power in the Irish Revenue Commissioners but there is a somewhat analogous provision in section* 103 *of the Income Tax Act* 1918.)

On the hearing of the information the magistrate stated a case for the opinion of the Supreme Court on the question whether notwithstanding the provisions of the Income Tax 1923 as amended the defendant in his capacity as a solicitor was privileged, and if so to what extent, from furnishing the information and producing the books and documents sought by the Commissioner of Inland Revenue without the client's authority. The members of the Court of Appeal (Fair, Gresson, Hay and North, JJ. Stanton, J. dissenting) held that the question in the case stated should be answered in the affirmative. The majority judgments dealt with the common law and statute position very fully and the general ground for the majority decision was that the client's privilege and the solicitor's obligation to honour it are an important principle necessary for the administration of justice, and that whereas the legislature is competent to abrogate it by statute this cannot be done by a sidewind and that in accordance with the general principles of construction of statutes affecting private liberties the words of the statute under consideration were not sufficiently direct to authorise the court to hold that the abrogation of the privilege was intended as a necessary consequence of the act. Stanton J. in a dissenting judgment held that whatever the court might think as to the propriety and wisdom of abrogating the privilege it was clearly competent for the legislature to do so and in his opinion the consequence clearly flowed from a reasonable construction of the act. The decision is not binding on the Irish Courts but it will certainly be worth citing if the right of the Revenue Commissioners here to require information from solicitors under section 103 of the Income Tax Act 1918 is ever challenged (Commissioner of Inland Revenue *v.* West-Walker, 1954, New Zealand Law Reports, 191).

Per Gresson, J.: "No rule of law is better settled than the rule that statutes which encroach on the ordinary rights of the subject, whether as to person or property, are subject to a strict construction. The Courts are presumed to incline to such an interpretation of such statutes as will preserve the subject's rights unless express words or clear implication require the opposite result. The law regards with care the rights of individuals; and unless a statute restricts those rights by language beyond reasonable doubt they should be left untouched by the Courts . . . . . .

There is just as great, or an even greater, necessity to-day to guard the principle from being sapped. I recoil from the proposition that it was the intention of the Legislature to trample underfoot in such an oblique fashion an old and cherished principle established for the perfect administration of justice, and for the protection of the confidence which exists between a solicitor and his client. In my opinion, this common-law right has been left untouched by the statute. If the Legislature had meant to alter this common-law right, it is to be expected that it would have done so expressly—plainly and unambiguously. Certainly it has not done so expressly, and I do not think it can be said to have been done by necessary implication."

Discretion of the Court to order a successful defendant to pay the plaintiff's costs.

In an action for possession of a dwellinghouse which was within the protection of the Rent Restrictions Acts on the grounds that the defendant had committed a nuisance or annoyance to adjoining occupiers the County Court Judge in England held that the plaintiff had established a case of nuisance or annoyance, but refused to make an order for possession. He ordered the defendant to pay the plaintiff's costs. On appeal it was held by the Court of Appeal (1) that although the terms of Order 47 Rule 1 of the County Court Rules 1936 appeared to put no limit on the way in which a County Court Judge could exercise his discretion as to costs, it was not a proper exercise of the judicial discretion, in the ordinary case where a defendant had been wholly successful, to order such defendant to pay the plaintiff's costs and that such an order would be one upon which an appeal would be entertained.

(2) However, in a possession application under the Rent Acts, if the plaintiff establishes facts giving the Court jurisdiction to make an order, it may nevertheless then withhold relief by reason of matters of which the plaintiff had had no knowledge, and, accordingly, there was no reason for limiting the judge's discretion as to costs; and consequently, the order as to costs in this case should not be interfered with.

Per Evershed, MR.: "I should like to say that it must be a very unusual thing to order the successful defendant to pay the costs; and it would only be in exceptional cases that a judge would think it right to make such an order. Still, this is a matter of discretion; and unless it is shown here that the judge erred upon some matter of principle, we should not, according to the well established rules applicable to such matters, vary the discretion of the judge or seek to substitute a discretion of our own." (*Ottway* v. *Jones* [1955] 1. *W.*L.R. 707.)

THE DUTY OF A LAWYER.

You, the members of an ancient and noble profession, have a mission in the world to-day. You have an immense social dignity, with all the time-honoured rights of your craft, but remember that these rights are based on your duties of social service. Law has been admirably defined in terms of justice as: *Ars boni et aequi*. You are the wardens of the law and of social justice, hence the indispensable social service you must render is to see that the citizen gets that good and just thing. By your very calling you are the trusted friends of natural equity, hence enemies of inequity. You are not the legislature, true, but as lovers of the law, as men expert in your craft, do not fail to inform the common conscience and the legislature, whether any proposed legislation is or is not against natural justice or equity. Degradation must surely overwhelm a people whose jurists are so careless about natural equity, that nothing is beyond the powers of the legislature, provided legal formalities are observed.

So much, then, must the *bonum et aequum* be the aim of the legal profession that for no consideration must either the judge sell his judgment or the advocate sell his advocacy to what does hurt to an individual or the community. If the advocate knows with certainty that a cause is untrue in itself and hurtful either to an individual or the community, his counsel and pleading for that cause would be a direct cooperation with evil. Moreover, as he cannot knowingly defend such an unjust cause even with facts that are true, so neither can he defend even a just cause with allegations that are untrue. No advocate can lie even to defend justice or truth.

Yet it is still the tradition of the legal profession that these real services shall be recompensed not by any measure of wealth which the man of law may demand, but by such reward simply as will enable him to live the honoured life of advocate or judge. "Honour," says Adam Smith, "is a great part of the reward of all honourable employments."

To sum up, I believe the Legal profession may help to save the State by a new affirmation of its old ideals, and by a strict adhesion to those two principles which are among its noblest traditions:

First, Social Status based on Social Service;
and, second, Reward based on Social Status.

Rev. Vincent McNabb, O.P.

(Quoted in the sermon delivered at the opening of the Legal year in St. Patrick's Cathedral, Melbourne, Australia, and reprinted in *Scottish Law Gazette*, March 1953. See also *Irish Law Times*, 1941, p. 242.)

FINANCE ACT, 1955.

THE attention of members is drawn to Section 17 of the Finance Act, 1955, which relates to credit sales agreements under the Hire-Purchase Act, 1946. Such agreements if made under hand are liable to 6d. stamp duty under Section 22 of the Stamp Act, 1891. If under seal, such agreements are liable to a stamp duty of 10/- as being a Deed of any kind whatsoever, not described in the Schedule under the Stamp Act, 1891.

RECENT LEGAL LITERATURE.

Action by Administrator in Q.B.D. (*L.T.*, 1 and 8 July, 1955).

Accelerating Trusts in Remainder ("Re Cochrane's Settlement")—(*L.T.*, 4 March, 1955).

American Anti-Trust Laws (Turner)—(*M.L.R.*, May, 1955).

Ancient Lights (*I.L.T.*, 6 July, 1955).

Alternative Accommodation:—Security of Tenure: "Scrace *v.* Windust" (*S.J.*, 14 May, 1955).

Assents in favour of oneself: "Harvell *v.* Foster" (*The Solicitor*, July, 1955).

Assignment of part of debt—Assignor's rights: "Walter *v.* Murphy" (*S.J.*, 30 April, 1955).

Attempt to stop up London Highway (*S.J.*, 9 April, 1955).

Bail Refused—Likelihood of Further Offences ("People *v.* McCann"—Haugh J.)—(*I.L.T.*, 4 June, 1955.)

Bankruptcy in Private International Law—Pt. II (Blom Cooper)—(International & Compar. *L.Q.*, April, 1955).

Bar General Council: Annual Statement (*S.J.*, 25 June, 1955).

"Beyond reasonable doubt:" "R. *v.* Blackburn," and "R. *v.* Murtagh" (*L.T.*, 24 June, 1955).

Bonn and Paris Agreements (*L.T.*, 18 February, 1955).

Boundaries: "Hopgood *v.* Brown" (C.A.) (*L.T.*, 1 April, 1955).

Burden of Proof under Road Traffic Act: "John *v.* Humphrey" (*The Solicitor*, July, 1955).

Chancery Masters—Extended Jurisdiction (*S.J.*, 9 April, 1955).

Charitable Trusts—Public Element (*L.T.*, 2 July, 1955).

Colonial Courts and the Doctrine of Judicial Precedent (Elias) (*M.L.R.*, July, 1955).

Company Law: "Holdsworth *v.* Caddies" and "Welch *v.* Bank of England" (*S.J.*, 14 May, 1955).

Conditional and absolute discharge—Powers of magistrates (*S.J.*, 9 July, 1955).

Continuous Breach of Covenants (*S.J.*, 11 June, 1955).

Contract accepted by teleprinter: "Entores *v.* Miles Far East Corpn." (*L.T.*, 2 July, 1955).

Contractual or Statutory Tenancy: "Whitmore *v.* Lambert" (*S.J.*, 25 June, 1955).

Contributory Negligence—Reduction of Damages (Payne) (*M.L.R.*, July, 1955).

Damages for breaches of repairing covenants (*The Solicitor*, July, 1955).

Dangerous and Careless Driving (Hails) (*C.L.R.*, April, 1955).

Defence Act, 1954 (*I.L.T.*, 14 and 21 May, 1955).

Degree of Care owed to Children (*I.L.T.*, 2 and 9 July, 1955).

Diplomatic Immunity (Taylor) (*C.L.R.*, April, 1955).

Diplomatic Protection of Nationals Abroad (*The Solicitor*, July, 1955).

Drink—Influence of—In Road Traffic Offences (*C.L.R.*, June, 1955).

Driving of Motor Cars–Whose is the Responsibility? (*I.L.T.*, 11 June, 1955).

Drunkenness as a Defence (Garner) (*C.L.R.*, June, 1955).

Effect of a Criminal Judgment on a Civil Action (Coutts) (*M.L.R.*, May, 1955).

Encroachment by Trees—Liability: "McCombe *v.* Read" (*S.J.*, 25 June, 1955).

English Equity and Canon Law (Coing) (*L.Q.R.*, April, 1955).

Essential Validity of Marriage (Sykes) (International & Compar. *L.Q.*, April, 1955).

Equitable Mortgagee's Right to Possession (Wade) (*L.Q.R.*, April, 1955).

Evidence excluded by consideration of State interest (Simon) (Camb. *L.J.*, April, 1955).

Examination of Witness—Refusal of Order—Discretion of Appellate Court (*L.T.*, May, 1955).

Fencing Dangerous Machinery: "Summers *v.* Frost" (H.L.) (*L.T.*, 1 April, 1955).

Finance Bill (England) 1955 (*S.J.*, 30 April, 1955).

Finger Prints—Infallibility of (Eddy) (*C.L.R.*, January, 1955).

Forcible Re-entry after judgment: "Aglionby *v.* Cohen" (*S.J.*, 16 April, 1955).

Forgery by Typewriter (Harrison)—(*C.L.R.*, July, 1955).

Harbouring a Servant ("Jones *v.* Stevens")—Action dismissed by Hallett J. (*I.L.T.*, 4 March, 1955).

Historic Courts—The Strand (*L.T.*, 5 June, 1955).

Hospital—Their Liability for the Negligence of their Staffs (*Ir. Jur.*, 1952, p. 45).

Hospital Authorities—Actions Against (*L.T.*, 20 May, 1955).

Husband's Liability for Wife's Income Tax if in Business (*S.J.*, 16 April, 1955).

Illegal conditions precedent and legacies of personalty (Delany): "Lynch *v.* Lombard" (Dixon J.)—(*Conveyancer*, May-June, 1955).

Incapacity greater than total (*I.L.T.*, 19 March, 1955).

Immunity in Tort and the Trade Disputes Act (Delany) "Smith *v.* Beirne"—(Supreme Court)—(*M.L.R.*, July, 1955).

Inserting statutory advertisement for debt—Unexpected claim: "Re Aldhous" (*S.J.*, 23 April, 1955).

Interference with Incorporeal Rights: "Mason *v.* Clarke"—(*S.J.*, 4 June, 1955).

International Enclaves and State Servitudes (Farran)—(International & Compar. *L.Q.*, April, 1955).

Intending Criminals—Police Control of (Glanville Williams) (*C.L.R.*, February and March, 1955).

Interpretation of Common Repairing Terms (West)—(*The Conveyancer*, May–June, 1955).

Investment Clauses and the Statute of Westminster—(*L.T.*, 22 April, 1955).

"In pari delicto potior est conditio defendentis" (Grodecki) (*L.Q.R.*, April, 1955).

Iranian Oil Litigation (O'Connell) (International & Compar. *L.Q.*, April, 1955).

Japanese Constitution—New Aspects (International & Compar. *L.Q.*, April, 1955).

Juror related to murdered person—Petition dismissed—"Dick *v.* R" (P.C.) (*L.T.*, 4 March, 1955).

Jus Tertii and the third man (Jolly)—(*M.L.R.*, July, 1955).

Landlord requires premium as well as rent—Rent Acts: "Woods *v.* Wise" (*S.J.*, 30 April, 1955).

Law's Delays—(*S.J.*, 21 May, 1955).

Landlord and Tenant—Practitioner's Reference Table (*Ir. Jur.* 1952, 49).

Law Society (London)—Annual Report (*S.J.*, 25 June, 1955).

Licences—A Jonah's Gourd—Pt. II (Hanbury) (*Camb. L.J.*, April, 1955).

Local Authorities—"Escapes" and "Discharges" (*L.T.*, 18 March, 1955).

Maintenance Agreements on Separation (*L.T.*, 17 June, 1955 and *S.J.*, 21 May, 1955).

Measure of Compensation in the Compulsory Acquisition of Land (Davies)—(*The Conveyancer*, May–June, 1955).

Millard-Tucker Report on Taxation of Profits and Income (*S.J.*, 18 June, 1955), and (*L.T.*, 24 June, 1955).

Milner–Holland Report on Savoy Hotel and Berkeley Hotel (*The Conveyancer*, May–June, 1955).

Mortgagee entitled to possession if mortgagor lets premises without leave—"Dudley Building Society *v.* Emerson" (1949)—(*S.J.*, 11 June, 1955).

Motor Trade: Exclusion of Seller's Liability (*S.J.*, 30 April, 1955).

Murder without a body (Eddy)—"R. *v.* Onufrejcyk" (*I.L.T.*, 11 February, 1955).

Murder without a body (Edwards) (*C.L.R.*, April, 1955).

Notice to Treat—Relationship (*L.T.*, 3 June, 1955).

REGISTRATION OF TITLE ACTS, 1891 AND 1942

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of July, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

1. Registered Owner WILLIAM NILAND
Folio number 1915 County Galway
Lands of Rahaly in the Barony of Kiltartan containing 37a. or. 5p.

2. Registered Owner PATRICK KIERNAN
Folio number 293 County Longford
Lands of Drumlish in the Barony of Longford containing 10a. or. 10p.

3. Land Certificates of FRANCES CELIA SATCHWELL to
(*a*) 25a. 1r. 3p. of the lands of Carradooan;
(*b*) 54a. 1r. 0p. of the lands of Carrandooan, and
(*c*) 21a. or. 24p. of the lands of Corlis all situate in the Barony of Castlereagh and County of Roscommon being the lands comprised in Folios (*a*) 3111, (*b*) 3113, and (*c*) 8164, respectively.

4. Land Certificate of the Irish Land Commission to 72a. 2r. 3p. of the lands of Ballindollaghan situate in the Barony of Castlereagh and County of Roscommon being the lands comprised in Folio 18163 County Roscommon.

LIBRARY—VACATION ARRANGEMENTS.

THE Library will be closed from Thursday, 18th August, 1955, to Monday, 19th September, 1955, inclusive. Members requiring books urgently may obtain them by application to the General Office.

COMMONWEALTH LAW CONFERENCE.

DURING the first Commonwealth Law Conference held recently in London, the 800 delegates which included 30 Judges, discussed some interesting problems. There was general agreement that the subject of Professional Ethics should be taught as part of the Law course in Universities, although there would always be a section of the profession who would break whatever rules were laid down. They would always have to rely on the integrity of the individual member of the profession.

The problem of fusion between the barristers and solicitors' profession evoked different opinions. It seemed that by and large that countries which had fusion of the two branches seemed generally satisfied with it, and those that had separation seemed equally satisfied with that. It seemed unlikely that costs under the two systems differed much, as the total amount of work was the same. One view from New South Wales urged that nowadays, with the emphasis on the practical and benefits for the many, with the urge for action, simplicity, and clarity, great advantage would result to the public from fusion of the two branches; an Indian view was that the English system of two Legal Professions might be appropriate for highly industrialized communities, but that small farmers could not afford to pay two men. Mr. Lund, Secretary of the English Law Society, said that it was impossible for a man to shepherd his witnesses into Court, arrange papers, and deal with the client's interruptions and still keep his mind on the case.

After a solicitor has been on the case for two years he could not see the wood for the trees. If the solicitor did not believe anyone in the firm could deal with a particular matter he might still be reluctant under "fusion" to send him elsewhere either from fear of losing a client or of offending his partners.

There was general agreement among delegates with homogeneous populations that juries should be retained in criminal cases; but a South African delegate stated that the jury system had been given a fair trial in South Africa for over a century and failed. The delegates were generally dissatisfied with the role of juries in civil cases everywhere. The South African delegate put forward that the ideal solution would be for a judge to sit with two assessors, members of the legal profession quite independent of the Government. A New South Wales delegate said that the disadvantages of the jury were the chance of compromise, absurd damages and sentimentality. It was further contended that a trial that took 3 days with a jury would usually only take one day without a jury

As regards Law Reform, it was stated that every Lawyer including Judges in particular, had a duty to the community to be on the alert for ambiguous and obsolete provisions that led to injustice, and to take active steps to obtain the proper reform. Sir Edwin Herbert, Vice-President of the Law Society, said that the liberty of the subject could not be safeguarded unless there were professional lawyers who were prepared to put their knowledge at the disposal of the private person without fear or favour. In the campaign about retirement benefits lawyers were not fighting for privileges for the professional man, but something fundamental to the liberty of the subject and the rule of Law. What had been in the past a career for talent was now becoming a career open almost only to those with some financial backing. Another matter which engaged the attention of delegates was congestion in the Courts and its causes. This problem appeared to be particularly acute in New South Wales, and a spokesman stated the primary cause of delay was the internal combustion engine, as 75% of common law actions in New South Wales concerned motor cars. The delay of over two years between the setting down of an action and the trial led to grave injustice; witnesses forgot, died or left the country. Another factor leading to delay was the necessity for a jury, and the fact that often actions were settled after they had come on for trial, thus causing the loss of a day's sitting. Some system should be evolved whereby solicitors and judges should arrange the next week's list in co-operation. Yet another factor was that practically all the motor insurance work was concentrated in the hands of a few; the policy seemed to be that whatever happened, the companies insisted upon a jury verdict, or at any rate only settle at the last minute. The suggested remedies, apart from the primary one of providing more judges, seemed to be: (1) A greater competence in the profession, (2) co-operation between Bench and Bar, (3) Decentralization of justice, and (4) a limited use of juries. The fact that so many members were in a position to put forward their views enhanced the value of this conference.

THE SOLICITORS' BENEVOLENT ASSOCIATION

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

Last year over £2,000 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

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

Membership subscription, £1 1s. 0d. (or 10s. 6d. if admitted less than 3 years) a year. £10 10s. 0d. life membership.

Address:

SECRETARY,
SOLICITORS' BENEVOLENT ASSOCIATION,
22 NASSAU STREET,
DUBLIN.

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1955

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
THOMAS A. O'REILLY

Vice-Presidents
DESMOND J. MAYNE
JOHN J. SHEIL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL.

JULY 21ST: The President in the Chair. Also present Messrs Desmond J. Mayne and John J. Sheil, Vice Presidents, Henry St. J. Blake, Arthur Cox, John Carrigan, Dermot P. Shaw, George G. Overend, Terence de Vere White, Joseph P. Tyrrell, George A. Nolan, Sean O'hUadhaigh, Patrick R. Boyd, John R. Halpin, Francis X. Burke, John Maher, Peter E. O'Connell, Reginald J. Nolan, Ralph J. Walker, Cornelius J. Daly, Christopher E. Callan, James J. O'Connor, Desmond J. Collins, Patrick F. O'Reilly, Joseph Barrett.

The following was among the business transacted:

Legal Education.

A REPORT from the Court of Examiners on the proposed new system of legal education under the provisions of the Solicitors Act, 1954 was considered and adopted and the matter was referred back to draft the necessary regulations.

Retirement Benefits.

A COMMITTEE of the Council submitted a report on the question of the liability for income tax in respect of contributions by self employed solicitors towards pensions to make provision for retirement or old age. It was pointed out that the position of self employed professional persons compares unfavourably with that of employed persons in this respect as it is possible to obtain exemption from income tax for contributions towards approved schemes which make provision for pensions on retirement or old age in the case of employed persons. The Committee recommended that proposals should be submitted to the Government for exemption from income tax of contributions towards such schemes in the case of solicitors and other professional men. Recommendations to this effect have been made by the Millard Tucker committee which was appointed to examine the position in England. The Council decided that the Bar Council and the representative bodies of the accountancy profession should be invited to examine the position with this Society and to draft proposals for submission to the Government.

Solicitors in the Local Government service.

A DEPUTATION which was received by the Minister for Local Government submitted a report stating that the Minister had been requested to accord

parity in the matter of salary and conditions of serve for solicitors with County Medical Officers, and County Engineers in the Local Government service. The proposals submitted by the Society relate to whole time solicitors only. The Minister had promised to consider the matter in the light of the representations received.

Registry of Deeds.
FOLLOWING representations made to the Society by the Dublin Solicitors' Bar Association a committee reported to the Council that the practice of keeping transcripts of memorials in the Registry has been abandoned as an economy measure. The committee were of opinion that this is very unsatisfactory as in the absence of transcripts the public must have access to the original memorials which is undesirable for several reasons. The question of delay in transacting business in the Registry of Deeds was also raised. The Council decided on the committee's report that the Minister for Justice should be asked to receive a deputation.

Land Registry.
A COMMITTEE reported that following the abandonment by the Registry of the practice of showing the areas on Land Registry maps the Land Commission have instituted the practice of requiring a solicitor to lodge certified copy of the Folio to show the area with an application for sub-division. The Committee were of opinion that any saving in the Land Registry by omitting the areas from the maps will be more than offset by the additional work involved in bespeaking copies of folios. The Council on the Committee's report decided that the matter should be brought to the notice of the Registrar of Titles and that he should be asked to review the position.

Solicitors Act 1954 (Compensation Fund) Regulations 1955.
DRAFT regulations submitted by the Compensation Fund Committee were approved.

Solicitors Act 1954 (Professional Practice, Conduct and Discipline) Regulations 1955.
THE regulations were made with effect from 1st October, 1955 and are printed in this issue of the Gazette. The attention of all practising solicitors is particularly invited to these regulations.

SOCIETY'S DINNER.

THE annual members' dinner will be held on Thursday, November 3rd. The venue has not been decided but a circular will be issued to all members in September. Seating accommodation will be limited and members who wish to obtain dinner tickets are advised to make early application on the form which will be enclosed with the circular. Tickets will cost about 30/- each, as last year, including wines with the meal, and applications should be accompanied by remittances. There will be no guests. If the demand exceeds the supply tickets will be allotted in priority of application, but in this event a fair proportion will be reserved for country members.

LIST OF NEW MEMBERS

From 1st August, 1954, to 31st July, 1955.

EDWARD ST. L. BLAKENEY, 10, Upper Mount St., Dublin.
JOHN KILLIAN BOLAND, 39 Westmoreland Street, Dublin.
MATHIAS BUCHALTER, 126 Saint Stephen's Green, Dublin.
VALENTINE P. CARNEY, 46 Kildare Street, Dublin.
PATRICK J. CODY, Bagenalstown, Co. Carlow.
DANIEL J. COURTNEY, Killarney, Co. Kerry.
GEORGE H. CRAWFORD, 1/2 Foster Place, Dublin.
JAMES DONEGAN, 74 South Mall, Cork.
MARY P. GALLAGHER, Donegal.
JOHN A. GAYNOR, 27 Molesworth Street, Dublin.
JEREMIAH B. HICKEY, Tralee, Co. Kerry.
JAMES A. KELLY, 3 Lr. O'Connell Street, Dublin.
THOMAS P. KELLY, 5 St. Andrew Street, Dublin.
JAMES A. KENNEDY, Carrickmacross, Co. Monaghan.
PATRICK C. KILROY, 7 Suffolk Street, Dublin.
JOHN KINNERK, 51 South Main Street, Naas, Co. Kildare.
WILLIAM B. MALONE, 3 Lr. O'Connell Street, Dublin.
THOMAS M. MITCHELL, Hospital, Co. Limerick.
PATRICK P. MACMAHON, 32 Nassau Street, Dublin.
DAVID R. PIGOT, 21 Kildare Street, Dublin.
MERVYN H. TAYLOR, 126 Saint Stephen's Green, Dublin.
PATRICK TREACY, Nenagh, Co. Tipperary.
RAYMOND M. WALKER, 5 Foster Place, Dublin.
WILLIAM R. WHITE, Rathdowney, Laois.

ADMISSIONS AS SOLICITORS.

From 1st August, 1954 to 31st July, 1955.

BEATTY, WALTER, B.A., Ardrigh, Temple Road, Rathmines, Dublin.
BRANIGAN, IGNATIUS F. Battery Road, Longford.
BREEN, DESMOND 29 Shelbourne Park, Limerick.
BRENNAN, BERNARD M. Tubbercurry, Co. Sligo.
ELLEN F. M. BEATTY, 62/3, Dame Street, Dublin.
PATRICK J. BRANIGAN, Main Street, Longford.
THOMAS E. O'DONNELL, Limerick.
RODERICK O'CONNOR, Charlestown, Co. Mayo

CARNEY, VALENTINE P., B.A.
12 Leicester Avenue, Rathgar, Dublin.

COOKE, JOHN J.
2 Bon View, O'Callaghan Strand, Limerick.

COONEY, PATRICK M., B.A., LL.B.,
Lisdarn, Cavan.

CROWLEY, THOMAS
Cooraclare, Co. Clare.

DAVIES, ESMOND, B.A., LL.B.,
"Ingoldsbey,"
Crosthwaite Park South, Dun Laoghaire, Co. Dublin.

DIAMOND, ALEC
174, Stillorgan Road, Ballsbridge, Dublin.

DILLON, EDWARD J. C.
Ardnagreine, Killaloe, Co. Clare.

DONEGAN, JAMES D.
"Fastnet," Ballinlough, Co. Cork.

DONNELLY, MICHAEL P.
The Abbey, Athy, Co. Kildare.

EARLY, KEVIN J.
183, Seafield Rd., Clontarf, Dublin.

FAY, CHARLES W. R.
13, Thomas Ashe Street, Cavan.

GANTLEY, NICHOLAS J.
3 Sara's Court, Alexandra Road, Whitstable, Kent, England.

GARDINER, PATRICK J.
4, Saint Alban's Park, Ballsbridge, Dublin.

GAYNOR, JOHN A., B.A., LL.B.,
St. Helier's, Stillorgan Park, Blackrock, Co. Dublin.

HUGHES, NICHOLAS S.
Ballygar, Co. Galway.

JOHNSTON, DENIS H., B.A., LL.B.,
49, Sandycove Road, Dun Laoghaire, Co. Dublin.

KELLY, PATRICK C.
Bellevue, New Ross, Co. Wexford.

KENNEDY, RICHARD D.
Cashel, Co. Tipperary.

KIRBY, JOHN B., B.A., LL.B.,
32, Frascati Park, Blackrock, Co. Dublin.

MAGUIRE, JAMES
55 Clontarf Park, Clontarf, Dublin.

MOORE, JOHN L.
Ray House, Manorcunningham, Co. Donegal.

DOROTHEA M. O'REILLY,
8 Sth. Gt. George's Street, Dublin.

ROGER O'SULLIVAN,
Limerick.

MICHAEL J. MAGUIRE,
Longford.

WALTER A. SMITHWICK,
43, Parliament St., Kilkenny.

FRANCIS DEVINE,
12, Dame Street, Dublin.

ARTHUR P. McLEAN,
102/3, Grafton St., Dublin.

MARTIN C. TYNAN,
Limerick.

JOHN B. COTTRELL,
74, South Mall, Cork.

BARRY G. M. DONNELLY,
Athy, Co. Kildare.

DANIEL P. O'CONNOR,
Naas, Co. Kildare.

PHILIP N. SMITH,
Cavan.

THOMAS A. COLFER,
New Ross, Co. Wexford.

LUCAS O'DUBHGHAILL,
16/17, Lr. O'Connell Street, Dublin and JOHN P. DUNNE,
5, Clare Street, Dublin.

JOHN J. GAYNOR,
27 Molesworth St., Dublin.

PATRICK C. SWEENEY,
Roscommon.

CHARLES S. DOYLE,
34, Kildare St., Dublin.

THOMAS J. KELLY,
New Ross, Co. Wexford and SIMON T. KELLY,
New Ross, Co. Wexford.

RICHARD O'BRIEN,
Tipperary.

EUNAN McCARRON,
18, Hume Street, Dublin.

RODERICK J. TIERNEY,
32 Bachelor's Walk, Dublin

PETER W. DICKSON,
Buncrana, Co. Donegal.

MURPHY, TIMOTHY
2, Clonmore Villas, Tralee, Co. Kerry.

McDONOUGH, DONOUGH B.
Moymore, Carrick Road, Dundalk, Co. Louth.

McGINLEY, MONICA, LL.B.,
Ballyshannon,
Co. Donegal.

MACGIOLLARNATH, SEAN F. LL.B.,
Kingston, Galway, Co. Galway.

MACMAHON, PATRICK P.
77 Ailesbury Rd., Dublin.

O'CONNOR, PATRICK J.
"Iona," 130, Howth Rd., Clontarf, Dublin.

O'CONNOR, WILLIAM A. P.
"Dromhall," Killarney, Co. Kerry.

O'DONNELL, AIDAN
Athy, Co. Kildare.

PHELAN, MAURICE J.
Lower Grantstown, Co. Waterford.

QUIRK, GERARD M., B.A.,
Cregg Cottage, Carrick-on-Suir, Co. Tipperary.

ROGERS, BRENDAN O'R.
Ballyshannon,
Co. Donegal.

RUSSELL, JOHN E.
Gweebarra, Western Rd., Cork.

SMITH, PATRICK
Mill Street, Monaghan.

SMYTH, NOEL T., B.A.,
16, Gilford Road, Sandymount, Dublin.

SPELMAN, DOMINIC, B.A.,
39, Saint Anne's Road, Drumcondra, Dublin.

STUDDERT, HALLAM J. C., B.A., LL.B.,
Clonderlaw, Enniskerry, Co. Wicklow.

SWEENEY, FRANCIS T. D.
6, New Brighton, Monkstown, Co. Dublin.

TREACY, PATRICK F.
Nenagh, Co. Tipperary.

JOHN D. O'CONNELL,
1, Ashe Street, Tralee, Co. Kerry.

DANIEL O'CONNELL,
Dundalk, Co. Louth and PETER O'CONNELL,
Dundalk, Co. Louth.

EUGENE GALLAGHER,
Ballyshannon,
Co. Donegal.

JOHN M. FORD,
Galway.

PATRICK GLYNN,
22 Nassau Street, Dublin

JOHN S. O'CONNOR,
4, Upr. Ormond Quay.
Dublin.

DENIS F. O'SHEA,
Killarney, Co. Kerry.

TADH R. O'BRÁONAIN,
Athy, Co. Kildare.

MAURICE W. KELLER,
41, Barronstrand Street, Waterford.

MICHAEL J. O'N. QUIRK,
Carrick-on-Suir, Co. Tipperary.

PATRICK E. ROGERS,
Ballyshannon,
Co. Donegal.

MICHAEL POWELL,
48 Grand Parade, Cork.

JOHN L. KEALY,
Drogheda, Co. Louth.

MICHAEL T. NEARY,
11, Molesworth St., Dublin.

JAMES, A. KELLY,
3, Lr. O'Connell Street, Dublin.

PETER D. M. PRENTICE,
20 Upr. Merrion Street, Dublin.

PATRICK COLL,
30, Lr. Ormond Quay, Dublin and FRANCIS X. BURKE,
30, Lr. Ormond Quay, Dublin.

LUGHAIDH P. GLEESON,
Nenagh, Co. Tipperary.

EXAMINATION RESULTS.

AT Examinations held on the 1st and 2nd days of July the following candidates were successful:—

First Examination in Irish.

Laurence F. Branigan, Colin Ardagh Chapman, Patrick J. Farrell, Francis Gerard M. Gannon, John David Gentleman, Thomas Jackson, Gerald

Kostick, Kevin J. Lyster, Patrick J. J. MacGrath.

11 candidates attended; 9 passed.

Second Examination in Irish.
Peter J. C. Coyle, Charles F. C. Downing, John C. O'R. Farrell, Noel M. Gleeson, Michael C. Halpenny, Michael D. D. Heather, Humphrey Patrick Kelleher, Patrick B. Kelly, Austin V. Maher, Dermot Moloney, Denis A. McArdle, Brian Joseph O'Connor, Nicholas O'Keeffe, James Brendan O'Leary, Frank O'Mahony, Thomas Patrick Owens, James V. C. Phillips, Michael A. Regan, Brian W. Russell, Patrick P. Ward.

22 candidates attended; 20 passed.

SOLICITORS' APPRENTICES' DEBATING SOCIETY.

THE Solicitors' Apprentices' Debating Society have elected the following Auditor and Committee for 1955-56:—
Auditor: J. F. Buckley B.A.; Treasurer: P. Gearty; Correspondence Secretary: A. F. Smyth; Record Secretary: F. Taaffe.

Committee.
F. O'MAHONEY, B. Claffey, G. Haughton, B.A., Desmond P. H. Windle, B.A.

The following are the awards for the session 1954-55:—

Oratory.
Incorporated Law Society's Gold Medal ... ... John F. Buckley, B.A.
Debating Society's Silver Medal ... ... Mr. A. Staines
Special Certificate ... F. P. Taaffe.

Legal Debate.
President's Gold Medal ... John F. Buckley, B.A.
Debating Society's Silver Medal ... ... Owen Binchy.

Inpromptu Speeches.
Vice-President's Gold Medal ... ... T. M. Williams.
Vice-President's Silver Medal ... ... D. Moloney.

Irish Debate.
Debating Society's Gold Medal ... ... P. Dorrian.
Debating Society's Silver Medal ... ... Miss. N. Gibbons.

First Year Speakers.
Debating Society's Silver Medal ... ... F. P. Taaffe.

LECTURES ON BOOK-KEEPING.

THE Council propose to appoint a special lecturer in book-keeping with effect from October, 1956 for the benefit of solicitors' apprentices. The lecturer will also conduct the Society's book-keeping examinations which will not form part either of the intermediate or the final and his certificate will be accepted as evidence that an apprentice has obtained the necessary standard of proficiency. The regulations giving effect to these changes will not be made for some time, but the Council have decided that apprentices should be advised in the meantime to attend lectures in book-keeping at the Rathmines School of Commerce. The questions in book-keeping at the intermediate examination to be held in May 1956 will be set and the examination will be conducted by one of the lecturers at the Rathmines School of Commerce. Further information as to the classes recommended, fees and other matters will be available at the Society's offices in September.

LECTURES, MICHAELMAS SITTINGS.

Course A.—Mondays and Thursdays, 2.15 p.m., commencing Monday, October 3rd.

Course B.—Tuesdays and Fridays, 2.15 p.m., commencing Tuesday, October 4th.

Course C.—Tuesdays and Saturdays, 9 a.m., commencing Tuesday, October 4th.

Course D.—Mondays, 9 a.m., and Saturdays, 10.15 a.m., commencing Monday, October 3rd.

Fee on application to attend each course of lectures £8 8s.

SOLICITORS ACT, 1954 (PROFESSIONAL PRACTICE, CONDUCT, AND, DISCIPLINE) REGULATIONS, 1955.

THE Incorporated Law Society of Ireland in exercise of the powers conferred on them by sections 4, 5 and 71 of the Solicitors' Act, 1954, and of every other power thereunto them enabling, hereby make the following regulations:—

1. These regulations may be cited as the Solicitors Act, 1954, (Professional Practice, Conduct, and Discipline) Regulations, 1955.
2. These regulations shall come into operation on the 1st day of October, 1955.
3. In these regulations the expression "the Act" means the Solicitors Act, 1954; the expression "solicitor" includes a firm of solicitors; other expressions have the meanings assigned to them in the Act.
4. The Interpretation Act, 1937, shall apply for the purpose of the interpretation of these regulations as it applies for the purpose of the interpretation of an Act of the Oireachtas except in so far as it may be inconsistent with the Act or these regulations.

5. A solicitor shall not, directly or indirectly, apply for or seek instructions for professional business or do in connection with his practice any act or thing which can reasonably be regarded as touting or advertising or as calculated unfairly to attract business. A solicitor shall not permit to be done on his behalf in connection with his practice, or by a client for whom he proposes to act, anything which if done by the solicitor himself would be a breach of this regulation, and it shall be the duty of a solicitor to make reasonable enquiry before accepting instructions, either from the client or any person dealing with the client, for the purpose of ascertaining whether the acceptance of such instructions would involve a breach of this regulation.

6. A solicitor shall not hold himself out or allow himself to be held out directly or indirectly by name or otherwise as being prepared to do professional business in contentious matters at less than the scale fees fixed by rules of Court and in non-contentious matters at less than the scale of charges, if any, fixed by general orders made under the Solicitors' Remuneration Act, 1881, or rules made under the Registration of Title Act, 1891, as amended, in force for the time being, or such lower scale as may be authorised by the Council for any particular class or classes of work.

7. A solicitor shall not agree to share with any person not being either a solicitor qualified to practise or a duly qualified legal agent in another country his profit costs in respect of any business, either contentious or non-contentious, provided always that—
   (*a*) a solicitor carrying on practice on his own account may, with the written permission of the Council (which may be withheld or granted either unconditionally or subject to conditions), agree to pay an annuity or other sum out of the profits to a retired partner or predecessor or the dependants or legal personal representatives of a deceased partner or predecessor;
   (*b*) a solicitor who is employed full time in consideration of a salary to do the legal work exclusively of an employer who is not a solicitor may agree with such employer to set off profit costs received in respect of contentious business from the opponents of such employer, or the costs paid to him as the solicitor for such employer by third parties in respect of non-contentious business, against, (i) the salary so paid or payable to him and (ii) the reasonable office expenses incurred by such employer in connection with such solicitor (and to the extent of such salary and expenses).

8. A solicitor shall not accept an appointment by or act as solicitor for any client or body other than the State on the basis that he will be remunerated by a fixed salary irrespective of the amount of work performed or to be performed by him as solicitor for such client or body unless such solicitor shall hold a whole-time appointment under a contract which provides that he shall act exclusively as solicitor for such client or body.

9. The Council shall have power to waive in writing the application of any of the provisions of these regulations in any particular case.

10. The Committee or Council of a Bar Association on receiving information of facts which would, in their opinion, if proved, constitute a breach by a solicitor of any of these regulations, or misconduct within the meaning of section 14 of the Solicitors Act, 1954, shall bring such matters to the notice of the Society for investigation.

Signed on behalf of the Incorporated Law Society of Ireland this 21st day of July, 1955.

THOMAS A. O'REILLY,
President of the Incorporated Law Society of Ireland.

CORRESPONDENCE.

The following letter has been received from a member relating to solicitor's costs.

"I read with interest the article on solicitor's costs for contentious and non-contentious work. There is a matter relating to contentious work which needs the attention of solicitors generally. A solicitor is not entitled to any party and party costs for work done prior to the issue of a summons and is not entitled to charge party and party for a proper investigation of evidence etc., until he serves Notice of Trial. He gets a nominal fee for instructions for Summons and if no Notice of Trial is served he may be allowed a maximum of £15 15s. for instructions for Statement of Claim although if he had served Notice of Trial he might be entitled to ten times that amount or more for instructions for Briefs.

The Taxing Masters claim that a solicitor need not do substantial work for his action until Notice of Trial is served. This appears to be a formalistic view not based on realities as a careful solicitor will not deliver a Statement of Claim without investigating the available evidence and proofs."

RECENT LEGAL LITERATURE.

Part II—February to July, 1955.

Advertisement for Claims Distribution: "Re Aldhous"—(*Law Notes*, August, 1955).

Aggregation and small estates (Mason)—(*The Conveyancer*, July-August, 1955).

Alterations to licensed Premises—(*S.J.*, 30th July, 1955).

Alumni of Hague International Law Academy—Seventh Congress—(*Int. & Compar. L.Q.*, July, 1955).

Annual General Meeting of Bar: Attorney-General's statement—(*S.J.*, 13th July, 1955).

Anomalies in the Law of Conversion (Gordon)—(*L.Q.R.*, July, 1955).

Appeals on Questions of Fact (Goodhart)—(*L.Q.R.*, July, 1955).

Agents Continuing Commission—(*The Solicitor* May, 1955).

Assignment of Hire Purchase Contracts:—
"United Dominions Trust *v.* Parkway Motors" (*The Solicitor*, August, 1955).

Binding over on complaint and otherwise (Jones)—(*Crim. L.R.*, August, 1955).

Burden of Proof and Private Street Works—(*S.J.*, 6th August, 1955).

Certiorari and the Problem of Locus Standi (Yardley)—(*L.Q.R.*, July, 1955).

Changing Role of the Corporation and its counsel (Berle)—(*N.Y. Assoc. Bar Record*, June, 1955).

Commonwealth and Empire Law Conference—(*L.T.*, 29th July, 1955 and 6th August, 1955). (*S.J.*, 30th July and 7th August, 1955).

Committees for Trial (Garner)—(*Crim, L.R.*, August, 1955).

Compulsory Purchase Procedure (Sweetman)—(*The Conveyancer*, July-August, 1955).

Covenant to Repair—(*I.L.T.*, 23rd July, 1955).

Declarations as to Domicile—(*The Solicitor*, June, 1955).

Departmental Committee on Summary Trial of Minor Offences—Sharpe Report—(*S.J.*, 23rd July, 1955).

Draft Code of Offences against the Peace and Security of Mankind (Johnston)—(*Int. & Compar. L.Q.*, July, 1955).

Direction to Jury on Burden of Proof in Criminal Cases (Glanville-Williams)—(*Crim. L.R.*, August, 1955).

Dependent Relative Revocation (Newark)—(*L.Q.R.* July, 1955).

Effect of Under-Insurance—(*The Solicitor*, April, 1955).

"Engaged Services" in Salvage Operations—(*The Solicitor*, August, 1955).

English and French Legal Methods in Crime (Devlin)—(*Int. & Compar. L.Q.*, July, 1955).

Factories Act, 1955—(*I.L.T.*, 30th July and 7th August, 1955).

Finality of Architect's Final Certificate—"Windsor R.D.C., *v.* Otterway"—(*The Solicitor*, August, 1955).

Finder's Reward—(*Law Notes*, July, 1955).

Guarantees in International Economic Law (Wells)—(*Int. & Compar. L.Q.*, July, 1955).

Hire Purchase Agreement—Motion for judgment in default of appearance for balance due granted, but possession of farm implements refused, as 75% of price paid by defendant—"United Dominions Trust Ltd., *v.* Byrne" (Murnaghan J.)—(*I.L.T.*, 23rd July, 1955).

Historic Courts—The Old Bailey—(*L.T.*, 29th July, 1955).

Homicide upon Provocation—(*L.T.*, 6th August, 1955).

House of Commons Disqualification Bill, 1955—(*S.J.*, 23rd July, 1955).

Improvements made in pursuance of Tenancy Contract—(*S.J.*, 6th August, 1955).

In charge of a Motor Vehicle—(*L.T.*, 29th July, 1955).

Injunction Procedure—(*Law Notes*, August, 1955).

Interim Income of Entailed Personalty: "Re Crossley's Settlement Trusts"—(*S.J.*, 30th July, 1955).

Jurisdiction in Actions of Contract—(*Law Notes*, August, 1955).

Legislative Jurisdictional Principle in a Policy—Centred Conflict of Laws (Briggs)—(*Int. & Compar. L.Q.*, July, 1955).

Landlord's Claim for Damages for Breach of Contract (West)—(*The Conveyancer*, July-August, 1955).

Liability of a Landlord to a Third Party when Tenant responsible for all repairs—(*The Solicitor*, April, 1955).

Liability for Damage done by Animals: "Wormald *v.* Cole"—(*The Solicitor*, August, 1955).

Loss of Damage to car clause in Insurance Policies—(*The Solicitor*, April, 1955).

Managing Director—Position of—(*The Solicitor*, May, 1955).

Monetary Law in France—Latest Developments (Vasseur)—(*Int. & Compar. L.Q.*, July, 1955).

Non-Completion of Contracts for the Execution of Work—(*The Solicitor*, June, 1955).

Obscene Publications—Society of Authors Draft Bill (Eddy)—(*Crim. L.R.*, April, 1955).

Occupier's Liability—Law Reform Committee Report (Heuston)—(*M.L.R.*, May, 1955).

Order for Rescission (Bate)—(*The Conveyancer*, March-April, 1955).

Onus of Proof in Private Street Works: "Huyton U.D.C. *v.* Hunter"—(*L.T.*, 24th June, 1955).

Open Prisons and Borstals (Cowan)—(*C.L.R.*, March, 1955).

Ownership in Rivers (Wisdom)—(*The Conveyancer*, May-June, 1955).

Order for Examination of Witness

5. Costs (*L.T.*, 4th March, 1955).
6. Fees payable (*L.T.*, 15th April, 1955).

Paramount occupation under Agricultural Holdings Acts—(*S.J.*, 9th April, 1955).

Particulars refused—Defamation—Names of patrons deterred by broadcast from spending holidays in camp—"Irish Holidays Ltd. *v.* Gorham" (Haugh J.)—(*I.L.T.*, 28th May, 1955).

Penalties and Hire Purchase Agreements—(*Law Notes*, June, 1955).

Personnel of the Criminal Law in England and U.S.A. (Smith)—(*Camb. L.J.*, April, 1955).

Positive Covenants and Third Parties: "Williams

v. Unit Construction Co."—(*The Conveyancer*, July-August, 1955).

Perfecting of Orders in Chancery (Burks)—(*Camb. L.J.*, April, 1955).

Power of Advancement by Trustees—(*S.J.*, 6th August, 1955).

Prosecution of the Accused—English and French Methods (Hamson)—(*Crim. L.R.*, March, 1955).

Prohibition—Conditional Order agst. Commission to hear evidence of compounding and dispensing refused—"The State (Pharmaceutical Society) *v.* Fair Trade Commission"—(Haugh, McLoughlin and Murnaghan JJ.)—(*I.L.T.*, 28th May, 1955).

Protection of Sheriff—(*S.J.*, 2nd April, 1955).

Prescription Act, 1832: "Reilly *v.* Orange"—(*S.J.*, 4th June, 1955).

Premiums in Disguise—(*L.T.*, 13th May, 1955).

Registration of Estate Contracts (Rowley)—(*The Conveyancer*, March-April, 1955).

Rabbits—Right to take, contested: "Mason *v.* Clarke"—(*S.J.*, 7th May, 1955).—(*The Solicitor*, August, 1955).

Registration of Mortgages—Application for Extension of Time—(*I.L.T.*, 4th June, 1955).

Requisitioned Housing Act, 1955 (England)—(*The Conveyancer*, July-August, 1955).

Restrictive covenants—Are they obsolete—(*S.J.*, 9th April, 1955).

Rule against Perpetuities—Powers in relation thereto (Devon)—(*L.Q.R.*, April, 1955).

"Rule of Law"—Setting up of Administrative Division of High Court—(*I.L.T.*, 4th June, 1955).

Roman Action of Nuisance (Actio de Effusis vel Dejectis) incorporated in Scots Law (Stein)—(*Int. & Compar. L.Q.*, July, 1955).

Sale of Land Subject to restrictive Covenants: "Cooper *v.* Critchley"—(*L.T.*, 11th February, 1955).

Sale of Undivided Shares in Land.—(*L.T.*, 13th May, 1955).

Scots Law—Some characteristics (Walker)—(*M.L.R.*, July, 1955).

Sea Shore—(*I.L.T.*, 28th May and 4th June, 1955).

Service of Document on Criminal Lunatic in presence of Governor—"Zyborska *v.* Zyborski"—(*I.L.T.*, 21st May, 1955).

Seven Polish Seamen (Craine)—(*Crim. L.R.*, February, 1955).

Solicitor's Articled Clerk—Covenants in restraint of trade—(*S.J.*, 23rd July, 1955).

Solicitor's Costs—Contentious or Non-contentious Lump Sum Bill—(*L.T.*, 6th May, 1955).

Solicitors—Are they generally inefficient?—(*Law Inst. J., Vic.*, December, 1954).

Sport as a Charitable Object: "Re Morgan"—(*L.T.*, 9th July, 1955).

Straying Children and Animals: "Carmarthen Co. Council *v.* Lewis" (H.L.)—(*L.T.*, 17th June, 1955).

Standard Rent established by concurrent lease: "Anspach *v.* Charlton Shipping Co."—(*S.J.*, 2nd April, 1955).

Strikes—(*S.J.*, 2nd July, 1955).

Soviet Views on Private International Law (Drucker)—(*Int. & Compar. L.Q.*, July, 1955).

Sovereign Immunity—Substantiation of Claim: "Ysmael *v.* Republic of Indonesia" (P.C.)—(*Int. & Compar. L.Q.*, July, 1955).

Supreme Court of Judicature—(*L.T.*, 6th August, 1955).

Taxation and Powers of Advancement (*L.T.*, 22nd July, 1955).

Taking the Oath—Each Guard to be sworn separately—(*I.L.T.*, 12th March, 1955).

Tax Avoidance—Attitude of the Legislature and of the Courts (Wheatcroft)—(*M.L.R.*, May, 1955).

Testamentary Gifts not now readily implied: ("Re Arnould")—(*S.T.*, 21st May, 1955).

The Territorial Sea and Natural Resources (Oda)—(*Int. & Compar. L.Q.*, July, 1955).

Testamentary Omissions in Wills: "Re Follett" (C.A.)—(*S.T.*, 7th May, 1955).

Tenants in Common: "Bull *v.* Bull"—(*The Solicitor*, June, 1955).

Time Limit for Ratification of U.N. Charter Amendments (Schwell)—(*Int. & Compar. L.Q.*, July, 1955).

Treasure Trove—Whose?—(*I.L.T.*, 18th and 25th June, 1955).

Trusts for Sale and the Doctrine of Waste (Gray)—(*Conveyancer*, March-April, 1955).

Underlessees and Relief from Forfeiture—(*L.T.*, 22nd and 29th April, 1955).

Undivided Shares—Contract requires writing: "Cooper *v.* Critchley"—(*S.J.*, 2nd April, 1955).

Unjust Enrichment by Bribery (*I.L.T.*, 19th and 26th February, 5th and 12th March, 1955).

Unreasonable Refusal of Consent to Assign and the Rent Acts—(*L.T.*, 29th July, 1955).

Writers and the Law—Lord Clarendon—(*L.T.*, 15th April, 1955).

INDEX OF STATUTORY INSTRUMENTS.

Published since February, 1955.

AGRICULTURE, LANDS AND FISHERIES

SUBJECT MATTER AND REFERENCE NUMBERS

Agricultural Produce Eggs, (Amendment) Regs. 1955—40/1955.

Dublin District Milk Board (Amendment)—57/1955.
Flour and Wheatenmeal—104/1955.
Feeding Stuffs—E.P.O. 1944 Amendment—103/1955.
Foyle Area—Licensing of Fishing Engines (No. 2) Regulations, 1955 stating rates applicable from 20th April, 1955.
Foyle Fisheries Commission—Foyle Area (Rivers Faughan and Roe) Angling Regs. 1955 in force from 1st June, 1955.
Foyle Fisheries Commission—Licensing of Fishing Engines Reg. 1955 stating rates applicable from 24th January, 1955—revoked by No. 2 Regs. Supra.
Home Grown Wheat (Storage and Drying Plant for Cereal Year 1955-56)—71/1955.
Home Grown Wheat (Purchase Percentage for Cereal Year 1955-56)—117/1955, 138/1955.
Johne's disease—Notification and inquiry relating to animals affected—86/1955.
Milk and Dairies Amendment Regs. 1955—Special designations for "Grade I. Pasteurised Milk" and "Highest grade Milk"—136/1955.
Salmon—Export prohibited save under licence—275/1954.
Slaughtered Animals Compensation Fund (Suspension of Charges) Order 1955.
Wheat—137/1955.
Wheat Milling—74/1955.
Wheat Milling—General quota increased by uniform 10%—88/1955.

COMMODITIES, GOODS AND SERVICES.

SUBJECT MATTER AND REFERENCE NUMBERS.

Bacon (Maximum Prices)—23/1955.
Bakeries—Definition of "Exceptional Night Work"—93/1955.
Electricity Supply Board (Variation in Supply) Regs. 1955.
Fair Trading Rules:—No. 11, Household Textiles (Non-Woollen)—No. 12, Coal.—No. 13, Aluminium Hollow-ware.
Gas Fund Contribution—2/10d. per million cubic ft. prescribed—41/1955.
Gas Undertakers—Limitation on Dividends temporarily withdrawn—36/1955.
Imported Butter (Maximum Wholesale Prices) Order, 1954. Revocation—25/1955.
Milk Retail Price—Cork Sale District—73/1955.
Milk Retail Price—Dublin Sale District—75/1955.
Restrictive Trade Practices (Radios)—102/1955.

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Brushes, brooms and mops—Quota fixed—26/1955, 28/1955.
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Hair brushes, nail brushes and tooth brushes—27/1955.
Import Quota—No. 16 (Fertilisers) Suspension—50/1955.
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Pneumatic Tyres for Motor Vehicles Quota—123/1955.
Pneumatic Tyres for Bicycles Quota—124/1955.
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Sheepskin—Export prohibited save under licence until 31st March, 1955—51/1955.
Superphosphates, Mineral Phosphates and Compound Manures—Import allowed without licence to 31/3/56—50/1955.
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Woven fabrics of wool or worsted or synthetic textiles—147/1955.
Woven woollen and synthetic and artificial products—108/1955.

COUNTY AND TOWN MANAGEMENT.

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City and County Management (Amendment) Act 1955 to come into force on 1st July, 1955—130/1955.
Garda may vote at local election at other than prescribed polling station if on duty—118/1955.
Labourers' Cottages Purchase Regs. 1954—Vesting Order amended "by devise or operation of law"—171/1954.
Local Elections—Amendment of Irish forms—95/1955.
Local Government Act, 1955 (Date of Commencement) (No. 1)—100/1955.
Local Government Act, 1955—Most provisions in operation from 28th May 1955—100/1955.
Local Elections (Scale of Expenses) Regs. 1955—96/1955.
Local Government (Dublin) (Temporary) Act, 1948—Part II continued in force until 31st December, 1955—122/1955.
Local Elections (Amendment) (No. 2)—118/1955.

CUSTOMS AND EXCISE, EMERGENCY AND OTHER DUTIES

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Copper Storage Water Heaters, and Copper Heating Elements—37% Duty imposed—135/1955.
Customs Duties (Miscellaneous Suspensions)—54/1955.
Display Shapes and Stands made of plaster of Paris or papier mâché—Duty suspended—134/1955.
Electrical Appliances (Switches, Rings, Sockets, Plugs, Roses, Lampholders)—75% duty imposed— 35/1955.
Felting for Floor Covers—37% Duty imposed—101/1955.
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Silk and artificial silks must contain 75% of woven tissue—75/1955.
Watering Pots, Storage Bins, Sterilizing Milk Cabinets, and Hollow-ware—Duty suspended until 31st March 1956—54/1955.
Woven artificial textile and union fabrics—50% duty imposed—131/1955.

EMPLOYMENT REGULATION AND CONDITIONS OF EMPLOYMENT

Shirtmaking Joint Labour Committee—Waiting Time Compulsory Payments—139/1955.
Tobacco Joint Labour Committee Employment Regulations—148/1955.

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Double Taxation Relief (Sea or Air Transport) (Denmark)—97/1955.
Double Taxation Relief (Sea or Air Transport) (Norway)—98/1955.
Double Taxation Relief (Sea or Air Transport) (Sweden)—99/1955.
Electoral (Amendment) Act 1947—Kilkenny Co. Registrar to be returning officer for Carlow—Kilkenny Constituency—67/1955.
Exchange Control Act, 1954 in force from 1st July, 1955—128/1955.
Exchange Control Regulations—129/1955.
Statistics (Census of Production)—80/1955.

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Cork Harbour—Rates on Steel Sheet and Residual Fuel Oil—70/1955.
Foynes Harbour Rates—63/1955.
Harbour Act—Section II Direction—112/1955.
Harbour Commissioners in Annagassan, Ballyshannon, Skiberreen, Buncrana, Dingle, Foynes, Killybegs, Kinsale, River Moy, Sligo, Tralee and Fenit and Westport—Election postponed—112/1955.
New Ross Harbour—Amalgamation of Offices under S.I. 273/1948 revoked—59/1955.
River Lee Hydro-Electric Scheme Approval Amendment—44/1955.
River Lee Hydro-Electric Scheme—£4,000,000 maximum sum advanced for development—44/1955.
Waterford Harbour Commissioners—One additional member from Waterford, Kilkenny and Tipperary (S.R.) Co. Councils to be appointed—120/1955.
Wexford Harbour Rates Amendment—Coal and Coke rates increased—91/1955.

HEALTH

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Consultative Health Committees in Dublin, Cork and Waterford to be appointed by resolutions of local authorities—31/1955.

Food Hygiene (Official Certificate).(No. 4)—201/1954.
Food Hygiene—New Zealand Meat Certificate—201/1954.
General Institutional and Specialist Services (Amendment) Regs. 1955—47/1955.
General Medical Services (Amendment) Regs. 1955—49/1955.
Immune Serum Globulin—149/1955.
Maternity and Child Health Services (Amendment) Regs. 1955—48/1955.
Therapeutic Substances (Amendment) Regs.—149/1955.

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County Registrars (Land Commission) (Amendment) Regs. 1955—Form of Notice amended save in Dublin and Cork—52/1955.
Conveyance of Explosives Bye-Laws—38/1955.
District Court (New Areas) (Variation No. 162)—(Arvagh, Belturbet and Monaghan)—45/1955.
District Court (New Areas) (Variation No. 163) (Ballaghadereen)—62/1955.
District Court (New Areas) (Variation No. 164) (Carrickmacross, Castlebellingham and Drogheda)—65/1955.
District Court (New Areas) (Variation No. 166)—(Mullaghroe and Gurteen)—150/1955.
District Court Rules 1955—83/1955.
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Garda Siochana Pensions—115/1955.
Garda Siochana (Promotion) Regs. 1955—141/1955.
Garda who has been promoted may, at his request, be reduced to former rank—141/1955.
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Measuring and Photographing of Prisoners Regs. 1955—114/1955.
Military Prisons and Detention Barracks—Rules under Defence Act, 1954—291/1954.
Packing of Explosives for Conveyance—37/1955.
Public Records—New fees prescribed—53/1955.
Rules of Procedure (Defence Forces) 1954 (Amendment) Rules 1955—58/1955.
Trade Union Act—Lodgment to be made by Irish Hotels Federation in High Court, reduced by 75%—87/1955.

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Game Birds (Pheasants, Partridges, Quail, Landrail and Mallard) Protection—56/1955.
Grants of Patents and registration of designs, trade marks and copyrights—fees increased after 1st October, 1955—116/1955.
Industrial Property Rules 1927 (Amendment) Rules 1955—116/1955.
National Monuments (Amendment) Act, 1954—1st April 1955 appointed day for setting up of advisory councils—39/1955.

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Telegraph (Inland Written Telegram) Amendment (No. 6) Warrant 1955—146/1955.
Post Office Savings Bank (Amendment) Regs. 1955. supersede S.I. 277/1954—121/1955.
Revision of Telegraph Rates—144/1945.

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Overlapping Benefits Amendment Regs. 1955—142/1955. 145/1955.
Unemployment Assistance (Employment Period in rural areas)—32/1955.
Unemployment Assistance (Second Employment Period)—109/1955.
Unemployment Benefit and Miscellaneous Provisions (Transitional Amendment) Regulations 1955—92/1955.
Workmen's Compensation (Amendment) Act, 1955 in force from 1st September, 1955—146/1955.

SOLICITORS

SUBJECT MATTER AND DATE OF OPERATION

N.B. All these Regulations have been made unde rthe Solicitor's Act, 1954. It is intended to publish them in full in the Law Society's Calendar 1956.

Solicitors Act, 1954 (Fees) Regulations, 1954.
Solicitors Act, 1954 (Apprentices' Fees) Regulations, 1954.
Apprenticeship and Education Regulations 1955 made on 12th May, 1955.
Solicitors Act Rules—S.I. 81/1955—dealing with Appeals to the Chief Justice under Section 23 of the Act, and under Parts IV, V, and VI of the Act, Application to the High Court pursuant to the 5th Schedule of the Act, and applications for Admission as a Solicitor made by superior Courts Rules committee on 22nd April, 1955—in effect from 1st May, 1955.

Practising Certificates and Restrictions on solicitors Regulations 1955, in effect from 31st March, 1955.
Disciplinary Committee Rules 1955 in effect from 23rd February, 1955.
Professional Practice, Conduct and Discipline Regs. 1955 signed on 23rd July, 1955, and in force from 1st October 1955.

TRANSPORT AND TRAFFIC

SUBJECT MATTER AND REFERENCE NUMBERS.

Athlone Traffic (Parking and Waiting) Bye-Laws 1954—301/1954.
Coras Iompair Eireann Amending Superannuation Scheme for Regular Wages Staff—Grand Canal Co. Employees (Confirmation)—34/1955.
Cork Taximeter Area Fare Bye-Laws 1955—133/1955.
Dublin Taximeter Area Fare Bye-Laws 1955—132/1955.

OBITUARY.

MR. JAMES J. F. LAWLOR, Solicitor died on the 8th December, 1954 at the Mater Hospital, Dublin.

Mr. Lawlor served his apprenticeship with Mr. Francis Devine, 12, Dame Street, Dublin, was admitted in Hilary Sittings 1922 and formerly practised at 16, Lower O'Connell Street, and at the date of death at 24, Nassau Street, Dublin.

MR. JOHN A. PEEL, Solicitor died on the 3rd April, 1955.

Mr. Peel served his apprenticeship with the late Mr. Joshua E. Peel, was admitted in Hilary Sittings 1897, and practised at Armagh.

MR. ROBERT E. MCCONKEY died on the 4th July, 1955.

MR. MCCONKEY served his apprenticeship with the late Mr. William Alexander, was admitted in Easter Sittings 1931, and practised as partner in the firm of Messrs. Crawford & Lockhart, 4, Queens Square, Belfast.

MR. ALFRED S. MACHIN, Solicitor, died on the 15th July, 1955 at the Meath Hospital, Dublin.

Mr. Machin served his apprenticeship with the late Mr. Henry A. Drennan, 98 Capel Street, Dublin, was admitted in Easter Sittings 1904, and practised at 14, Leinster Street South, Dublin, under the style of Messrs. Ennis, Son & Machin, up to his retirement in 1953.

REGISTRATION OF TITLE ACTS 1891 AND 1942.

NOTICE.

Folios 966, 967 and 1687 — County Cavan
Registered Owner — JAMES COYLE (Junior)

The Registered Owner has applied for Duplicates of the Certificates of Title specified in the Schedule hereto which are stated to have been lost or inadvertently destroyed.

The Duplicates will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificates of Title are in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificates are retained.

Dated this 28th day of August, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificates of James Coyle (Junior) to 3 acres and 5a. or. 25p. of the lands of Lisboduff and to 34a. 3r. 25p. of the lands of Duncollog all situate in the Barony of Tullygarvey and County of Cavan being the lands comprised in Folios 966, 967 and 1687 respectively.

NOTICE.

Folio 578 — Wicklow.
Registered Owner — DANIEL HALL.

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 29th day of August, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Daniel Hall to 86a. or. 26p. of the lands of Ballinabanoge situate in the Barony of Arklow and County of Wicklow being the lands comprised in said Folio.

NOTICE.

Folio 92L County Louth.
Registered Owner as tenant in common of an undivided moiety. PATRICK GRANT.

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 29th day of August, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Patrick Grant to the Leasehold Estate of the Land of Lagavooten with the dwelling-house thereon situate in on the west side of St. Mary's Villas, in the town of Drogheda, Barony of Duleek Lower and County of Louth being the leasehold estate comprised in said Folio.

NOTICE.

Folio 2784. County Limerick.
Registered Owner GARRETT O'ROURKE.

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the schedule hereto which is stated to have been lost or inadvertently destroyed.

A duplicate Certificate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is still in existence and in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of July, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Garrett O'Rourke to 59a. 1r. 38p. of the lands of Baunatlea situate in the Barony of Coshlea and County of Limerick being the lands comprised in said Folio.

THE REGISTRY.

IN THE MATTER OF THE ESTATES OF

MRS. MARY ANNE LAFFAN (nee O'Donohue or Donohue), married woman, died 20th May, 1908, late of Dromcluher (or Dromclogher), Cappamore, Co. Limerick, and some time of Cappamore.

MICHAEL LAFFAN, died 3rd June, 1909, late of Cappamore aforesaid and some time of Tinateriffe, Cappamore aforesaid.

REVEREND MICHAEL O'DONOHUE (or O'Donoghue or Donohue), died 27th May, 1929, at Drumcluher aforesaid, and having held Curacies at Ballina, Drombane and Kilcommon, all in the County of Tipperary.

MARGARET O'DONOHUE (or O'Donoghue or Donohue), Spinster, died 8th March, 1933, late of Drumcluher aforesaid.

JOHN O'DONOHUE (or O'Donoghue or Donohue), Farmer, died 15th January 1936, late of Drumcluher aforesaid.

Will any Solicitor or other person having in his possession, or having any knowledge of a WILL or other testamentary document of the above-named deceased, or any of them, please communicate with:

MICHAEL TYNAN & CO.,
Solicitors,
41, WILLIAM STREET,
LIMERICK.

SOLICITORS' GOLFING SOCIETY.

THE Autumn Meeting will be held at Royal Dublin Golf Club on Thursday, 29th September, 1955, when the following competition will be played (Stableford):—

1. Incorporated Law Society Challenge Cup (handicap limit 18) with prize presented by Mr. T. A. O'Reilly, President of the Law Society and Golfing Society. Prize for the runner-up presented by the Golfing Society.

2. Ryan Cup (handicaps 13 and over) with prize for winner and runner-up.

3. There will also be prizes for (*a*) First Nine, (*b*) Second Nine, (*c*) by competitor resident more than 30 miles away and (*d*) best of 3 cards drawn by lot.

Competitors may arrange opponents and start from 10 a.m. onwards. There will be frequent draws between 2 and 4 o'clock.

The Annual General Meeting will be held in the club house at 6.45 p.m., followed by Dinner at 7 o'clock (for competitors and non-competitors) at which the President will preside. Members will be circularised in due course. Intending members will be cordially welcomed.

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No. 5

November,
1955

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
THOMAS A. O'REILLY

Vice-Presidents
DESMOND J. MAYNE
JOHN J. SHEIL

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL:

OCTOBER 13TH: The President in the Chair. Also present, Messrs. Desmond J. Mayne and John J. Sheil, Vice-Presidents, Henry St. J. Blake, George A. Nolan, Terence De Vere White, Niall S. Gaffney, Cornelius J. Daly, Derrick M. Martin, Joseph Barrett, John J. Nash, P. R. Boyd, John Maher, Ralph J. Walker, John Carrigan, William J. Norman, Sean O hUadhaigh, Peter E. O'Connell, Joseph Tyrrell, John R. Halpin, George G. Overend, Francis J. Lanigan, Arthur Cox, Desmond J. Collins, Patrick F. O'Reilly, Francis X. Burke, Charles J. Downey, Dermot P. Shaw, Reginald J. Nolan.

The following was among the business transacted:

Solicitors' Accounts Regulations
DRAFT Regulations to be made by the Society with the concurrence of the Chief Justice under Section 66 of the Solicitors Act, 1954, were considered and approved. It was decided that the regulations should be signed at the next meeting of the Council to come into operation on 1st January, 1957.

Workmen's Compensation Commission
THE Council considered a letter from the Department of Social Welfare and at the request of the Minister submitted the names of three members of the Society who would be willing to act on a Commission which the Minister proposes to establish to consider the Workmen's Compensation Acts and any desirable legislation.

Commissioner for Oaths. Interest.
THE Council considered a report from a Committee on a query as to whether a solicitor who is a commissioner for oaths is entitled to take affidavits sworn by the general manager of a company from which he holds a general retainer for business in Dublin, the affidavits being used for proceedings in the country in which the commissioner is not on record, merely transmitting the company's instructions to local solicitors and not receiving any costs or agency commission. The Council decided that this is primarily a question for the Chief Justice who has jurisdiction in matters affecting commissioners for oaths but that the Council would not give their approval to the course suggested.

Legatees' right to copy will.

A MEMBER asked the opinion of the Council on the question whether a solicitor acting for executors of an unproved will is bound or ought to supply a copy of a will on payment to a beneficiary thereunder before probate. The Council decided to inform member that the professional obligation of the solicitor is to act on the executors' instructions. The solicitor is not obliged to supply copies or extracts from wills to beneficiaries unless so directed by the executors. It was, however, the opinion of the Council that the ordinary practice is to supply an extract of the relevant part of a will to an interested legatee even before probate.

Arbitrations under the Insurance Act, 1936, Section 72. Costs.

ACTING on a report from a Committee the Council decided to submit a memorandum to the Taxing Masters on the subject of the costs allowed to a successful claimant against an insurance company on an arbitration under section 72 of the above mentioned Act.

Labourers Acts Costs.

THE Council heard the report of a deputation which was received by the Minister and officials of the Department of Local Government on the subject of costs of improvement schemes and read a letter from the Department confirming the result of the conference. The Minister proposes to make an order prescribing new scales of costs. The Council decided that the result of the representations was satisfactory subject to the making of the necessary Order giving effect to the Minister's decision.

RECEPTION FOR MEMBERS.

THE Council have decided not to proceed with the Society's Dinner this year. A reception for members and ladies will be held instead on November 24th, the date of the Ordinary General Meeting, from 8 p.m. to 10 p.m. in the Society's Library. As numbers must be limited members who have not already obtained tickets are advised to apply without delay. The subscription will be 17/6 for single and 35/- for double tickets and if the demand exceeds the supply tickets will be allotted in priority of application. In this event a fair proportion will be reserved for country members. Forms of application for tickets were issued with the notice for the ordinary general meeting.

SOLICITORS' MOTOR INSURANCE.

MEMBERS' attention is drawn to the provision in the ordinary policy of insurance which excludes liability if the car is driven by another person on the insured's business. To obtain this cover an additional premium is usually payable. A solicitor would not be insured against liability for damage by the negligence of a qualified or unqualified assistant driving his car under this type of policy.

SOLICITORS' ACCOUNTS REGULATIONS.

THE Solicitors' Accounts Regulations were made by the Society on 3rd November and the Chief Justice has concurred. The regulations will come into operation on 1st January, 1957, and will oblige solicitors to keep separate bank accounts for clients' moneys. They will shortly be on sale at the Government Publications Sales Office.

PARTY AND PARTY COSTS WHERE SALARIED SOLICITOR RETAINED.

EXTENSION OF TIME TO REVIEW COSTS.

PRINCIPLES upon which such extension is grounded considered—Solicitor for defendants employed on salary basis—right of defendant to recover profit costs in successful litigation considered.

The plaintiff instituted proceedings against the defendants in the High Court claiming certain reliefs. On the hearing of the action the plaintiff's claims were dismissed and costs were awarded to the defendants. On the taxation of the defendants' costs, objection was taken to the allowance of certain items in the bill submitted by the defendants on the ground that as the defendants' solicitor was employed at an annual salary, they were not entitled to tax a bill on the usual profit costs basis. The taxing master disallowed the objection taken on behalf of the plaintiff. The plaintiff having failed to bring an application to review the taxation within the twenty-one days of the signing of the certificate as prescribed by Order LXVI, Rule 3 of the Rules of the Supreme Court, 1905, applied to the High Court for an extension of time limit for bringing a motion to review the taxation. On the hearing of this case, Budd J. granted the application, holding that the plaintiff was entitled on the merits of the case to the Order sought.

Per Budd J. :—" The plaintiff is not only out of time but very much out of time. If I am to exercise my discretion in his favour I must, I think, to begin with be satisfied that he was taken by surprise and failed to act, in genuine ignorance of the true state of affairs. If he knew that the certificate was signed or could not reasonably

have come to any other conclusion but that it was signed, he would have no case. Now it is not suggested that any intimation was conveyed to him at the time when the certificate was taken out and it is a curious feature of the case that no demand was made for payment of the costs until January, 1952. The plaintiff himself swears that he did not know the certificate was signed and I do not see any reason to disbelieve him.

It seems to me in any event in all the circumstances that the plaintiff's attitude was excusable, and that he was genuinely taken by surprise when the demand for costs was actually made.

Apart from the explanations put forward to excuse the plaintiff's delay I have, however, also to be satisfied that the plaintiff genuinely intended to appeal and held to that intention all along. The fact that Counsel was retained to argue the case before the Taxing Master shows that the Plaintiff had serious intentions in contesting the point.

This motion was brought within a reasonable time after the refusal of the defendants to extend the time and the position is that if I refuse to extend the time for a review of taxation the result may be that the plaintiffs will have to pay to the defendants a substantial sum in respect of a portion of the costs in respect of which he may be shown to have no legal liability to pay. On the other hand if I do extend the time it will enable the issue to be determined according to law and no real hardship will be done to the defendants in that they will only suffer a delay. The defendants can scarcely suggest that there is any great urgency about the matter since they allowed six months to elapse before applying for the costs.

While it was objected before me that the proper evidence necessary to make the correct calculations was not adduced by the plaintiff, it was not at any time suggested that the case before the Taxing Master had proceeded on any other basis but that the solicitor conducting the proceedings on behalf of the Corporation was remunerated by way of salary and this appears to have been accepted as common case.

Party and party costs are of course given in the character of an indemnity but are not a complete indemnity. If the costs awarded in an action are to be taxed however on a solicitor and client basis they obviously come closer to that position. If the fact that an agreement exists between the successful litigant in an action and his solicitor affects the amount of the party and party costs ultimately payable by the unsuccessful party, there does not seem to be any reason why the fact that such costs are to be taxed on a solicitor and client basis should lead to any different result.

I feel it right to say that I have some difficulty in seeing why it is for the party objecting to the allowance of the usual costs to show that the allowance will give more than an indemnity. Section 5 of the Solicitors Act, 1870 provided, as I have indicated above, that a client who has entered into such an agreement shall not be entitled to recover from any other person more than the amount payable by the client to his own attorney under the agreement. It would seem to me and I think I need put it no further than this, that the section is, at least, open to the interpretation that the onus lies upon the party seeking to recover costs, in such circumstances, to show that the costs claimed are not more than the amount payable by the client to his own attorney and that accordingly it is not for the party objecting to the allowance of the usual costs, to have to prove that the allowance will give more than an indemnity. It would certainly seem more reasonable to ask the party who has all the facts, figures and materials at his disposal to provide the necessary information (White *v.* Dublin Corporation (1955) 89 I.L.T.R. 144).

NOTE: The above mentioned case although heard by Mr. Justice Budd in 1952 was not reported until 1955, and there does not appear to be any subsequent report of the substantive point involved, viz.: the onus of proof where a client a successful litigant who employs a salaried solicitor claims full party and party costs. If this point is brought before the courts for a decision, Section 59 of the Solicitors Act, 1954, and regulation 7 (*b*) of the Solicitors Act, 1954, Professional Practice, Conduct and Discipline Regulations, 1955, will be relevant. This regulation provides that a solicitor shall not agree to share with any person not being either a solicitor qualified to practise or a duly qualified legal agent in another country his profit costs in respect of any business either contentious or non-contentious but goes on to say that a solicitor who is employed full time in consideration of a salary to do the legal work exclusively of an employer who is not a solicitor may agree with such employer to set off profit costs received in respect of contentious business from the opponents of such employer the costs paid to him as the solicitor for such employer by third parties in respect of non-contentious business against (1) the salary so paid or payable to him and (2) the reasonable office expenses incurred by such employer in connection with such solicitor (and to the extent of such salary and expenses).

Compulsory acquisition. Scale fee although no negotiation.

The London County Council bought, under a compulsory purchase order made under the Town and Country Planning Act, 1944 and 1947, certain freehold land registered under the Land Registration Act, 1925, with absolute title. The transaction having been completed, the vendors' solicitors submitted to the vendors a lump sum bill for the work done in connection with the conveyance of the land to the council, charging the scale fee appropriate to a completed transfer on sale of registered land under the Solicitors' Remuneration (Registered Land) Orders, 1925 to 1953. The vendors sought to recover the amount from the council as charges and expenses which the latter were required to bear by s. 82 of the Lands Clauses Consolidation Act, 1845. Failing agreement between the parties, the bill was taxed under s. 83 of the Act of 1845 and was allowed. On appeal from review of taxation.

Held by Court of Appeal (Sir Raymond Evershed, M.R., Jenkins and Parker, L.JJ., affirming Harman, J.) that the bill was rightly allowed against the council because the proper remuneration of the vendors' solicitors for the work of conveyance and deducing title, etc., mentioned in s. 82 of the Lands Clauses Consolidation Act, 1845, was, by virtue of art. 1 (D) of the Solicitors' Remuneration (Registered Land) Order, 1925, the scale fee for a completed transfer on sale, which accordingly became payable by the council under s. 82, notwithstanding that the scale fee might in suitable other circumstances cover not only work mentioned in s. 82 but also certain other work not mentioned there, e.g., work of negotiating the contract.

Per Evershed, M.R., "The burden of the applicants' argument which I have already anticipated is that the liability under s. 82 of the Lands Clauses Consolidation Act, 1845, is limited, broadly speaking, to the costs and charges incurred in respect of the conveyance and other matters properly ancillary thereto, matters of title and so forth—in respect of matters, as he says, arising after the date of any contract which the solicitor might have been employed in drafting or perusing. Therefore, says counsel for the applicants, it will be seen that para. (H) of the Order of 1925, by making the remuneration extend to and cover, and in effect be remuneration for, matters other than those specified in s. 82, imposes or would if it were applicable, impose on the acquiring authority a liability to pay costs greater than s. 82 ordained . . . I think, that the answer to the present case depends on the simple terms of art. 1 (D) of the Order, 1925. This is registered land. By the Order of 1925 the remuneration of solicitors in regard to conveyance of registered land is regulated by virtue of the order, so that under para. (D), for every completed transfer on sale where the land is registered with absolute or good leasehold title, the remuneration shall be that prescribed in the schedule thereto. In my judgment it follows from those words that, the seller being liable to his solicitor by virtue of the order, which I have read, to pay a scale charge on a completed transfer, those costs are inevitably, within the fair meaning of s. 82, charges and expenses, incurred on the part of the seller, of the conveyance and assurance of the lands. I cannot for my part see any escape from that effect of the words which I find in this order." (*Re* Padwick's Estate, Poplar —1955 2. All E.R. 638).

Duty of a Solicitor.

A solicitor was suspended by the Disciplinary Committee of the English Law Society from practice for two years after having been found guilty of breaches of sections 7, 10, 11 of the Solicitors' Accounts Rules, 1945, section 1 of the Solicitors Act, 1941, and of conduct unbefitting a solicitor in that he—

(*a*) Utilised clients', money for his own and certain other clients' purposes;

(*b*) Failed to advise a client to seek advice from an independent solicitor in relation to a transaction in which he was personally interested;

(*c*) Failed to supervise his unadmitted managing clerk, thereby enabling the latter to obtain a client's signature to a will which was not in accordance with the client's wishes.

The Committee stated that although it would have been difficult to exercise supervision over the managing clerk it was deplorable that an unadmitted managing clerk should have been able to prepare and execute a will of the contents of which his principal was unaware.

The respondent had borrowed money from a client, an elderly lady of modest means in circumstances where, although the respondent himself had stated that the loan was fully secured, there was in fact at no time proper security and at one time no security at all. Even had the loan been fully secured the respondent was clearly under a duty to advise his client to seek independent advice. The Committee added that they had taken into account the respondent's history of accidents

and ill-health; but for that they would have ordered his name to be struck off the roll.

(*In the matter of W. P. H., a Solicitor*: *British Journal of Administrative Law, March*, 1955).

LEGAL APPOINTMENTS.

The following appointments have recently been announced:

Mr. Patrick Joseph Flynn, Solicitor, Strokestown, Co. Roscommon, to be County Registrar for County Roscommon.

Mr. Patrick Joseph O'Neill, Solicitor, Athy, Co. Kildare, to be County Registrar for County Kildare.

Mr. Edward W. Hughes, Graiguenamanagh, Co. Kilkenny, to be State Solicitor for County Kilkenny.

Mr. Martin A. Salmon, Solicitor, Naas, Co. Kildare, to be State Solicitor for County Kildare.

Mr. Patrick McDowell, Solicitor, Arklow, Co. Wicklow, to be County Registrar for County Wicklow.

Mr. Michael Hayes, Solicitor, 97 Middle Abbey Street, Dublin, to be Sheriff for the City of Dublin.

Mr. Thomas G. Crotty, Solicitor, 45 Parliament Street, Kilkenny, to be County Registrar for County Kilkenny.

CRIMINOLOGY CONGRESS.

Four hundred Criminologists from 42 countries attended the third International Congress which was held in London in September. The theme of the Congress of this year was recidivism in its various aspects—its causes, prognosis and treatment. The President, Mr. Carroll, said that today's tendency in penology was liberty, leniency and prolonged after-care. They must always keep in mind the need for social security and the need to respect human rights. Dr. Hobson contributed a paper to a symposium on homicide; he said that murderers on trial for their lives do not worry; they sleep well in prison, and are more likely to gain weight than lose it. Some of the causes for this state of affairs were the feeling in some cases that the act of killing might be therapeutic in so far as it might relieve anxieties and remove tension resulting from unconscious conflict. In other cases the murderer might in some degree identify himself with his victim. Another group of murderers seemed to assess their situation realistically and yet showed little anxiety and concern about the importance of the trial; knowing that they have committed a crime they know it is impossible for them to be acquitted and they feel there is little to choose between the two evils of execution and long-term imprisonment or detention in an asylum. In the case of some psychopaths, the notoriety and greater publicty attending upon them, had some glamour.

Mr. Glueck, Professor of Criminology at Harvard, gave a preview of the findings of three years' research in the United States into connexion between physique and delinquency. Taking 500 persistent delinquents and 500 non-delinquents in the poor areas of Boston, as the raw material of his research he discovered that there were twice as many of the mesomorphic type among the delinquents as among non-delinquents. The mesomorphic type was described as thick skinned, energetic, impulsive, aggressive, resentful, suspicious, unconventional and nonsubmissive to authority. He concluded that physical type must unquestionably be taken into account in the study of recidivism and prevention.

Professor Clinard said there was need for future study of the connexion between urbanization and crime because almost everywhere in the world the rate of crime was greater in cities than in rural areas. The relationship between crime and the social class should also be emphasized for not only does white-collar crime differ from ordinary crime in method, but also in the status of the offender, the toleration of the public, and the social support of the offender himself. It will be evident that the papers read at the Congress were controversial enough to provide interesting discussions.

PROCEEDINGS AGAINST SOLICITORS.

The Disciplinary Committee made orders on 7th September, 1955, directing that the names of Clifford D. O'Farrell and James H. Gorman, Solicitors, who formerly were in partnership as O'Farrell and Gorman at Kildare Street, Dublin, be struck off the roll. Notice of appeal to the Chief Justice has been given in each case.

The Disciplinary Committee made an order on 4th November, 1955, directing that the name of Timothy Linehan who formerly practised at Millstreet, Co. Cork, shall be struck off the roll.

EXAMINATION RESULTS.

The following are the results of the Society's Autumn Examination:

At the Preliminary Examination for intending apprentices to solicitors held on the 6th and 7th day of September two candidates attended the examination and were postponed.

At Examinations held on the 23rd and 24th day of September under the Solicitors Act, 1954, the following passed the examinations:—

First Examination in Irish.

Mary Binchy, Michael E. Binchy, Conal J. Clancy, Peter Desmond Collins, Adrian F. J. Fitzgerald, Sally L. Jackson, John N. Lavelle, Patrick Gerald McMahon, Edward M. Masterson, Mary Monica O'Callaghan, John Anthony O'Dwyer, David Alfred Potterton, Mary Patricia Read, Thomas M. D. Shaw.

18 candidates attended; 14 passed.

Second Examination in Irish.

Gerald J. Crehan, Dermott J. Devine, Dermot Hegarty, Brian V. Hoey, William A. Irwin, Thomas B. Jellett, Martin S. Keaveney, Joseph J. Kiernan, Charles B. Kingston, John R. Macken, Desmond J. Mackey, Michael I. Moore, Michael A. Noonan, Michael A. O'Carroll, Albert C. O'Dwyer, Andrew F. Smyth, Daniel B. Sullivan, Thomas E. Tighe, John J. Waters.

21 candidates attended; 19 passed.

Intermediate Examination

At the Intermediate Examination for apprentices to Solicitors held on the 5th and 6th days of September the following passed the examination and their names are arranged in order of merit:—

Passed with Honours.

1. Clive Hunter Murphy, 2. James Kevin Martin, 3. Michael N. M. O'Donoghue.

Passed.

John F. Kealy, Peter H. Quinlan, Kevin P. St. G. McClenaghan, Maureen Patricia Bourke, Godfrey F. McDonald, William D. J. Hodgins, Patrick A. Dorrian, Gerard Charlton, Anna M. O'Connor, John L. Egan, Eugene T. O'Shea, John L. F. Hayes, Sean Cormac Rynne, Andrew F. Smyth, Margaret T. C. Casey, Julia M. Conroy, James Noel Tanham, Thomas Ballagh, Charles B. Kingston, James E. Cahill, Mary O'Keeffe.

36 candidates attended; 24 passed.

The Centenary prize was awarded to Clive Hunter Murphy.

Final Examination

At the Final Examination for apprentices to Solicitors held on the 5th, 6th and 7th days of September, the following passed the examination and their names are arranged in order of merit:—

Passed with Honours.

1. Martin S. Keaveney, 2. John J. Delap, B.A., LL.B., 3. Max W. Abrahamson, B.A., LL.B., 4. Gabriel F. Haughton, B.A., 5. Thomas P. Owens, B.A., LL.B., 6. Daphne M. Gordon, 7. George V. Maloney, 8. Frank O'Mahony, 9. Anthony G. Moylan.

Passed.

Brian J. O'Connor, B.A., LL.B., John Molan, Michael A. Staines, Patrick J. F. O'Connor, John A. O'Gorman, James F. Kenny, B.A., Arthur J. O'Leary, Albert L. O'Dea, B.A., Patrick J. G. Powell, John P. Dillon, Richard Knight, Michael J. Gleeson, Gordon A. Henderson, Walter B. O'Donoghue, B.A., LL.B., Fintan P. Clancy.

41 candidates attended; 24 passed.

The Council has awarded Silver Medals to Martin S. Keaveney, John J. Delap, Max W. Abrahamson, Gabriel F. Haughton and Special Certificates to Thomas P. Owens, Daphne M. Gordon, George V. Maloney, Frank O'Mahony, and Anthony G. Moylan.

The following passed in Part I or Part II Final Examination:—

Part I.

Gerald B. Coulter, Matthew P. Drum, Michael G. Fogarty, Brenda Halpin, Charles R. M. Meredith, Mary M. Murray, B.A.

Part II.

William W. Blood-Smyth, Ann Burke, B.A., John C. Clifford, Edward J. Duffy, Patrick V. Fagan, Patrick A. Glynn, William T. Nicholl, James A. O'Donohoe, James B. O'Leary, B.A., Mairead F. Ruttledge, Daniel B. Sullivan.

Scholarships, 1955.

The Findlater Scholarship was awarded to Patrick F. Treacy who served his apprenticeship with Lughaidh P. Gleeson, Nenagh, Co. Tipperary.

The Overend Final Examination Scholarship (Real Property and Conveyancing) was awarded to Martin S. Keaveney who served his apprenticeship with Thomas J. Fitzpatrick, Cavan.

The Overend Preliminary Examination Scholarship was not awarded.

THE REGISTRY.

Register B

RECENTLY qualified Solicitor with excellent record seeks assistantship in City. Box No. B. 198.

Register C

COLLECTION of legal text-books for sale, including Halsbury with English and Empire Digest complete. Apply J. T. Doyle & Co., solicitors, 63 Upper O'Connell Street, Dublin.

REGISTRATION OF TITLE ACTS, 1891 and 1942.

ISSUE OF DUPLICATE LAND CERTIFICATES.

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the date of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 14th day of November, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

1. Registered Owner JOHN O'KEEFFE
Folio number 5634 County Limerick
Lands of Abbeyfeale West in the Barony of Glenquin containing 11a. or. 15p.

2. Registered Owner JAMES TYNAN
Folio number 648 County Kilkenny
Lands of Bonnetstown in the Barony of Crannagh containing 32a. 2r. 37p.

3. Registered Owner GEORGE WARREN BOMFORD
Folio number 4781 County Meath
Lands of Oakley Park or Laurencetown in the Barony of Kells Upper containing 1 2a. or. 4p.

OBITUARY.

MR. JAMES VINCENT BRADY, Solicitor, died on the 8th August, 1955, at Navan, Co. Meath.

Mr. Brady served his apprenticeship with the late Mr. James Brady, 3 Palace Street, Dublin, was admitted in Hilary Sittings, 1923, and practised at 3 Palace Street, Dublin, and later at York Street, Dublin.

MR. JOHN T. DOYLE, Solicitor, died on the 10th September, 1955, at 61 Northumberland Road, Dublin.

Mr. Doyle served his apprenticeship with the late Mr. Henry A. Drennan, 15 Upper Ormond Quay, Dublin, and with the late Mr. Thomas J. Deering, 19 Eustace Street, Dublin, was admitted in Trinity Sittings, 1910, and practised at 63/64 Upper O'Connell Street, Dublin, under the style of Messrs. John T. Doyle & Co.

MR. EZEKIEL D. WILEY, Solicitor, died at 7 Waterloo Park, Belfast.

Mr. Wiley served his apprenticeship with the late Mr. James W. McNinch, Larne, was admitted in Trinity Sittings, 1905 and practised at Waterford.

MR. SEAN NOLAN, Solicitor, died on the 13th September, 1955 at Alassio, Italy.

Mr. Nolan served his apprenticeship with Mr. William J. Norman, 1 Dame Street, Dublin, was admitted in Michaelmas Sittings, 1935 and practised at 6 South Great George's Street, Dublin.

MR. THOMAS SHIELDS, Solicitor, died on the 27th of September, 1955 at St. Luke's Hospital, Dublin.

Mr. Shields served his apprenticeship with Mr. Vincent P. Shields, Loughrea, was admitted in Trinity Sittings, 1949 and practised at Athenry, Co. Galway.

MR. GEORGE M. MURNAGHAN, Solicitor, died on the 11th October, 1955, at Lisnamallard, Omagh, Co. Tyrone.

Mr. Murnaghan served his apprenticeship with the late Mr. Francis Shields, Omagh, was admitted in Hilary Sittings, 1905 and practised as senior partner in the firm of Messrs. Shields & Murnaghan, Omagh, Co. Tyrone. He was an extraordinary member of the Council of the Society.

DUBLIN TOWN PLAN.

THE attention of members is drawn to the draft Town Plan on exhibition at the City Hall which has been prepared by the Dublin Corporation for submission to the Minister for Local Government. The draft plan affects property in almost every part of the city and solicitors advising clients will need to be conversant with the Town Planning Acts and regulations made thereunder and are advised to inspect the draft Plan. Objections to the Plan must be lodged with the Dublin Corporation within two months from 8th October, 1955.

SOLICITORS' GOLFING SOCIETY.

THE annual Autumn meeting was held at Royal Dublin G.C. on Thursday the 29th September in ideal weather conditions. There was a large attendance which was equally representative of Dublin and the Provinces. The winners of the various competitions were as follows: The Incorporated Law Society Challenge Cup with prize presented by the President Mr. T. A. O'Reilly was won by Mr. T. F. McKeever (11) with a score of 37 points, the Runner-up being J. G. Hickey (5) with 35 points, decided on the second-nine as against M. E. Veale and E. F. English who also had 35 points. The Ryan Cup (for handicaps of 13 and over) was won by Patrick Noonan (14) with a score of 34 points—decided on the second-nine as against D. M. Martin, T. A. O'Reilly and E. Walsh each having 34 points also. On the basis of the second-nine as against the last two named, D. M. Martin (18) was awarded the Runner-up prize. The prize for the best first-nine was won by G. H. Crawford (21) with a score of 22 points and the second-nine by M. E. Veale (9) with a score of 18 points, decided on the last three holes as against T. A. O'Reilly. The prize for the best score by a competitor resident more than 30 miles away was won by W. A. Tormey (9) of Athlone with a score of 34 points. The prize for the best of three cards drawn by lot was won by D. Carbery (11) with a score of 32 points.

At the Annual General Meeting held in the club-house at the conclusion of the competitions the following officers were elected for the 1955/56 Season: Captain: T. F. McKeever, Honorary Treasurer: J. J. O'Dwyer, Honorary Secretary: L. K. Branigan, Committee: D. J. Collins and Joseph Barrett (ex officio), G. M. Doyle, E. Gillan, J. Bolton, J. J. O'Connor, S. A. O hUadhaigh and V. Crawford.

Dinner was served in the club-house at the conclusion of the meeting and was a very well attended and pleasant function. The toast of the President (who presided) was proposed by Mr. D. J. Collins the outgoing Captain and was enthusiastically supported. The President in replying stressed the importance of the Golfing Society as a meeting place where members could get to know each other in congenial circumstances. The toast of the Royal Dublin Golf Club was proposed by Mr. T. F. McKeever, Captain of the Society and was replied to by Mr. R. Archer, Captain of the Club. The prizes were presented to the winning competitors by the President at the conclusion of the Dinner.

Mr. Collins in dealing with the activities of the Society during his captaincy complimented the members on the continued support given to the various meetings and congratulated Mr. J. J. O'Dwyer, the Honorary Treasurer, on the improved state of the Society's finances. Referring to the series of Interprovincial meetings with the North and South commenced in Cork in October, 1952, continued at Belfast in October, 1953 and followed by the meeting in Dublin in October, 1954, Mr. Collins said that the Southern Law Association had very kindly extended an invitation for the series to be continued at Cork or Killarney either this Autumn or early next Summer whichever proved most suitable. As a result of a number of enquiries it was found that the latter would be the more suitable time and he trusted that the proposed meeting would get every possible support.

Apologies for non-attendance were received from Joseph Barrett, W. A. Menton, Dermot Shaw (Mullingar), J. J. O'Connor (Thurles) and C. J. Daly (Cork).

Mr. McKeever said that as Captain he wished to pay a very well earned tribute to Mr. Collins and to express on behalf of the Society their appreciation of all the help and support he had given not only during his Captaincy but for a great many years before that.

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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT

PRACTISING Certificates, 1956-57. (1) Members are reminded that practising certificates for the year to end 5th January, 1957, should be taken out on or after 6th January, 1956, and not later than Saturday, 4th February, 1956, in order to take effect as a qualification to practise from 6th January. (2) Under the provision of the Solicitors' Act, 1954, the declaration to be lodged with the Society on applying for a practising certificate shall be completed and signed by the applicant personally unless the Registrar on the ground of illness or some other sufficient ground dispenses with personal signature of the declaration. Dublin agents of country solicitors should therefore take up the certificates in good time and forward them for signature to their correspondents. (3) A form of directions in regard to applications for practising certificates for the year 1956-57 will be issued to each solicitor applying personally or by his Dublin agent for a form of declaration.

THE PRESIDENT AND VICE-PRESIDENTS.

MR. Dermot P. Shaw of Mullingar has been elected President of the Society for the coming year, and Mr. Ralph J. Walker of Dublin and Mr. George G. Overend of Dublin have been elected Vice-Presidents.

SOLICITORS' ACT, 1954 (Apprenticeship and Education) REGULATIONS, 1955

Copies of the Solicitors' Act, 1954 (Apprenticeship and Education) Regulations, 1955 (S.I. No. 217 of 1955) which regulate the revised course of legal education to be undertaken by solicitors apprentices, will be on sale in due course at the Government Publications Sale Office, The Arcade, Henry Street, Dublin.

SOLICITORS' ACCOUNTS REGULATIONS, 1955

Copies of the Solicitors' Accounts Regulations, 1955 (S.I. No. 218 of 1955) which will come into force on the 1st January, 1957, and which regulate the procedure by which solicitors will keep separate client bank accounts, will be on sale in due course at the Government Publications Sale Office, The Arcade, Henry Street, Dublin. These regulations will not affect the declarations to be filed for practising certificates in January, 1956.

APPOINTMENT OF LAW LECTURER

THE Council invite applications from members for appointment as lecturer on company law and executorship law and practice. The duties of the new lecturer will commence in Michaelmas Sittings 1956. Particulars of the salary and duties and conditions of appointment may be obtained from the Secretary.

MEETINGS OF THE COUNCIL

NOVEMBER 3RD: The President in the Chair. Also present, Messrs. Desmond J. Mayne and John J. Sheil, Vice-Presidents, Desmond J. Collins, Joseph Barrett, Derrick M. Martin, Francis J. Lanigan, Patrick R. Boyd, Ralph J. Walker, Cornelius J. Daly, George G. Overend, Niall S. Gaffney, Reginald J. Nolan, John R. Halpin, Charles J. Downing, Arthur Cox, Peter E. O'Connell, J. P. Tyrrell, William J. Norman, Francis J. Gearty, Sean O'hUadhaigh, John Carrigan, Henry St. J. Blake, John J. Nash, Patrick F. O'Reilly, Terence de Vere White, Dermot P. Shaw, Edmund Hayes, John Maher.

The following was among the business transacted:

Apprenticeship and Education Regulations

THE Solicitors' Act, 1954 (Apprenticeship & Education) Regulations 1955 were made and signed by the President.

Solicitors' Accounts Regulations, 1955

THE Regulations were made and signed by the President to be submitted to the Chief Justice for his concurrence.

Solicitors' motor insurance policies

MEMBERS wrote stating that solicitors are in a unfavourable position as compared with doctors in that the ordinary motor insurance policy issued to a medical practitioner covers the risk of negligence by a locum tenens without any additional premium. It was stated that in the case of solicitors an additional premium is payable to include cover if the car is driven on the insured's business by any person other than the insured. It was decided that representations should be made to the tariff companies and further consideration was adjourned.

Medical and other expert witnesses' fees

ENQUIRIES were received from two members as to their personal liability, if any, for payment of expert witnesses' fees—in one case a doctor and in the other an actuary. The Council were asked to express an opinion only on the question of professional liability, and before doing so decided to obtain Counsel's opinion on the legal aspect. Further consideration was adjourned.

Land Commission costs

FOLLOWING representations from members as to the inadequacy of the costs allowed in certain proceedings in the Land Commission a sub-committee was appointed to consider the matter and to prepare a draft case for submission to the appropriate authorities.

Solicitors to building societies and lending institutions. Costs.

THE Council considered applications from solicitors for waivers under regulation 9 of the Solicitors' Act, 1954 (Professional Practice, Conduct and Discipline) Regulations, 1955, to enable them to charge reduced scales of costs when acting for building societies. It was decided that the Council would give favourable consideration to applications for waivers.

NOVEMBER 24TH: The President in the Chair. Also present: Messrs. John J. Sheil, Vice-President, Desmond J. Collins, Joseph Barrett, Derrick M. Martin, Francis Gallagher, Patrick R. Boyd, Ralph J. Walker, Cornelius J. Daly, George G. Overend, R. McD. Taylor, Reginald J. Nolan, John R. Halpin, Charles J. Downing, Arthur Cox, Francis J. Lanigan, Peter E. O'Connell, C. E. Callan, William J. Norman, Francis J. Gearty, Sean O'hUadhaigh, John Carrigan, Henry St. J. Blake, John J. Nash, Patrick F. O'Reilly, Terence de Vere White, Dermot P. Shaw, James R. Quirke, Francis X. Burke.

The following was among the business transacted :

Commission paid to solicitor's clerk

On an application from a member for a waiver under regulation 9 of the Professional Practice Regulations to enable him to remunerate his managing clerk partly by a commission on business introduced by the latter, the Council decided that such an agreement would be illegal under section 62 of the Solicitors' Act, 1954, and that the Professional Practice Regulations do not enable the Council to exempt solicitors from the application of the section.

Search Fee

A member held a deed of assignment prepared in 1932 in respect of which no costs were due by the client who consulted another solicitor who was authorised to take up the document. Member claimed a fee of £1 1s. to cover correspondence and transmission of the document and the question was raised as to his obligation to hand over the document and his right to claim the fee. The Council ruled that the case is covered by opinion 90 printed at page 513 of the 1956 Calendar and Law Directory and that member should hand over the deed of assignment to the client's present solicitor without payment of any search or other fee.

ORDINARY GENERAL MEETING

An Ordinary General Meeting of the Society was held in the Library, Solicitors' Buildings, Four Courts, Dublin on Thursday, 24th November, 1955. The President, Mr. Thomas A. O'Reilly, took the Chair.

The notice convening the meeting was taken as read.

The minutes of the Ordinary General Meeting of the Society held on 13th May, 1955 and the Special General Meeting held on 13th May, 1955 and 1st June, 1955 were read, confirmed and signed.

Mr. Desmond Moran moved and Mr. Eunan McCarron seconded the adoption of the audited accounts and balance sheet. The motion was adopted and the President signed the balance sheet.

Messrs. Kevans & Sons were re-appointed as the Society's auditors.

The Secretary read the report of the scrutineers of the ballot for the election of the Council and provincial delegates for the year 1955-56. The report stated that for the office of provincial delegate the following had been returned unopposed: —Ulster, Derrick M. Martin; Munster, John J. Dundon; Leinster, Reginald J. Nolan; Connaught, Christopher E. Callan.

The foregoing were declared duly elected.

The result of the ballot for the 31 ordinary members of the Council and the supplemental list was as follows :—

Henry St. J. Blake, 541; Arthur Cox, 520; Thomas A. O'Reilly, 514; Dermot P. Shaw, 511; Joseph Barrett, 506; John Carrigan, 487; Cornelius J. Daly, 478; Joseph P. Tyrrell, 477; John R. Halpin, 473; Desmond J. Collins, 453; John J. Nash, 452; William J. Norman, 447; Patrick R. Boyd, 445; Niall S. Gaffney, 438; Francis J. Lanigan, 432; Peter E. O'Connell, 431; Patrick F. O'Reilly, 430; Charles J. Downing, 429; Sean O hUadhaigh, 428; John J. Sheil, 418; James J. O'Connor, 414; Francis J. Gearty, 394; George G. Overend, 393; Francis X. Burke, 383; Desmond J. Mayne, 380; Terence de Vere White, 374; George Nolan, 370; Ralph J. Walker, 370; Francis J. Gallagher, 366; Robert Mc D. Taylor, 335; James R. Quirke, 334;

Supplemental List: John Maher, 328; William J. Comerford, 297; Patrick Noonan, 284.

The President declared the foregoing members of the Society duly elected to the Council and the supplemental list in accordance with the Scrutineers' report.

The following candidates received the number of votes placed after their names :—

David R. Pigot, 276; Christopher Gore Grimes, 257; Nathaniel Lacy, 249; John J. O'Dwyer, 222; James V. Aitken, 216; James A. Kelly, 212; Lydon G. Carr Lett, 202; T. Finbarr O'Reilly, 198; Gerald S. O'Rourke, 198; Edmund S. Doyle, 197; Maurice E. Veale, 196; Gerard M. Doyle, 163; Peadar Cowan, 133.

The President moving the adoption of the report of the Council said :— Ladies and Gentlemen; since our last Meeting, death has taken its toll and we regret the passing of Alfred S. Machin, James Vincent Brady, John T. Doyle, Sean Nolan and Edmond R. McDonnell all of Dublin, Ezekiel D. Wiley, Waterford, Thomas Shields of Athenry, Co. Galway, George Murnaghan of Omagh, Co. Tyrone who at the time of his death was an extraordinary member of the Council and Thomas D. Vance of Bailieborough, Co. Cavan. To their relatives we offer our sincere sympathy.

At our last meeting I intimated that the Council were engaged in making various regulations under the Solicitors' Act 1954 and since then the following regulations have been made :—

Apprenticeship and Education Regulations.

Professional Practice Conduct and Discipline Regulations.

Solicitor's Accounts Regulations.

The rules of procedure in claims against the Compensation fund have been settled and will probably be made by the Council to-day.

The Apprenticeship and Education Regulations will come into operation on 1st September 1956. Owing to the fact that provision must be made for apprentices who are already part of the way through the course the regulations will not come fully into operation until autumn 1960 but various provisions will come into operation before that date. The underlying principle of the new scheme of education is the recognition that the studies of a law student in what I have already referred to as pure legal theory are best pursued at the Universities which provide lecture courses and highly qualified and competent lecturers in these subjects, and that education in what I may describe as applied legal theory can best be given by professional institutions such as this Society. The regulations therefore make it compulsory for solicitors' apprentices to attend University lectures in the law of property, real and personal, contract and tort before sitting for the Society's first law examination and to attend further lectures at the University in the subject of equity before attending the Society's second law examination. From and after September 1956 the Society will discontinue the existing lecture courses in these subjects and will provide lectures in the Solicitors' Buildings in conveyancing law and practice and land law, the practice and procedure of the Courts, company law and executorship law and practice, taxation including death duties, and the rights duties and responsibilities of solicitors. Arrangements have already been made and have been brought into operation during the present year with the Dublin Vocational authorities for lectures by a qualified member of the staff of the Rathmines School of Commerce in the subject of book-keeping for solicitors' apprentices. Attendance at these lectures which are held in the Solicitors' Buildings is voluntary during the present year but will be compulsory after 1st September, 1956. I am glad to be able to say that our apprentices have shown their appreciation of the value of these lectures by enrolling in large numbers in the present session, and I should here like to pay a tribute to the readiness with which the authorities of the Rathmines School of Commerce met us in this matter and provided a very competent lecturer at short notice. I have little doubt that the instruction which our apprentices are receiving in this subject will not only enable them to pass their examinations with greater facility but will be of lasting value to them when they have been admitted and commence practice.

The second important change, and I believe improvement, which has been effected by the new Apprenticeship and Education Regulations is the substitution for the present Intermediate and Final examinations of four examinations covering the same course as at present, but I believe dealing with it more fairly and in greater detail. When the new regulations have come into full operation we shall have first, second and third Law examinations and an examination in book-keeping (apart of course from the first and second Irish examinations with which everyone is already familar). Under our present system an apprentice is examined at the Intermediate examination generally taken after two years apprenticeship on the general principles of the law of property, contract, and tort, the practice and procedure of the Courts, and book-keeping. He is not expected at that stage to have a very detailed knowledge of the course and some of the more difficult parts of the law of real property are excluded. When he reaches the final examination two or three years later he takes the same subjects again in greater detail and in addition is examined in equity. The new regulations limit the number of subjects at the intermediate examination to the law of property contract and tort and exclude Court practice altogether, but the first law examination in property contract and tort will in effect be the final examination as far as these subjects are concerned, and having passed the examination he will not be re-examined on them, subject to this, that questions will be set at the third law examination on the portion of the law of contract which may be called commercial law on account of its special importance in general practice. By dividing up the examination course in this manner it will be possible for the apprentice to avoid cramming for the final examinations and it is also felt that by obtaining a thorough grasp of the subjects for the first law examination he will have a better foundation for the subjects for the second and third examinations which to a large extent will consist of the practical applications of the law of property and contract. The subjects at the second law examination will be equity, company law, conveyancing, land law and the practice of the superior courts. The subjects at the third law examination will be the law of wills, probate and administration of estates, taxation, criminal law and practice, the law of evidence, commercial law and the practice of Circuit and District Courts.

The present Intermediate examination will continue until Spring 1957 and the first Law examination under the new regulations will commence in Autumn 1957. It is important for apprentices who are commencing their course this year to

realise that in the normal course of events they will attend the first Law examination in Autumn 1957 which in effect will be a final examination in the law of property, real and personal, contract and tort. This will be a detailed and searching examination in these subjects and I would ask members who have apprentices now commencing to bring the regulations to their notice so that they will prepare themselves for this examination. By excluding practice and book-keeping from the course for the first law examination the Society has given students an opportunity of concentrating on the theory subjects during the first two years of the course. I would recommend that each apprentice should obtain a copy of the regulations and study them as soon as possible. The Secretary will be glad to answer queries from apprentices arising out of the regulations.

The transitional provisions of the regulations have been so framed as to provide that an apprentice who passes the Intermediate examination under the present regulations will attend the present final examination which will be continued until Spring 1960. In the normal course an apprentice who comes within the new regulations as regards the first law examination will attend the second and third law examinations which will commence in Autumn 1960. The new examination in book-keeping will commence in Autumn 1956 and thereafter will cease to be part of the Intermediate examination. Both the lectures and the examination in book-keeping will be conducted by the lecturer provided by the Rathmines School of Commerce to whom I have already referred.

The Solicitors' Accounts Regulations 1955 were made by the Council on November 3rd and will come into operation on 1st January 1957. They are now or shortly will be on sale at the Government Publications Office. Solicitors taking out practising certificates on and after 6th January 1957 will be required to file with the Society a declaration that they have complied with the Solicitors' Accounts Regulations, both as regards the lodgment of monies belonging to clients to separate bank accounts marked "client account" and the maintenance of a proper office book-keeping system showing all dealings with clients' monies and distinguishing such monies from the solicitors' own monies.

These Professional Practice Regulations were made last July and were printed in the Society's Gazette in August last. They have statutory effect and copies may be obtained at the Government Publications Sales Office. The effect of the regulations is to make certain unprofessional practices illegal and a breach of the regulations will also be misconduct within the meaning of the Solicitors' Act, 1954. The regulations provide that the Committee or Council of a Bar Association on receiving information which, if proved, would constitute a breach by a solicitor of the regulations or misconduct within the meaning of the Act shall bring such matters to the notice of the Society for investigation. Needless to say it is not the object of the Council in making these regulations to assume the office of a jealous invigilator prying into solicitors' private affairs or seeking to supervise every detail of their conduct. Indeed the regulation dealing with the Bar Associations shows that the Council will rely to an even greater extent on the local Bar Associations to deal with unprofessional conduct and the object of the regulations is to strengthen the authority of the Bar Association in dealing with unprofessional activities of the marginal type of practitioner which are a nuisance to his professional brethren and a menace to the public. These regulations contain nothing which has not for many years been part of the recognised unwritten code of professional conduct of all reputable solicitors.

The Council will as soon as possible send to each solicitor in the country a booklet containing the text of the Solicitors' Accounts Regulations and the Professional Practice Regulations with explanatory notes.

Many of you have no doubt already seen the maps and books of reference deposited in the City Hall relating to the draft town plan published by the Dublin Corporation. For many years solicitors and their clients have been vaguely aware of the Town Planning activities of Local Authorities but we have regarded it in the past as a long term project which might never come to fruition. Now that the Corporation have decided to move in the matter it behoves solicitors to study the town planning legislation and regulations as well as the Town Plan itself in order to be in a position to advise clients as to the restrictions which will be imposed by the plan if adopted on the development and use of City property. In fact looking to the future it seems to me that the publication of the town plan may mark an epoch in our conveyancing practice almost as important as the Conveyancing Act 1881 which changed the whole system. In future it will be necessary before allowing a client to sign a contract for sale or purchase property by auction to ascertain from the Dublin Corporation whether any restrictions on the use or development of the property have been imposed by the town plan. This will mean reading the maps and studying the books of reference or alternatively ascertaining by enquiry from the local authority whether the property is affected. The Society has already applied

to the Corporation for copies of the maps and books of reference but, we were informed that this facility could not be granted. It is obviously essential that the public should have full access to all information concerning the town plan and I am afraid that I can foresee here a further cause for delay which will hold up conveyancing transactions unless the Corporation set up special machinery to deal with enquiries. I know that in England where town planning has reached an advanced stage of development the pre-contract enquiries which are necessary on any sale or purchase of land have become of equal or greater importance than the investigation of title which follows on the contract. A purchaser who buys property without enquiry will be deemed to have notice of everything in the town plan, when approved and it seems to me that enquiries on these matters after the contract has been signed will not fall under the heading of requisitions on title. Therefore it will be necessary for the solicitor to draw the clients' attention fully to these matters before the contract is signed and if necessary to make enquiries at the Corporation. Will the Corporation be able to deal without unreasonable delay with the large volume of enquiries which they will receive? We are all aware of the continual complaint about delays in public departments and I sincerely hope that the Dublin Corporation and the Dublin County Council will give immediate consideration to this matter so that requisitions from solicitors who are advising clients contemplating the purchase of property as to the effect of the town plan will be promptly dealt with. The Society for its part is only too willing to consult with the Corporation and any other local authorities concerned with a view to setting up machinery which will avoid unnecessary delays in completing sales and purchases of property. Owing to the increasing importance of town property I think that our members who have apprentices should also draw their attention to the importance of town planning legislation. In due course it may be necessary to include this subject in our lecture courses and in the papers set at the Society's final examination.

As a result of representations made by the Dublin Solicitors' Association a deputation called to the Department of Justice recently in connection with the decision of the Department to forego the practice of keeping transcripts of memorials in the Registry of Deeds. It was pointed out that it was a wrong practice that the original memorial should be available to the public and that it would result eventually in the deterioration and perhaps the destruction of some of the memorials and that for record purposes it was of importance that these memorials should be retained in good condition. The Department Officials were in agreement with the views put forward by the deputation and I understand that steps will be taken to resume the practice of keeping transcripts of the memorials.

A deputation also called on the Minister for Local Government to consider a memorandum of the Society requesting that Solicitors engaged in the wholetime positions of law agents to local authorities should be on the same salary scale as county medical officers and county engineers. Subsequently on the suggestion of the Minister discussions were held with representatives of the sub Committee of the County Managers' Association, and while no definite decision has been received yet it is understood that the Society's case was accepted and a favourable decision is expected.

Notification has been received by us from the Department of Social Welfare, that it is proposed to set up a Committee to consider the question of Workmen's Compensation and arrangements are being made to have the Society represented on that Committee.

I understand that the Minister for Local Government is arranging or negotiating with representatives of vehicle insurers for the purpose of establishing a motor insurers' bureau to deal with the case of a person who is injured by a negligent driver but cannot recover compensation because the driver is not insured. Where a judgment has been obtained against a negligent driver and is unsatisfied because of non-insurance, then the Bureau will see that this judgment is satisfied, This arrangement of course does not do away with the responsibility to insure. A guilty motorist will continue to be liable to the penalty for driving without insurance and he will remain liable to reimburse any sum paid by the Bureau which will take an assignment of the rights of the claimant. Driving without insurance will continue to be regarded as a very serious offence. The proposed scheme will apply only to cases where there is a known defendant and negligence against him has been established by a judgment and in the ordinary way a person injured by a hit and run motorist or a person found injured on the road with no evidence to show how he came by his injuries would not be covered by the scheme. I understand however that the insurers have agreed that in such a case where there is sufficient evidence to show that the injuries were caused by the negligence of the driver of a motor vehicle the Bureau would give sympathetic consideration to the making of an *ex gratia* payment. The State which is exempt

from motor insurance will also deal with a claim arising out of the unauthorised use of a State owned vehicle and Coras Iompair Éireann will act similarly There is no doubt that the establishment of such a bureau is long overdue and thanks are due to the Minister and to the insurance companies for their approach to the matter.

The International Bar Association of which the Society is a member will hold its next International Conference in Oslo in July next. Some special items have been selected for discussion generally and in committee. The question of being officially represented at this Conference will no doubt be considered by the incoming Council. The matters for discussion are of great interest and apart altogether from our attending the conference officially it may be that some of our members would consider arranging to spend their holidays in Oslo about that time and attend at some of the discussions.

Arising out of the very successful dinner held as part of our Centenary celebrations in 1952 it was decided to hold an Annual Dinner and this dinner was duly held in the years 1953 and 1954. The question of holding the dinner this year was considered by the Council and it was felt that the support in the past couple of years was not sufficient to warrant the holding of the function in the same form this year and accordingly, as you are aware, it has been decided to hold a reception for the members and their wives or lady friends in this building to-night. I have no doubt that the presence of the ladies will make this function not only more colourful but more enjoyable and I hope that we will have a very large gathering.

In conclusion I would like to thank the Vice Presidents and the members of the Council for their assistance during the year. The passing of the Solicitors' Act increased tremendously the work of the Council and I am well aware of the abnormal amount of work which the various committees had to do during this year.

To my colleagues of the Dublin Bar Association I would like to offer a special word of thanks for the assistance given by them to me and to the Council during the year. They brought many matters to the notice of the Council which affected materially not only solicitors in their Association but the profession as a whole. I would also like to express my thanks and appreciation to my colleagues of the various bar associations all over the country for their assistance to the Council during the year and for their kindness to me on my visits to them at various functions. The bar associations guarantee the independence of the profession and assist materially in maintaining our high ethical standards and I feel that every solicitor should be a member of his local bar association as well as a member of the Society. Lastly I would like to offer my thanks to the staff of the Society for their great help during the year and particularly to the Secretary, Mr. Eric Plunkett. As I have already said the passing of the Act increased tremendously the work of the Council and Committees and no words of mine could illustrate how it increased the volume of the Secretary's work. The best tribute I can pay to him is to tell you that he got through it all with his usual efficiency.

Mr. T. D. McLoughlin seconding the motion for the adoption of the report, congratulated the Council on adopting the new Education Regulations. The report was then adopted.

Mr. David Pigot proposed and Mr. John Carrigan seconded the following resolution :—" That in the opinion of the Members of this Society there is great and unnecessary delay in public offices and departments in dealing with legal and other business and that such delay operates to the detriment of the public, especially and the legal profession generally, and this Meeting requests that steps be taken immediately to rectify matters and eliminate all such delay in the future " Messrs. C. J. Daly, P. F. O'Reilly, J. B. McGarry and C. J. Gore Grimes also spoke to this resolution. It was stated that the worst delay occured in the Land Commission, the Land Registry, the Adjudication Office, the Probate Office and the Valuation Office. The President having put this resolution to the meeting declared it passed unanimously. It was decided that the action to be taken by the Society coming out of the resolution should be left to the new Council.

Mr. Desmond Moran proposed and Mr. Joseph Barrett seconded the following resolution " That the Council of the Law Society should support mandamus proceedings against the appropriate authorities arising out of the unauthorised discontinuance of the Index of Lands provided for by the Sect. 17 of the Registry of Deeds (Ireland) Act, 1832."

Messrs. D. R. Pigot, Sean Ó hUadhaigh, C. J. Hyland, A. Cox, J. J. Sheil, P. R. Boyd, L. Williams and J. J. Hickey spoke to the motion. On the suggestion of Mr. P. R. Boyd and Senator Arthur Cox, Mr. Moran agreed to an adjournment on the understanding that the Council would investigate whether any useful purpose would be served by restoring the Index of Lands and that Mr. Moran might if he wished put down a motion for the next General Meeting.

It was decided that the next Annual Meeting of this Society should be held on 22nd November,

1956. On the motion of Mr. H. P. Mayne, Mr. Desmond Mayne, Vice-President, took the Chair.

Mr. Henry P. Mayne then moved a vote of thanks to the President for his distinguished services to the Society during his year of office. Mr. Desmond Mayne associated himself with the motion which was passed with acclamation. The President replied and the proceedings terminated.

THE INCORPORATED LAW SOCIETY OF NORTHERN IRELAND.

The President of the Society for the year 1955-56 is Mr. Thomas Q. King of Belfast. The five extraordinary members of the Council of this Society are Messrs. Henry A. Maginess, L. I. G. Fox, Charles MacLaughlin, James C. Taylor, with the President.

SOUTHERN LAW ASSOCIATION.

The Annual General Meeting of the above Association took place in Cork on 2nd December, 1955. The following officers were elected for the year 1955–56 :—

President—Mr. John F. Foley; Vice-President—Mr. John B. Jermyn; Hon. Treasurer—Mr. Bryan Murphy; Hon. Secretary—Mr. James D. Donegan; Council: Messrs. T. A. Buckley, J. K. Coakley, C. J. Daly, E. Hayes, J. J. Horgan, P. J. Kavanagh, G. J. Moloney, J. W. O'Donovan, B. M. O'Meara, D. J. Quinlan, M. R. Boland, T. K. Keane.

The following members were appointed to represent the Association as Extraordinary members of the Council of the Incorporated Law Society, in addition to the President, Mr. John F. Foley :—Messrs. E. Hayes, J. B. Jermyn, P. J. Kavanagh, B. M. O'Meara.

DUBLIN SOLICITORS' ASSOCIATION.

The following are the President and officers for the year 1955-56 :—President, David R. Pigot; Vice-President, Frank Connolly; Hon. Secretary, Eunan McCarron; Hon. Treasurer, Rory O'Connor; Council :—Messrs. K. Burke, E. Byrne, J. Cullen, M. Farrelly, C. Hyland, L. Kearon, B. McGarry, S. Millington, G. O'Rourke.

The Annual Dinner of the Association was held by permission of the Council in the Library of the Law Society on Saturday the 10th December, 1955.

SOCIETY'S RECEPTION.

A Reception in lieu of the Society's Annual Dinner was held on the 24th November, 1955 in the Library of the Law Society. There was an attendance of approximately 155 members and guests.

PRESENTATION OF CERTIFICATES OF ADMISSION.

On 7th December, the President at a ceremony in the Society's Library presented certificates of admission to the following solicitors :—

Max W. Abrahamson, B.A., LL.B., 40, Fitzwilliam Place, Dublin (3rd Place, Sept. Final; Silver Medal), Fintan P. Clancy, 63, St. Mobhi Road, Glasnevin, Dublin; Patrick Colfer, 68, Foxfield Road, Raheny, Dublin; John J. Delap. B.A., LL.B., Gweedore, Co. Donegal, (2nd Place, Sept. Final, Silver Medal); Gabriel F. Haughton, B.A., "St. Anne's," Seaview Road, Wicklow, (4th Place, Sept. Final, Silver Medal); Gordon A. Henderson, 83, Terenure Road West, Dublin, Martin S. Keaveny, Rhue, Tubbercurry, Co. Sligo, (1st Place, Final (Sept.); Silver Medal; Overend Scholarship; Patrick C. Kelly, New Ross, Co. Wexford; James F. Kenny, B.A., LL.B., 26, South Hill, Dartry, Dublin; Richard Knight, 136, Brandon Road, Drimnagh, Dublin; George Vincent Maloney (Jnr.), Cavan, (Special Certificate, September Final); Anthony G. Moylan, Loughrea, Co. Galway, (Special Certificate, September Final); Brian J. O'Connor, M.A., LL.B., 40, Park Drive, Dublin; Patrick J. F. O'Connor, 74, Merrion Square, Dublin; John A. O'Gorman, Hacketstown, Co. Carlow; Arthur J. O'Leary, Ivy Terrace, Tralee, Co. Kerry; Thomas P. Owens, B.A., LL.B., 48, Gilford Road, Sandymount, Dublin, (Special Cert., Sept. Final); P. J. Gerard Powell, 3, Ailesbury Road, Ballsbridge, Dublin; Michael A. Staines, 8, Castle Road, Clontarf Dublin.

SPECIAL PRESENTATION

Hallam J. C. Studdert, B.A., LL.B., Clonderlaw, Enniskerry, Co. Wicklow, (1st Place, April Final Exam.).

MISSING DOCUMENTS IN CENTRAL OFFICE.

The Society has learned that a very considerable number of solicitors' documents, including original papers lie unclaimed in the Central Office of the High Court. These documents must, in some cases, be of some considerable importance to solicitors and their clients and it is likely that in some cases solicitors have been inconvenienced by being unable to trace them. Solicitors, and particularly Dublin solicitors who have country correspondents who have lost documents there should enquire at the Central Office.

ELECTION OF THE COUNCIL FOR 1956-57.

15th October, 1956, was appointed as the final date for receipt of nominations for the election of the

Council for the year 1956-57, and 15th November, 1956, was appointed as the date of the ballot.

SOLICITORS' (COMPENSATION FUND) REGULATIONS, 1955.

The Solicitors' (Compensation Fund) Regulations, 1955 which regulate the procedure by which persons may apply to the Society for a grant from the Fund, came into operation on the 24th November, 1955. Copies of these Regulations will be on sale in due course in the Government Publications Sale Office, The Arcade, Henry Street, Dublin.

OBITUARY

MR. THOMAS D. VANCE, Solicitor, died on the 27th June, 1955.

Mr. Vance served his apprenticeship with the late Mr. James Rountree, Monaghan, was admitted in Hilary Sittings, 1908 and practised as senior partner in the firm of Messrs. Vance & Co., Bailieborough, Co. Cavan.

MR. H. V. BANTRY WHITE, Solicitor, died on the 23rd October, 1955 at his residence, 71 Wellington Road, Ballsbridge, Dublin.

Mr. White served his apprenticeship with the late Mr. William B. Hardman, 14 Molesworth Street, Dublin, was admitted in Hilary Sittings, 1902 and practised under the style of Messrs. T. T. Mecredy & Son, 91 Merrion Square, Dublin.

MR. EDMOND R. MCDONNELL, Solicitor, died on the 12th November, 1955.

Mr. McDonnell served his apprenticeship with the late Mr. William J. Shannon, 19 Upper Ormond Quay, Dublin, was admitted in Hilary Sittings, 1919 and practised as partner in the firm of Messrs. William J. Shannon & Co., 19 Upper Ormond Quay, Dublin, until 1938 and from 1938 to date of death as senior partner in the firm of Messrs. Edmond R. McDonnell & Son, 58 Dame Street, Dublin.

MR. IGNATIUS J. RICE, Solicitor, died on the 4th December, 1955 at his residence "Roselond," Ballybrack, Co. Dublin.

Mr. Rice served his apprenticeship with the late Mr. Michael Coyle, 12, Parliament Street, Dublin, was admitted in Hilary Sittings 1893 and practised at Rutland Place until 1896 and at the City Hall, Cork Hill, Dublin, as law agent to the Dublin Corporation until his retirement in 1947.

CIVIL SERVICE APPOINTMENTS.

THE attention of members is drawn to an advertisement for two vacancies as Administrative Officer and Assistant Inspector of Taxes. Entries will close on 6th January and particulars may be obtained from the Secretary, Civil Service Commission, 45 Upper O'Connell Street, Dublin.

THE REGISTRY

Register A.

OLD Established Solicitors and Land Agents business for sale, Dublin City.- Box A. 160.

Register B.

SOLICITOR, B.A., LL.B. (Hons.), recently qualified fifth place, seeks position, apply Box B. 199.

YOUNG SOLICITOR, with good knowledge of general practice including Probate, Conveyancing, Land Registry, etc., desires Assistantship, country preferred. Box B 200.

Register C.

FOR SALE: Hallsbury's *Laws of England* and Butterworth's *Forms and Precedents*. Box C. 146.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

Entered on Folio 55 County Kilkenny
Registered Owner ANNIE WALSH

NOTICE

THE Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

A Land Certificate for Folio 12230 County Kilkenny in which the undermentioned lands are now comprised will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of December, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Annie Walsh to 4a. 2r. 9p. of the lands of Callan South situate in the Barony of Callan and County of Kilkenny being the lands formerly comprised in Folio No. 55 County Kilkenny and now in Folio 12230 County Kilkenny.

NOTICE.

Folio 1510 — County Queen's
Registered Owner — ESTHER TYNAN

THE Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of December, 1955.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Esther Tynan to 27a. 2r. 35p. of the lands of Clonroosk Little situate in the Barony of Maryborough East and County of Queen's being the lands comprised in said Folio.

PROCEEDINGS AGAINST SOLICITORS

THE Disciplinary Committee made an order on 4th November, 1955, directing that the name of Michael J. K. Dore who practised at Newcastle West, Co. Limerick, shall be struck off the roll.

The Disciplinary Committee made an order on 14th November, 1955 directing that the name of Alexander W. Hughes, who practised at 3 Lower Merrion Street, Dublin, shall be struck off the roll.

The Disciplinary Committee made an order on 9th December, 1955 directing that the name of Alphonsus John R. Tarrant, who practised at Sligo, shall be struck off the roll.

Applications against 3 solicitors were dismissed after an inquiry in each case under Section 16 of the Solicitors' Act, 1954.

THE SOLICITORS' BENEVOLENT ASSOCIATION

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

Last year over £2,000 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

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

Membership subscription, £1 1s. 0d. (or 10s. 6d. if admitted less than 3 years) a year. £10 10s. 0d. life membership.

Address:

SECRETARY,
SOLICITORS' BENEVOLENT ASSOCIATION,
22 NASSAU STREET,
DUBLIN.

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No. 7

JANUARY,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT.

THE latest date for taking out practising certificates in time was 4th February, 1956. Attention is drawn to the provisions of Part V of the Solicitors Act, 1954, with regard to the issuing of practising certificates, and to sections 54 to 57 with regard to the qualifications for acting as solicitor and the consequences of practising without a certificate. The form of declaration which must be made in order to obtain a practising certificate may be taken up by Dublin solicitors, or by country solicitors by their town agents, on application to the Society's office. Neither the declaration nor the certificate when issued can be sent by post.

Lectureship on Company and Executorship Law

The Council invite applications for the above position. Particulars may be obtained from the Society. Closing date 17th February.

MEETING OF THE COUNCIL.

DECEMBER 8TH: Mr. O'Reilly and afterwards Mr. Shaw in the Chair. Also present: Messrs Henry St. J. Blake, John J. Sheil, James J. O'Connor, F. X. Burke, Niall S. Gaffney, John R. Halpin, Desmond J. Collins, F. J. Gearty, George G. Overend, Cornelius J. Daly, Patrick R. Boyd, William J. Norman, Peter E. O'Connell, R. McD. Taylor, John Carringan, Arthur Cox, Charles J. Downing, Joseph Barrett, C. E. Callan, Joseph Tyrrell, T. de Vere White, Ralph J. Walker, Patrick F. O'Reilly, John J. Nash, George A. Nolan, James R. Quirke, J. F. Foley.

The following was among the business transacted:

Joint Committee with the Bar Council.

MESSRS. James J. O'Connor, Desmond J. Collins and G. G. Overend were reappointed as the Society's representatives.

Employment of former solicitor.
On a report from a Committee it was decided to grant an application under section 60 by a solicitor to employ and remunerate in connection with his practice a former solicitor who had been struck off the roll. Permission was given for a period of two years and subject to certain conditions.

Bills in the Oireachtas.
Reports from the Legislation Committee on the following Bills were considered.

Fatal Injuries Bill 1955.
Lotteries Bill 1955.
Statutes of Limitation draft Bill 1954.
Forestry Bill 1955.

Solicitors in Local Government Service.
The Council considered a report from a Committee on the action taken with the Department of Local Government to secure early action on the lines agreed with the Minister last July on the subject of salaries and conditions.

COMMITTEES OF THE COUNCIL, 1955-56.

Registrar's Committee.
Seán O hUadhaigh, Chairman; Patrick R. Boyd, Desmond J. Collins, Senator Arthur Cox, Cornelius J. Daly, Francis J. Gearty, Patrick F. O'Reilly, James R. Quirke, John J. Sheil, Joseph P. Tyrrell, Ralph J. Walker.

Compensation Fund Committee.
Patrick R. Boyd, Chairman; Henry St. J. Blake, John Carrigan, Desmond J. Collins, Senator Arthur Cox, Cornelius J. Daly, Charles J. Downing, Francis J. Lanigan, James R. Quirke, John J. Sheil, Ralph J. Walker, Terence de Vere White.

Court of Examiners.
Desmond J. Collins, Chairman; Charles J. Downing, Seán O hUadhaigh, James R. Quirke, John J. Sheil, Joseph P. Tyrrell, with the President, Vice-Presidents, and immediate past-President, ex-officio.

Legislation and Privileges Committee.
George G. Overend, Chairman; Henry St. J. Blake, Francis X. Burke, John Carrigan, Senator Arthur Cox, Desmond J. Mayne, George A. Nolan, Reginald J. Nolan, Peter E. O'Connell, James R. Quirke, Terence de Vere White, with the President, Vice-Presidents and immediate past-President, ex-officio.

Court and Offices Committee.
Ralph J. Walker, Chairman; Joseph Barrett, Francis X. Burke, Niall S. Gaffney, Francis J. Gallagher, John R. Halpin, Francis J. Lanigan, Derrick M. Martin, John J. Nash, James J. O'Connor, Patrick F. O'Reilly, with the President, Vice-Presidents, and immediate past-President, ex-officio.

Finance Committee.
John Carrigan, Chairman; Patrick R. Boyd, Senator Arthur Cox, John J. Dundon, Francis J. Gallagher, William J. Norman, Peter E. O'Connell, R. McD. Taylor, with the President, Vice-Presidents, and immediate past-President, ex-officio.

Publications Committee.
Charles J. Downing, Chairman; Francis X. Burke, C. E. Callan, Francis J. Gallagher, Francis J. Gearty, Francis J. Lanigan, George A. Nolan, John J. Sheil, R. McD. Taylor, Terence de Vere White, with the President, Vice-Presidents and immediate past-President, ex-officio.

THE DISCIPLINARY COMMITTEE.

Thomas A. O'Reilly, Chairman; Joseph Barrett, Niall S. Gaffney, John R. Halpin, Desmond J. Mayne, John J. Nash, William J. Norman, James J. O'Connor, George G. Overend, Dermot P. Shaw.

COUNTY KERRY LAW SOCIETY.

At the Annual General Meeting of the Society, the following officers and Committee were elected for the year 1956: President, Gerald Baily; Vice-President, Thomas O'Neill; Chairman, C. J. Downing; Secretary and Treasurer, J. J. Grace; Committee: J. C. Guihan, M. L. O'Connell, J. J. O'Donnell, J. D. O'Connell, D. E. Browne, J. S O'Reilly, D. F. O'Shea, H. J. Downing, W. A. Crowley.

I.B.A.

THE OSLO CONFERENCE.

The Sixth International Conference of the Legal Profession under the auspices of the International Bar Association will be held in Oslo, Norway, July 23–28, 1956, with Den Norske Sakforerforening as Host Organization.

The International Bar Association is composed of the national bar associations of forty-eight nations of the world, with approximately four hundred individual members of the legal profession

affiliated as Patrons. The Incorporated Law Society of Ireland is a member of the I.B.A., and its individual members are eligible and welcome to attend this conference.

The subjects to be discussed at Oslo include the following:

In Plenary Session and Symposia

1. International Ship-Building Contracts—Particularly Legal Problems in Connection with Finance and Security.
2. The Legal Profession—The Work of the Organized Bar in Furthering the Legal Profession and its Public Services.
3. Administration of Foreign Estates—Problems of Executors and Possible Solutions.
4. Suggestions for Alleviating Hardships Arising from Sovereign Immunity in Tort and Contract.
5. Suggestions for Improvement of International Treaties to Avoid Double Taxation.

In Committee Meetings

1. Ways and Means of Improving Facilities for Legal Aid for Foreign Nationals, whether Resident or Non-Resident.
2. Immigration and Naturalization.
3. International Judicial Co-operation:
   (*a*) Difficulties Arising in Connection with Taking Evidence Abroad.
   (*b*) Serving Judicial Documents Abroad.
4. Human Rights.
5. Proposals for an International Code Regulating the Handling of Property of Enemy Nationals and Residents in Enemy-Occupied Territory.
6. Foreign Divorces—Problems Arising and Possible Solutions.

In House of Deputies

An International Code of Ethics for the Legal Profession.

In addition, an interesting programme of social events has been arranged for conferees by the Norwegian Bar Association. Included will be a reception given by the Mayor of Oslo in the Town Hall, a reception by the Norwegian Bar Association, a Soirée Dansante at the invitation of the Minister of Justice, and various excursions. The concluding event will be the official closing banquet.

Registration and Hotel and Travel Reservations

Hotel accommodation in Oslo at the height of the tourist season is at a great premium. Lawyers planning to attend the Conference are advised by the Norwegian Bar Association, as a matter of great urgency, to make their hotel reservations *at once*. Moreover, there is a limit to the number of conferees who can be accommodated at the Conference sessions. Members of the legal profession planning to attend the Conference are therefore urged to register and pay their conference and guest fees as soon as possible, and in any event not later than June 1st, 1956. The registration fee is 100 Kroner (or £5) for each conferee or observer, and 50 Kroner (or £2.10) for each non-lawyer guest, payable in advance to either of the following addresses:

Rolf Christophersen, Esq.,
Secretary,
Den Norske Sakforerforening
Akersgaten 35
Oslo, Norway.

Or

Gerald J. McMahon, Esq.,
Acting Secretary General
International Bar Association,
501 Fifth Avenue,
New York 17, N.Y., U.S.A.

While registrations after June 1st may be accepted upon payment of a late fee (135 Kroner or £6.15 for each conferee or observer, and 65 Kroner or £3.5 for each non-lawyer guest), we cannot assure late registrants that it will be possible to accept their registrations in view of the limited facilities. The subscription for the Official Banquet which has been fixed at 70 Kroner (£3.10) per person, is payable in Oslo.

Travel arrangements should be made individually or with your local travel agent. The Norwegian Bar Association has appointed Thos. Cook & Son, Stortingsgaten 26, Oslo, Norway (118 Grafton St., Dublin), as agent to arrange for hotel reservations in Oslo. Single rooms with bath in Class A hotels in Oslo range from 28/– to 36/– per day; double rooms with bath, from 50/– to 70/–. Single rooms with bath in Class B hotels range from 22/– to 36/– per day; double rooms with bath, from 35/– to 48/–.

The Incorporated Law Society of Ireland have provisionally made a number of double and single hotel and plane reservations which will be held for a short time. Members wishing to avail of them should write to the Secretary without delay. Return plane fare Dublin—Oslo, £46 2s. Messrs. Cook & Son, will give particulars of steamer fares and routes.

Advance Mailing of Conference Papers.

Conferees who have registered and paid their conference fees sufficiently in advance will receive by mail before the Conference, if possible, copies of Oslo Conference papers which are available for

distribution. Papers unavailable for early circulation may be secured in Oslo.

INTERNATIONAL BAR NEWS.

A new issue of the *International Bar News*, giving complete information concerning the Oslo Conference will be published early in 1956. Copies of this publication will be available upon request at the office of the Incorporated Law Society of Ireland, or from the Host Organization, or from Headquarters of the I.B.A., 501 Fifth Avenue, New York 17.

MOTOR INSURERS' BUREAU OF IRELAND.

THE text of an agreement dated 30th November, 1955, between the Ministry of Local Government and The Motor Insurer's Bureau of Ireland, providing for a scheme of compensation for victims of uninsured motorists, together with some notes on its scope and purpose was recently published (see July, 1955, GAZETTE, page 23), and can be obtained from the Government Publications Office —price 6d, or 7½d. including postage.

LEGAL APPOINTMENTS.

MR. HENRY MURRAY, Solicitor, Carrick-on-Shannon, Co. Leitrim, has been appointed solicitor to the Dublin Port and Docks Board.

Mr. James F. Kenny, Solicitor, Dungarvan, Co. Waterford, has been appointed County Registrar for County Waterford.

EXCHANGE CONTROL ACT, 1954.

Note for the guidance of solicitors.

THE Department of Finance has issued a note for the guidance of solicitors in connection with dealings under Exchange Control in British and Irish Securities. It will be recalled in this connection that Solicitors as well as Bankers and Stockbrokers are "Approved Agents" in Ireland and "Authorised Depositaries" in Britain. The conditions under which these dealings can be effected are fully set out in the leaflet. These conditions refer in particular to the following matters :—

1. Subscriptions to new issues.
2. Sales and transfers.
3. Purchases and acceptances of transfers.

The following matters are also dealt with :—

1. Approved manners of payment.
2. Lodgments to blocked account.
3. Import and export of Securities.
4. Presentation of documents to registrars.
5. Applications for exchange control permission.

All further information is set out in Notice IC No. 77, which together with this leaflet can be obtained on application to the Secretary, Department of Finance, Merrion Street, Dublin.

WORKMEN'S COMPENSATION (AMENDMENT) ACT, 1955.

THE Workmen's Compensation (Amendment) Act, 1955, came into force on 1st September, 1955, and introduced some modifications to the existing law on the subject. By Section 3, a workman entitled to a weekly payment by way of compensation under the Acts of 1897, 1900 and 1906, shall also be entitled to a supplementary allowance equal to four-fifths of the weekly payment; this supplementary allowance shall be deemed to be part of the weekly payment. By Section 4 the weekly payment provided for by the third schedule of the Act of 1934 is raised from 50/– to 90/– per week. By Section 5, the rules for computation of compensation in fatal cases previously regulated by the Second Schedule of the Act of 1934 as amended by Section 8 of the Act of 1953, are to be calculated now with the revised figures set out in the First Schedule to this Act. It is to be noted that the dependants' lump sum has now been raised to £1,800 and that in other respects the Second Schedule of the Act of 1934 is henceforth to be read in conjunction with the figures set out in the First Schedule of the Act of 1955. By Section 6, the age limit for juvenile dependency is raised from fifteen years to sixteen years. Section 7, amends Section 23 of the 1934 Act which used to provide that where the incapacity of the workman lasted less than four weeks, the first three days of such incapacity would be excluded from the period of the weekly payment; this period of four weeks has now been reduced to two weeks.

By Section 8, if a weekly payment in a case of total incapacity has been continued for not less than two years, the Circuit Court on the application of the workman made at any time after he has attained the age of 21 years, if it is satisfied that the workman will remain totally incapacitated, may by order provide for the payment by the employer, by way of redemption as from the date of the application of his liability to make the weekly payment, of a lump sum of such amount as may be

determined by the Court, which shall not exceed 75 per cent. of the annual value of a weekly payment. The Court should consider in particular the age of the workman and his expectation of life. For this purpose a life annuity shall be deemed to be purchasable at a price calculated in accordance with the Table set forth in the Second Schedule to this Act.

If, according to paragraph 4 (1) of the Fifth Schedule to the Act of 1934, two or more juvenile dependants are entitled to the benefit of the children's lump sum, the Court may by Section 9, now allocate the said lump sum in proportion to the number of months which must elapse between the date of the death of the workman and the date on which such juvenile dependants would attain the age of 16 years. By Section 10 the supplemental allowances provided for by Section 3 of the 1953 Act shall no longer be payable.

DECISIONS OF PROFESSIONAL INTEREST.

Leave to appeal against striking off roll refused.

Mr. A. R. Blackburn former M.P., applied to the Court of Appeal (Singleton, Jenkins and Parker, LJJ.) for leave to appeal against a decision of the Disciplinary Committee of the Law Society which had been affirmed by a Divisional Court of the Queen's Bench Division, that he be struck off the roll of solicitors and that the action be reheard before the Disciplinary Committee. On August 19th, 1955, the Disciplinary Committee ordered that the applicant's name be struck off the roll of solicitors of the Supreme Court on the grounds that having been convicted under the Prevention of Frauds (Investments) Act, 1939, at the Central Criminal Court on January 7th, 1955, and having been sentenced to two years' imprisonment he had been guilty of conduct unbefitting a solicitor of the Supreme Court. The basis of the application was that the decision of the Court of Criminal Appeal dismissing his appeal was so wrong that two subsequent decisions of that Court had disregarded it and stated that it was wrong. The Court of Appeal in the exercise of its discretion dismissed the application on the ground that the effect of a rehearing before the Disciplinary Committee would be indirectly to rehear the appeal before the Court of Criminal Appeal. Leave to appeal to the House of Lords was refused. (*In Re a Solicitor—No.* 4.—"*The Times*," *27th October*, 1955.)

Lawyer in two Jurisdictions. Basis of Fees.

Is an applicant entitled to the taxation of a bill of costs which had been delivered to him by an English solicitor who was also a member of the Canadian Bar, and is such a bill of costs, a Bill of an English solicitor within the meaning of the Solicitors Acts?

Yes, said Roxburgh, J.

In September, 1954, the applicant's wife was arrested in Montreal on charges resulting from her being in possession of some counterfeit currency. These charges were eventually dismissed, although it was only fair to say, in view of the size of the bill, that the proceedings in Canada were of some complication and that there were two trials. The respondent was an English solicitor who was also a member of the Canadian Bar.

The respondent sent to the applicant a bill of fees for his services on the basis that he was a Canadian barrister. It was a long bill and no doubt a considerable body of work had been done. There were no details of charges for anything except disbursements, and it was not surprising that the client wished to have the bill taxed. It is not for the Court to decide whether the bill was excessive; but taxation was a salutary practice even if nothing was taxed off. It was even more salutary if something was taxed off. The taxation of a bill of costs is for the protection of the public.

The work that the respondent had done was for the most part work which an English solicitor with a Canadian correspondent could have done as effectively. A small part of the work could not have been done by an English solicitor, if he had not been a Canadian barrister, but it could have been done through Canadian correspondents. A substantial part of the work could not have been done by a Canadian barrister if he had not also been an English solicitor. All the work that the respondent did was done in London, partly from his private address and partly from his solicitor's office; he did not put his foot one single yard outside the jurisdiction.

Totally different considerations would have arisen if he had gone to Canada. The bill was that of an English solicitor with the additional qualification that he was a Canadian barrister and was therefore an English solicitor's bill within the meaning of the Act. It would be a strange anomaly if the respondent could hold himself out, as he did in England, to English people as an English solicitor and without being subject to the statutory burden of taxation to which all English solicitors were subject, merely because he had the additional qualification of being a Canadian barrister. (*In Re a Solicitor—No.* 3.—"*The Times*,"—*21st October*, 1955.)

Notice to solicitor is not notice to client.

Is the giving of a notice to a solicitor the equivalent to giving the notice to a person unless that person is shown to have authorized the solicitor to have received the notice or to have held him out as so authorized?

No, said the full Court of the High Court of Australia, because it must be the solicitor's duty to communicate the notice to the client. In this case a solicitor who had acted only as the agent of another solicitor to obtain and forward to the latter a mother's consent to an adoption order was not thereby made an agent of the client to receive from the mother subsequent notice of the withdrawal of the consent to the adoption order. (*R. v. Biggin, ex party Fry.* (1955) *A.L.R.* 222 *F.C. Victorian Law Institute Journal, Vol.* 29, *page* 129.)

Oral agreement to charge less than the authorized scale not enforceable.

In a taxation of a bill of costs, can a client object to the taxation on the alleged ground that there was an oral agreement with the firm that they would charge less than the authorized scale?

No, said Pearson, J. because on the plain meaning of Section 57 (3) of the (English) Solicitors Act, 1932, an agreement between solicitors and client with regard to the amount of charges for non-contentious business must be in writing in order to displace the authorized scale; accordingly the alleged oral agreement could not be relied on by the client.

Per Pearson, J.:—"It was argued for the client in Jennings *v.* Johnson (8 C.P. 425), that under section 4 of the Attorneys and Solicitors Act, 1870, the client could rely upon an oral agreement for special charges to be made; and that that must still be the position in regard to contentious business under section 59 of the Solicitors Act, 1932, which is merely a consolidating Act; and that the position should be the same in relation to non-contentious business under the Solicitors Remuneration Act, 1881, and section 57 of the Solicitors Act, 1932, as otherwise there would be an anomaly.

On the other hand, it was contended that the firm of solicitors was prepared to admit for the purposes of the argument that the position is anomalous, but that, nevertheless, effect must be given to the plain words and unmistakable meaning of the Act of 1881 as reproduced in section 57 of the Act of 1932.

I think the main point to notice there is the difference of wording in section 8 of the Act of 1881 from the wording in section 4 of the Act of 1870. Section 4 of the Act of 1870 oddly provided only that a solicitor may make an agreement with his client, but section 8 of the Act of 1881 says: "it shall be competent for a solicitor to make an agreement with his client, and for a client to make an agreement with his solicitor. It is clearly regarding the transaction from each of its two sides."

NOTE:—Section 4 of the Attorney's and Solicitors Act, 1870, provided briefly that a solicitor could make an agreement in writing with his client as to the amount and manner of payment for the whole or any part of any past or future services, fees or disbursements in respect of business done or to be done; such agreement could provide for a gross sum or a commission or a percentage or a salary and the remuneration could be at the same or at a greater or lesser rate than the rate to which he could otherwise be entitled to be remunerated. (This section applied to both contentious and non-contentious business). Section 9 of the Solicitors Remuneration Act, 1881 states that the Attorneys and Solicitors Act, 1870 shall not apply to any business to which this Act relates. Section 8 of the 1881 Act provides that in relation to any business under that Act, it is competent for a solicitor to make an agreement in writing with his client, or a client to make an agreement with his solicitor before or after or in the course of the transaction of any such business for the remuneration of the solicitor to such amount and in such manner as the solicitor and the client think fit, whether by gross sum or by percentage or by salary or otherwise. The fact that such agreement should be in writing, signed by the person to be bound thereby, or his agent, contained in that section is repeated in section 57 (3) of the English Solicitors Act, 1932. It therefore seems clear that the requirement of an agreement in writing has always been mandatory, whether the agreement relates to contentious or non-contentious business. (*In Re a Solicitor* (1955), 3 *All. E.R.* 305.)

STATUTES OF THE OIREACHTAS, 1955.

No.		*Signed by President*
1.	Medical Practitioners Act, 1955	2nd March, 1955
2.	Agriculture (Amendment) Act, 1955	2nd March, 1955
3.	Supplies and Services (Temporary Provisions) Act, 1946 (Continuance and Amendment) Act, 1955	16th March, 1955
4.	Central Fund Act, 1955	21st March, 1955
5.	Tourist Traffic Act, 1955	21st March, 1955
6.	Customs (Temporary Provisions) Act, 1945 (Continuance) Act, 1955	21st March, 1955
7.	Imposition of Duties (Confirmation of Orders) Act, 1955	10th May, 1955
8.	Fertilisers, Feeding Stuffs and Mineral Mixtures Act, 1955	10th May, 1955
9.	Local Government Act, 1955	10th May, 1955

No.		*Signed by President*
10.	Factories Act, 1955	9th June, 1955
11.	Social Welfare Act, 1955	21st June, 1955
12.	City and County Management (Amendment) Act, 1955	21st June, 1955
13.	Finance Act, 1955	13th July, 1955
14.	Seed Production Act, 1955	13th July, 1955
15.	Appropriation Act, 1955	26th July, 1955
16.	Workmen's Compensation (Amendment) Act, 1955	26th July, 1955
17.	Sea Fisheries (Amendment) Act, 1955	26th July, 1955
18.	Charitable Donations and Bequests (Amendment) Act, 1955.	26th July, 1955
19.	Industrial Relations (Amendment) Act, 1955	29th July, 1955
20.	Electricity Supply (Amendment) Act, 1955	29th July, 1955
21.	Transport (Miscellaneous Provisions) Act, 1955	15th November, 1955
22.	Imposition of Duties (Confirmation of Orders) (No. 2) Act, 1953	15th November, 1955
23.	Arterial Drainage (Amendment) Act, 1955	30th November, 1955
24.	Rent Restrictions (Continuance and Amendment) Act, 1955	30th November, 1955
25.	Transport Act, 1955	6th December, 1955
26.	Statutory Instruments (Amendment) Act, 1955	6th December, 1955
27.	Social Welfare (Temporary Provisions) Act, 1955	6th December, 1955
28.	Agricultural Produce (Eggs) Act, 1955	6th December, 1955
29.	Mercantile Marine Act, 1955	22nd December, 1955

PRIVATE ACT,

Local Government Provisional Orders Confirmation Act, 1955—signed by the President on 16th March, 1955—which confirms the following orders :—

(1) County Borough of Cork (Extension of Boundary) Provisional Order, 1954.
(2) Louth County Council (Borrowing Powers) Provisional Order, 1954.
(3) County Borough of Waterford (Extension of Boundary) Provisional Order, 1955.

REGULATIONS UNDER THE SOLICITORS' ACT, 1954.

THE following regulations are on sale at the Government Publications Sale Office, G.P.O. Arcade, Dublin—

Solicitors' Accounts Regulations 1955 (S.I. No. 218/55).

Solicitors' Act 1954 (Professional Practice, Conduct and Discipline Regulations) 1955 (S.I. No. 155/55).

The Council intend to publish the text of these regulations with a commentary and explanatory note in a booklet which will be circulated to members. To assist in the preparation of the booklet, the Council would welcome queries and suggestions from members arising out of the regulations.

THE REGISTRY

Register A.

ASSISTANT SOLICITOR (Protestant) required by old established firm, Northern border town in Republic. Conveyancing Probate and general office work. Good prospects for suitable applicant. Please apply Box No. A161.

Register B.

YOUNG SOLICITOR with over 12 months' general experience with paticular reference to Probate and Court work, desires position, City or Country. Box No. B201.

SOLICITOR, recently qualified, good knowledge of general practice, seeks position Solicitor's Office, Dublin City. Box No. B202.

SOLICITOR, M.A. (Hons.), LL.B. (Hons.), recently qualified, seeks position. Box No. B203.

GENERAL LAW CLERK required with knowledge of conveyancing not over 35. Permanent pensionable appointment. Apply, with full particulars of experience and salary expected, to Mr. M. Horan, Solicitor to the Representative Church Body, 52 St. Stephen's Green, Dublin.

OBITUARY

MR. ROBERT HAYES, Solicitor, died on the 3rd November, 1955 at St. Michaels Hospital, Dun Laoghaire.

Mr. Hayes was admitted in Michaelmas Sittings 1891 and practised as partner in the firm of Messrs. Hayes & Sons, 15, St. Stephen's Green, Dublin.

MR. SAMUEL G. RUTHERFORD died on the 24th November, 1955 at the Royal Hospital for Incurables, Morehampton Road, Donnybrook, Dublin.

Mr. Rutherford served his apprenticeship with the late Mr. Francis G. McKeever, Drogheda, Co. Louth, was admitted in Michaelmas Sittings 1912 and practised at 22, Bachelor's Walk, Dublin, as senior partner in the firm of Messrs. S. G. Rutherford & Co., up to his retirement in 1954.

MR. PATRICK J. AGNEW, Solicitor, died on the 13th December, 1955 at his residence "Rathlurc," Maghera, Co. Derry.

Mr. Agnew served his apprenticeship with the late Mr. Patrick Joseph Hervey, Draperstown, and practised as senior partner in the firm of Messrs. P. J. Agnew and Sons., Maghera and Draperstown.

MR. JOHN L. KEANE, Solicitor, died on the 11th January, 1956 at his residence, Emmet Place, Youghal, Co. Cork.

Mr. Keane was admitted in Hilary Sittings 1891 and practised as senior partner in the firm of Messrs. John L. Keane & Son, Youghal, Co. Cork.

MR. MARK F. CONROY, Solicitor, died on the 11th January, 1956 at his residence "The Gables," St. Mary's Road, Galway.

Mr. Conroy served his apprenticeship with the late Mr. Michael A. Conroy, Galway, was admitted in Trinity Sittings 1927 and practised under the style of Messrs. John C. Conroy & Son, Galway.

REGISTRATION OF TITLE ACTS, 1891 AND 1942.

ISSUE OF DUPLICATE LAND CERTIFICATE.

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of January, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

1. Land Certificate of James J. Comerford to 5a. 3r. 30p. and 7a. 3r. 27p. of the lands of Pollrone and 7a. 2r. 0p. of the lands of Grange all situate in the Barony of Iverk and County of Kilkenny being the lands comprised in Folio 10717 County Kilkenny.
2. Land Certificate of the Right Honourable Martyn Charles Andrew Baron Hemphill to Firstly the Houses, Gardens and Premises situate in John Street in the City of Cashel Barony of Middlethird and County of Tipperary and Secondly The three houses and premises situate in John Street in the City of Cashel and Barony and County aforesaid being the property comprised in Folio 1160 County Tipperary.

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No. 8

FEBRUARY,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL.

JANUARY 12TH: The President in the Chair. Also present: Francis J. Gallagher, Thomas O'Reilly, William J. Norman, Terence de Vere White, Cornelius J. Daly, F. X. Burke, H. St. J. Blake, Ralph J. Walker, R. McD. Taylor, Francis J. Lanigan, Desmond J. Collins, Patrick R. Boyd, Joseph P. Tyrrell, Patrick F. O'Reilly, John R. Halpin, Derrick M. Martin, James R. Quirke, Seán O'hUadhaigh, Peter E. O'Connell, John J. Sheil, Francis J. Gearty, Charles J. Downing, John J. Nash, George A. Nolan, James J. O'Connor, George G. Overend, Dermot P. Shaw, John Carrigan, Arthur Cox, Desmond Mayne, Joseph Barrett, Niall S. Gaffney.

The following was among the business transacted:

Clients' Privilege.

A MEMBER wrote stating that his deceased partner had handled a client's business and received professional communications. Litigation had followed between the client and a third party and member's firm was no longer acting. He had been summoned as a witness to give evidence as to the conversations between the former client and the deceased partner and enquired whether the communications were privileged. The Council were of opinion that the communications are privileged and the privilege must be claimed. The client is entitled to waive the privilege. If directed by the judge member must testify.

In another case member acted for a client on a sale and proceedings have been brought against the client arising out of the matter. Member was not acting in the proceedings. In the client's defence she made allegations of deceit and fraud against member who had been summoned by the plaintiff to give evidence. He enquired whether he is entitled to do so or whether the privilege had been waived by the allegations made against him by the former client. The Council were of opinion that the client had probably waived the privilege by implication by making allegations against her former solicitor and that member was probably entitled to

give evidence but should obtain a direction from the Court.

Part-time solicitors to local authorities. Fixed retainer.

A MEMBER applied for a waiver under regulations 8 and 9 of the Professional Practice Regulations to enable him to act for a local authority on a part time basis at a fixed salary. It was stated that the arrangement was temporary pending the making of a permanent appointment. A waiver was issued limited to a period of six months and member was informed that it would not be renewed.

Solicitor acting for vendor and purchaser.

A MEMBER acting for vendor and purchaser in two sales, one by public auction and the other by private treaty, enquired whether he would be entitled to charge the full commission scale fee against both vendor and purchaser. The Council approved of a report of a committee which stated:

(*a*) as regards the sale by public auction member is entitled to charge the full commission scale fee to both vendor and purchaser if the work mentioned in the schedule to S.R.G.O. 1951 is substantially performed.

(*b*) The position is the same on a sale and purchase by private treaty but where a solicitor acts for both vendor and purchaser the committee thought he would not be entitled to charge the negotiation fee against the purchaser.

Family arrangement. Sale by personal representative.

A MEMBER extracted letters of administration to an estate which included registered land valued and accepted for death duty purposes at £1,550 at which price the personal representative with the consent of the other persons entitled had agreed to purchase and had directed member to have the property transferred into the name of his nephew. Member enquired whether he was entitled to charge the commission scale fee. The Council approved of the report of a committee which stated that on the facts submitted the transaction between the personal representative and his nephew was essentially a sale and that member will be entitled to charge the commission scale fee provided that the work specified in the schedule to the General Order is substantially performed on the sale and purchase. If the work specified in the Schedule was not substantially performed Schedule 2 would apply.

Delays in Government Departments.

ARISING out of the resolution passed at the last ordinary General Meeting of the Society a deputation was appointed to seek an interview with the Commissioner of Valuation as it was considered that the delays in that office were the cause of the delays which occur in the Estate Duty Office and the Stamp Office. A statement agreed between the Council and the Commissioner of Valuation following a conference is printed in this issue.

SOLICITORS' BENEVOLENT ASSOCIATION

THE Directors invite Applications for the Office of Secretary. Last date for Applications 31st March. Particulars from the under-signed.

PATRICK GLYNN,
Secretary,
22 Nassau Street,
Dublin.

COMMISSION ON WORKMEN'S COMPENSATION.

THE Minister for Social Welfare has appointed a commission to examine and report on the present system of Workmen's Compensation and the question of replacing it by a scheme of national insurance or otherwise and to make recommendations. Mr. Patrick F. O'Reilly has been nominated by the Council and appointed by the Minister to serve on the Commission. Bar Associations and individual members are invited to send to the Secretary any observations or suggestions which might assist Mr. O'Reilly as a member of the Commission, either on the general policy of the Workman's Compensation Acts or any desirable amendments in matters of detail.

REGULATIONS UNDER THE SOLICITORS' ACT, 1954.

THE following regulations are on sale at the Government Publication Sales Office, G.P.O. Arcade, Dublin.

Solicitors Accounts' Regulations, 1955 (S.I. No. 218/1955).

Solicitors Act, 1954 (Professional Practice, Conduct and Discipline) Regulations, 1955 (S.I. No. 151/1955).

The Council intend to publish the text of these regulations with explanatory notes in a booklet which will be circulated to members. The Council will welcome queries from members and bar associations as to the interpretation of any matters in the regulations which will be of assistance in preparing the booklet.

DECISIONS OF PROFESSIONAL INTEREST.

Is a document which is dictated, checked, and then amended in writing by a witness made or produced by him with his own hand, for the purpose of evidence?

Yes.

If a solicitor who prepares the will of a testator, dictates a note to his typist in which he sets out the surrounding circumstances which when typewritten, was checked and amended, but not initialled by the solicitor, is such a note admissible in evidence?

Yes, because a solicitor was not a "person interested" within the meaning of the English Evidence Act, 1938 and there was no likelihood that his conduct at the time might subsequently be questioned.

Per Sachs, J. :—"My own view is that a document which is dictated, checked and then amended in writing by a witness, certainly comes within the ambit of S. 1 (4) of the Evidence Act, 1938, as being a document that was made or produced by that witness with his own hand. It does not matter if in fact he secured the intervention of someone else to do the actual typewriting provided that he himself sees it, checks it, and writes on it.

It is axiomatic that in almost every case a solicitor keeps a record of an important conversation in case there is any dispute. I do not think, however, that in the present case at the time the document was made on June 18, 1952, there was anything which could be said to fall within sub-s.(3) so as to make it a time when "proceedings were . . . anticipated."

The next point argued was whether the witness was a "person interested" within the meaning of sub-s.(3). Counsel for the plaintiff put forward the fact that the witness had at any rate a reasonable chance of acting for the bank as constituting an "interest." I do not think that a contingent prospect of that sort can be an "interest" in the sense that this sub-section contemplates. I would add that otherwise every solicitor acting in any matter in which there could be any dispute, and in which accordingly there was at any rate a chance he might be employed, would never be able to make a record which could be evidence in a court of law. It might be said to be against a solicitor's reputation if a will which he is charged with preparing and seeing executed turns out not to be properly made.

One notes that if the risk that a solicitor's conduct might later be called into question were an "interest" within the meaning of sub-s.(3), then all records of solicitors on such matters would tend to be excluded. That seems to me not only contrary to commonsense but also contrary to the law implicit, I think in many decisions concerned with the records of deceased solicitors. These records have regularly been admitted, when the solicitor has died, under the rule that a statement made in the course of his duty by a deceased person is admissible providing he had, to use the words of *Phipson On Evidence* (9th Edn.), at p. 301, no "motive to misrepresent" the facts related in the document." (*Re Powe Decd.* (1955); 3 *All.* E.R. 448.)

Indictment founded on matters disclosed in consequence of compulsory process of law.

The accused, a solicitor, was the executor and trustee of his deceased mother's estate. As a result of proceedings instituted in the Chancery Division by his brother, a beneficiary under the mother's will, an order was made requiring him to lodge certain accounts and a statement of outstanding or undisposed of property. On failure to comply therewith he was adjudged in contempt of court and a writ of attachment was issued against him. Having been subsequently released and re-arrested, with the object of securing his release from prison, the accused swore an affidavit in which he confessed to converting the bulk of the assets of the estate to his own use. This was the first disclosure of the defalcations on which the indictment, containing three counts of fraudulent conversion, was framed. Before the accused's plea was taken counsel for the accused moved to quash the indictment under the provisions of section 43 (2) of the Larceny Act, 1916.

Held by Sellors J. (1) that should the application to quash the indictment be successful, the court would have no jurisdiction to try the offences alleged in the indictment, and therefore it was appropriate to consider the application before taking the plea; (2) that on the facts, as revealed in the depositions, the offences were first disclosed on oath in Court in consequence of a compulsory process *bona fide* instituted by a person aggrieved and accordingly section 43 (2) applied. The accused was discharged. (*R. v. Maywhort* 1955. 1 *W.L.R.*, 848.)

County Registrar must give reasons on Taxation.

In an application for a review of the taxation of costs by the Bournemouth District Registrar in an undefended divorce suit, in which the registrar said that he had had regard to all relevant circumstances, and had reduced counsel's fee from 7 guineas to 5 guineas.

Sachs J., in granting the application, held that it was perfectly obvious that a taxing officer was not entitled to take cover under such an omnibus statement, which tended to oust the jurisdiction of the court. It was to be emphasised that the duty of taxing officers when answering an objection was to

make a full statement of all his grounds and reasons in order to enable an aggrieved party to ascertain what matters he had taken into account.

Per Sachs J. :—"It should be emphasised that the duty of a taxing officer when answering an objection is to make a full statement of all his 'grounds and reasons' in relation to the objection, a duty which may well, as in the present case, entail stating specifically whether or not the matter complained of was taken into account." (*Eaves v. Eaves and Powell*—(1955) 3. *All* E.R. 849.)

Convicted defendant who wins appeal may be awarded costs in the Court below.

The appellants were prosecuted under the Food and Drugs Acts for selling food unfit for human consumption, because a loaf contained a piece of string. At the hearing, the justices refused to adjourn the case, although told that the same point was under appeal in another case, and fined appellants £5. On appeal, the Divisional Court (Lord Goddard, C. J., Ormerod and Barry, J. J.), held that, as the bread was not unfit for human consumption, the appellants were wrongly convicted. In quashing the conviction, this Court held that it had power to order that the costs incurred by the appellants before the justices should be allowed to them. In the circumstances, an order would be made that the appellants recover against the prosecutor the sum of 7 guineas costs.

Per Lord Goddard C. J. :—"It does not follow that in every case in which the court sets aside the conviction we should give the successful appellant the costs, but there are two reasons why we think we can give costs in this case. One is, that we think that these prosecutions ought to be launched with much greater care. People ought not to be charged under a section creating a very serious offence when the information ought to have been preferred under another section concerned with the far less serious offence. The other point is, that when this case was coming on before the justices, it was known that Miller's case was under appeal to this court, although it had not actually been entered. Application had been made for a case to be stated, which had been granted, though the case was not actually set down in the list. I do not know that that is always a good reason for granting an adjournment, because justices might think in some cases it was desirable to get the case on quickly; but I think it would have been a very good thing in the present case if some further adjournment had been granted in order to find out what was the state of affairs with regard to Miller's case.

"We think, therefore, that in the present case we should say that the defendants in the court below ought to have something for costs." (*Turner & Sons v. Owen*—(1955), 3 *W.L.R.*, 700.)

REVIEW.

Glanville Williams—The Proof of Guilt—London, Stevens, 1955, *pp.* 294, 17/6*d.*

We are once more indebted to Professor Glanville Williams for having given us a clear, accurate and concise picture of a study of the English Criminal trial under the title "The Proof of Guilt" in lectures which he delivered at Birmingham University in October, 1955. The compass of this short and yet exhaustive treatise published under the auspices of the Hamlyn Trust embraces the whole field of criminal practice. The learned author treats of such interesting problems as the evolution of the English trial; the appointment and training of judges; the questioning by judges of witnesses; the right of the accused not to be questioned; mistaken evidence by identification or by experts; the admissibility of the evidence and the rule for corroboration of accomplices and children; the prosecution's burden to prove guilt; the quantum of proof; the hearsay rule in criminal cases; the value of confessions and the exclusion of character and convictions; circumstantial evidence of similar facts; character and convictions as evidence for the defence; the trial together of different defendants; the jury as a check on unpopular laws; arguments for and against the jury system; the growth of summary trial at the expense of jury trial; the influence of the summing-up; the inscrutability of the verdict; the requirement of unanimity; the absence of appeal by re-hearing; the function of the jury confined to question of guilt; and lay or professional justices in magistrates courts. If space permitted it would be of great interest to discuss some of the learned author's views, but the member who acquires this book will find it an invaluable *vade-mecum* in questions relating to criminal procedure even in the Irish courts; it is hoped that some of the reforms which Professor Williams advocates so persuasively will soon reach the statute book.

THE SOLICITORS' BENEVOLENT ASSOCIATION.

THE 92nd Annual General Meeting of the Solicitors' Benevolent Association was held on Friday the 27th day of January, 1956, at the Solicitors' Buildings Four Courts, Dublin. The Chairman, Mr. Richard A. O'Brien, was in the Chair. Mr. Dermot P. Shaw, President of the Incorporated Law Society of Ireland was among those present.

The Chairman in moving the adoption of the Annual Report congratulated Mr. Shaw on his election as President.

Turning to the Report, he said that income for the year from dividends and investments was up by £12 9s. 5d., but annual subscriptions were down by £83 11s. 6d. On the other hand life subscriptions, donations and legacies were up by £906 7s. 3d.

Grants and annuities paid were less by £393 5s. than in 1954 which, however, was a record high year.

The drop of £83 11s. 6d. in annual subscriptions last year was disappointing and it was not too much to expect every solicitor in the thirty-two Counties (for the Association covers the whole of Ireland) to be a member of the Association. He pointed out that the annual subscription is only £1 1s. (¾d. a day) or for a solictior admitted less than 3 years half that amount.

Mr. Dermot P. Shaw, President of the Incorporated Law Society of Ireland in seconding the resolution said that he echoed the Chairman's remarks in appealing for support from the profession. The profession owed a very deep debt of gratitude to the Directors and if he might single out one man, perhaps he should name the Chairman, for his energy and zeal. He assured the meeting that when given the opportunity of visiting local Associations, he would take the opportunity of telling them of the work of the Association.

The Report was adopted unanimously.

On the motion of Mr. John L. McDowell, seconded by Mr. O. S. Fry, the Metropolitan and Provincial Directors were re-elected.

On the proposal of Mr. George G. Ovetend, seconded by Mr. Arthur P. Ardagh, Messrs. Terence de Vere White and H. D. Hurley, were re-elected as honorary auditors.

On the proposal of Mr. Sean O'hUadhaigh, a hearty vote of thanks was given to the press.

On the motion of Mr. Thomas P. Robinson, the President of the Incorporated Law Society took the Chair and a vote of thanks to the Chairman, Mr. O'Brien, was passed with acclamation.

REPORT OF THE REGISTRAR'S COMMITTEE
for the period 1st January to 31st December, 1955.

THE Committee was set up by resolution of the Council on 13th January, 1955. It was resolved that a committee be appointed pursuant to Section 73 of the Solicitors Act, 1954 entitled the Registrar's Committee consisting of eleven members of the Council excluding members of the Disciplinary Committee (to be appointed annually with a quorum of five) and that the following functions should be delegated to the Committee.

(*a*) functions of the Society under sections 28 (3), 29 (5), 31, 33, 34, 35, 48, 49, and 51 of the Solicitors Act, 1954 and under Regulations made under Section 40 (2) (*a*) and (5) (*b*) of the Act.

(*b*) Consideration of complaints against solicitors (other than applications to the Disciplinary Committee under section 14 of the Act).

(*c*) The institution of proceedings on behalf of the Society before the Disciplinary Committee.

And it was provided that the resolution should be reviewed by the Council in six months' time. The functions and powers of the Committee were confirmed by the Bye-Laws of the Council made on 2nd June, 1955.

The Committee considered applications for practising certificates by solicitors in circumstances in which the Council had a discretion to refuse to issue a certificate under section 49 (1) of the Act. All the applications received from solicitors were granted. The Committee considered applications for practising certificates by solicitors on the roll whose principal place of business is in Northern Ireland on the question whether such solicitors are entitled to pay the lower registration fee applicable in the case of provincial solicitors. The Committee reported to the Council that in their opinion a solicitor practising in Northern Ireland who certifies that the Dublin address is for agency purposes only and that he does not intend to practise in the City of Dublin is entitled to pay the lower registration fee.

The statutory list of practising solicitors under section 53 of the Act was published and circulated to the Taxing Masters, County Registrars, District Court Clerks and to the Bar associations and a circular was issued to all interested persons advising them that solicitors whose names do not appear on the statutory list are not entitled to practise as solicitors.

Two applications from apprentices under section 28 (3) for registration as of the date of the indentures notwithstanding that over six months had elapsed were considered and granted.

One application from a solicitor for leave to take an apprentice notwithstanding that the solicitor had not at some time been in continuous practice for a period of seven years was considered and granted under section 29 (2) under exceptional circumstances disclosed.

Notices were issued to four solicitors under section 49 (1) (*g*) of the Act notifying them that they had failed to give explanations in respect of

matters affecting their conduct which the Society regarded as satisfactory and that the Society have a discretion to grant or to refuse applications for their next practising certificates. In three cases explanations subsequently received from the solicitors were accepted and the notices were withdrawn.

Two applications were received from solicitors under section 60 for permission to employ or remunerate persons who had been struck off the roll and were considered by the Committee on reference from the Council. In one case the Committee recommended the application should be refused and in the other that the application should be granted. The Council in each case acted on the Committee's report.

Six applications under section 61 of the Act from practising solicitors for permission to carry on the practice of deceased solicitors on behalf of the personal representatives were considered and granted on the Council's being satisfied with the terms of draft agreements submitted for approval.

In 16 cases the Committee directed the institution of proceedings against solicitors before the Disciplinary Committee on behalf of the Society on statements which appeared to the Committee to constitute *prima facie* evidence of misconduct.

When the Committee was set up on 13th January, 1955, it was decided that the delegation of the Council's powers should be reviewed after six months. The delegation of the powers was reaffirmed in the Bye-laws of the Council on 2nd June, 1955. The Committee are of opinion that for the effective operation of the Solicitors' Act, 1954, and particularly having regard to Section 73 of the Act, it is essential that the delegation of the powers of the Society specified in the resolution of the Council of 13th January, 1955 should be continued.

Signed on behalf of the Committee,

SEAN O hUADHAIGH,
Chairman.

11th January, 1956.

RECENT LEGAL LITERATURE.

Accidents to Children—"Phipps *v.* Rochester Corporation" (*S.J.*, 20th August, 1955).

Administration of Estates Act (Northern Ireland) 1955 (*I.L.T.*, 4th and 11th February, 1956).

Appointment of Notaries (*S.J.*, 4th February, 1956).

Advertising and Income Tax (*I.L.T.*, 26th November and 3rd and 10th December, 1955).

All Risks Insurance Policies (*S.J.*, 3rd December, 1955).

Application to fix rent on new business tenancy to be determined by rents fixed in same area by the Courts (per Shannon J.) or by opinion of valuers (per McLoughlin J.)—"Ono Ltd. *v.* H. Williams & Co." (*I.L.T.*, 7th January, 1956).

Appeal in the Supreme Court of Judicature (*L.T.*, 27th January, 1956).

Assignment of Controlled Premises at end of tenancy valid—"Bookman Ltd. *v.* Nathan" (C.A.) (*S.J.*, 13th August, 1955).

Auctioneer not entitled to commission if purchaser subsequently sells house by private treaty to higher bidder ("Stokes and Quirke *v.* Clohessy) (McLoughlin, J.) (*I.L.T.*, 19th November, 1955).

Bankruptcy Decisions in England in 1954 and 1955 (*S.J.*, 10th September, 1955).

"Business" under English Landlord and Tenant Act, 1954 (*S.J.*, 20th August, 1955).

Civil Conspiracy in Ireland—Law of (*I.L.T.*, 14th and 21st January, 1956).

Child licensee of Corporation playground cannot recover for injuries caused by trip wire—"Bugle *v.* Dublin Corpn."—(Haugh, J.) (*I.L.T.*, 12th November, 1955).

Changes in the County Court in 1956 (*L.T.*, 23rd December, 1955).

Corroboration in Domestic Proceedings (*S.J.*, 12th November, 1955).

Costs of English Divorce proceedings unenforceable in Ireland as contrary to public policy—"Mayo–Perrott *v.* Mayo–Perrott" (Murnaghan, J.) (*I.L.T.*, 31st December, 1955).

Conditions under which Contract of Service transferred—"Denham *v.* Midland Employer's Mutual Co. (*L.T.*, 2nd September, 1955.)

Costs—In assessing instruction fees of 15 guineas in Circuit Court and 25 guineas on a High Court appeal in a title action relating to land with £23 P.L.V., County Registrar should not award these sums on the basis of there being little opposition, but should take all factors into consideration—"McManus *v.* McGovern" (Murnaghan, J.) (*I.L.T.*, 17th December, 1955).

County Court Appeals (*L.T.*, 30th September, 7th, 14th and 21st October, 4th and 18th November, 2nd and 9th December, 1955, and 6th, 13th and 20th January, 1956).

Costs of an Assisted Person (*L.T.*, 2nd December, 1955).

Costs in an action under Lord Campbell's Act which was settled a few days before the hearing for £2,000 and costs, the Taxing Master was directed to state the grounds upon which he had awarded a large instructions fee, allegedly because the

solicitor's work was onerous and unusual, and that the negotiations were most intricate—"Dwyer *v.* Stafford & Co." (Murnaghan, J.) (*I.L.T.*, 17th December, 1955).

Council House as Alternative Accommodation under Rent Control (*S.J.*, 19th November, 1955).

County Courts—Extended English Jurisdiction (*S.J.*, 24th December, 1955).

Court Accountant applies by Summary Summons under Auctioneers Act 1947 that 11 plaintiffs be paid sums due from defaulting auctioneer—High Court costs granted—"Duffy *v.* Irish National Insurance Co." (Murnaghan J.) (*I.L.T.*, 8th October, 1955.)

Delay in English Land Registry (*S.J.*, 14th January, 1956.)

Deposit Savings Book given to niece two months before death valid "donatio mortis causa"—"O'Donoghue *v.* Leonard" (Shannon J.) (*I.L.T.*, 17th September, 1955).

Determination of Religion of Infants and the Question of Paternal Authority (*I.L.T.*, 29th October and 5th, 12th and 19th November, 1955.)

Damages for Dilapidations—Right of Judgment Debtor to go behind (*L.T.*, 2nd December, 1955).

Draft Documents—Amendment of, in Conveyancing (*L.T.*, 13th January, 1956).

Driving tractor without having rear light on cement mixer not an offence—"Healy *v.* Jordan" (*I.L.T.*, 29th October, 1955).

Duty to provide a dust bin—"Peterboro' Corpn. *v.* Holdick" (H.C.) (*S.J.*, 14th January, 1956).

Duty to report accidents in Road Traffic cases (*L.T.*, 9th and 16th September, 1955.)

Estate Agent's Commission (*S.J.*, 4th February, 1956).

Easement must be capable of forming subject-matter of grant. "Re Ellenborough Park" (C.A.) (*S.J.*, 24th and 31st December, 1955 and 7th January, 1956).

Election for Trial by Jury and Committal for Sentence (*S.J.*, 21st January, 1956).

Estate Duty, Conveyancing and Real Property Decisions in 1954-55 (*L.T.*, 16th, 23rd and 30th September and 7th October, 1955).

Escape of Water "Prosser *v.* Levy" (C.A.) (*S.J.*, 17th December, 1955).

Estate Duty: Non-Aggregation of Life Policies "Walker's Trustees *v.* I.R.C." (Ch.D.) (*L.T.*, 14th October, 1955).

Evidence—Recent Law on Complaints (*S.J.*, 26th November, 1955.)

Evidence of Spouses in Criminal Cases (*S.J.*, 13th August, 1955).

Evidence of Witness Abroad (*S.J.*, 10th October, 1955).

Executor's Duty to disclose Legacy: "Hawksley *v.* May" (Havers J.) (*S.J.*, 19th November, 1955).

Exclusive Possession—Is it test of occupation constituting Licence or Tenancy? (*S.J.*, 16th September, 1955).

Fatal Injuries Bill (*L.T.*, 7th January, 1956).

Finance Act (Ireland) 1955 (*I.L.T.*, 10th and 17th September, 1955).

First Assessment of Sub-Divided Flats under Rent Control (*S.J.*, 3rd September, 1955).

Food and Drugs—Consolidated English Legislation (*S.J.*, 7th January, 1956).

Found on Licensed Premises (*I.L.T.*, 8th, 15th and 22nd October, 1955).

Future of the Bar (*L.T.*, 21st October, 1955).

Gifts to Incumbents and the Like—"Re Rumball" (*S.J.*, 10th December, 1955).

Hiring and the Road Transport Acts: "A. G. *v.* Chambers" (Supreme Court) (*I.L.T.*, 3rd September, 1955).

Increase of Rent in case of Improvements—"Morcom *v.* Campbell-Johnson" (C.A.) (*S.J.*, 12th November, 1955).

Indulgence gratuitously granted: "Tool Metal Manufacturing Co. *v.* Tungsten Electric Co." (*H.L.*) (*L.T.*, 9th September, 1955).

Inheritance Act, 1938—Deceased's Obligation to Dependants: "Re Andrews" (Wynn Parry J.) (*S.J.*, 19th November, 1955).

Injuries sustained on Highway—Liability for (*L.T.*, 28th November, 1955).

Intention to reconstruct Business Premises good ground for opposing new tenancy:—"Atkinson *v.* Battison (C.A.) (*S.J.*, 26th November, 1955).

Irish Advocates (*L.T.*, 9th December, 1955).

PROCEEDINGS AGAINST SOLICITORS

THE Disciplinary Committee made an order on 10th February, 1956, directing that the name of Francis A. Walsh who practised at 28 South Richmond Street, Portobello, Dublin, shall be struck off the roll.

10th February, 1956.

ERIC A. PLUNKETT,
Registrar of Solicitors.

Solicitors' Buildings,
Four Courts,
Dublin.

STRIKING OFF AND SUBSEQUENT RESTORATION OF SOLICITOR

The following statement is published by direction of the Council.

On 9th December, 1955 the Disciplinary Committee made an order directing that the name of Alphonsus J. R. (otherwise Ronan A. J.) Tarrant of Sligo should be struck off the roll. The said Alphonsus J. R. Tarrant failed to comply with a notice requiring him to file an affidavit and he had failed to appear at the inquiry by the Committee, having been duly summoned by notice served at his office by registered post. The Committee found misconduct and postponed making their order for a fortnight to enable him to appear. He was notified by registered post but failed to appear on the day appointed. He was then struck off.

Mr. Tarrant subsequently applied by Counsel for restoration to the roll and satisfied the Committee that he had since the order of December 9th satisfied the complaint and fully indemnified the client against all costs incurred.

Certain undertakings were given to the Committee and on 13th January, 1956 they ordered that his name should be replaced on the roll.

MAYO SOLICITORS' BAR ASSOCIATION.

The following are the President and Officers for the year 1955-56:—President, Edmund A. Corr; Vice-President, William Dillon-Leetch; Hon. Treasurer, Bea Hynes; Hon. Secretary, Kevin P. Loftus; Council:—Messrs. P. J. Durcan, M. Moran, P. J. McEllin, T. V. O'Connor, A. V. G. Thornton.

COUNTY ROSCOMMON BAR ASSOCIATION.

At the Annual Meeting of the County Roscommon Solicitors Bar Association the following Officers were elected:—P. J. Neilan, Roscommon, President; John Kelly, Elphin, Chairman; J. T. Claffey, Castlerea, Vice-Chairman; J. J. Sheerin, Boyle, Treasurer; Oliver Macklin, Roscommon, Hon. Secretary.

Committee:—T. J. C. O'Keeffe, Roscommon; Patrick Sweeney, Roscommon; M. De L. Staunton, Castlerea, John Neilan, Roscommon; Thomas Callan, Boyle; John Scott, Elphin.

THE REGISTRY.

Register A

Assistant Solicitor (Protestant) required by old established firm, Northern border town in Republic. Conveyancing, Probate and general office work. Good prospects for suitable applicant. Please apply Box No. A161.

Old Established Practice in busy Southern Town for disposal. Average net income £1,250. Certified audited accounts over many years available. Box No. A162.

OBITUARY.

Mr. Jerome J. Ronayne, Solicitor, died on the 29th November, 1955 at Midleton, Co. Cork.

Mr. Ronayne served his apprenticeship with the late Mr. James Dunlea, Midleton, Co. Cork, was admitted in Trinity Sittings 1896 and practised at Midleton, Co. Cork.

Mr. Francis Devine, Solicitor, died on the 2nd February, 1956 at his residence 1, Burlington Road, Dublin.

Mr. Devine served his apprenticeship with the late Mr. James V. Dunn, 60 Middle Abbey Street, Dublin, was admitted in Hilary Sittings 1903 and practised under the style of Messrs. Horan & Devine, 89, St. Stephen's Green, Dublin.

Mr. Joseph Patrick Walshe, Solicitor, died on the 6th February, 1956 in Cairo, Egypt.

Mr. Walshe served his apprenticeship with the late Mr. Eugene F. Collins, 19 Eustace Street, Dublin, and was admitted in Michaelmas Sittings 1923. He was Secretary of the Department of External Affairs from 1923 to 1946 and was Irish Ambassador to the Holy See from 1946 to 1954.

REGISTRATION OF TITLE ACTS, 1891 AND 1942.

ISSUE OF DUPLICATE LAND CERTIFICATE

Notice.

Applications have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 4th day of March, 1956.

Joseph O'Byrne,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

Registered Owner — DENIS MCAULIFFE
Folio 12365 — County Limerick
Lands of Rathnaneane in the Barony of Glenquin containing 6a. or. 19p.

Registered Owner — EUGENE J. ROBINS
Folio 3781 — County Westmeath
Lands of Ballynagarby in the Barony of Clonlonan containing 147a. 2r. 3p.

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published since August, 1955.

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SUBJECT MATTER AND REFERENCE NUMBERS

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Athy Traffic (Parking and Waiting) Bye-Laws 1955—266/1955.

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Wexford Traffic (Parking and Waiting) Bye-Laws 1955—243/1955.

*Motor Cars (Temporary Importation) Regulations 1955—163/1955.

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MARCH,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL.

FEBRUARY 9TH: The President in the Chair. Also present Messrs. Ralph J. Walker and George G. Overend, Vice-Presidents, J. R. Quirke, F. X. Burke, John R. Halpin, George A. Nolan, Reginald Nolan, John J. Nash, Francis J. Lanigan, Sean O'hUadhaigh, Joseph P. Tyrrell, James J. O'Connor, John Dundon, C. E. Callan, F. J. Gearty, P. R. Boyd, Patrick F. O'Reilly, Niall Gaffney, William Norman, Peter E. O'Connell, R. McD. Taylor, Terence de Vere White, Desmond J. Collins, Derrick M. Martin, John Carrigan, Desmond Mayne, Charles Downing, Cornelius J. Daly, Joseph Barrett.

The following was among the business transacted:

Compensation Fund Committee.

THE Council considered and approved the report of the Compensation Fund Committee for the year ended 5th January, 1956.

Solicitors' Motor Insurance Policies.

THE Council considered a report from a Committee on the anomalous position of solicitors *vis-à-vis* medical practitioners in regard to insurance premiums where a car is driven by an assistant on the employer's business. The tariff companies make no increase where the car is driven by a locum tenens partner or assistant of a medical practitioner but in the case of solicitors there is an increase of 10 per cent. if the car is driven by anyone other than the insured. This increase will be only 5 per cent. if the extra cover is limited to one named person. The Committee reported that representations had been made without success to the insurance companies to place solicitors on the same terms as medical practitioners. The Committee were of opinion that further representations would not produce any useful result but directed that member's attention should be drawn to the position in view of the danger that a solicitor would not be covered against liability for negligence if the car were driven on professional business by any person other than the insured unless the policy had been extended.

Bar Associations.

IT was decided that the President should approach solicitors practising in areas where bar associations

have recently been dissolved with a view to having them revived, having regard to the part which can be taken by active bar associations in promoting the interests of the profession and of clients.

Income Tax Act 1918. Section 103.

A COMMITTEE reported that several members had asked for advice as to their obligation to complete form 8/2 issued by the Revenue Commissioners under Section 103 of the Income Tax Act, 1918, requiring them to make a return of income received on behalf of clients. It was decided that the opinion of senior counsel should be taken and further consideration was postponed.

Mining Lease.

A LESSOR granted a lease to enable the lessee to quarry stone, etc., on his lands for ten years subject to payment of £600 in one sum on the signing of the lease. The wording of the addendum in the lease was "Yielding and Paying therefor unto the lessee the sum of £600 on the signing hereof (receipt of payment whereof the lessor doth hereby acknowledge)." A dispute arose as to the scale of costs for which the lessee was liable. The first commission scale of charges under Schedule I, Part 2, S.R.G.O. 1884, is for "leases or agreements for leases at rack rent other than a mining lease or a lease for building purposes or agreement for the same." The second scale of charges is for "Conveyances in fee or for any other freehold estates reserving rent (not being a fee farm grant the Renewable Leasehold Conversion Act or the Church Temporalties Acts) or Building leases reserving rent, or other long leases not at rack rent or agreements for the same respectively mining leases or licences or agreements therefor." On the facts as between the parties the Council expressed the opinion that the single payment of £600 represented a commuted rent of £60 per annum and that the lease was a mining lease and the costs should be charged on the commission scale appropriate to a rent of £60 per annum according to the second scale Schedule I Part II, S.R.G.O. 1884 as amended. The Council were of opinion that for the purpose of this scale it is not necessary that a mining lease should be for a long term.

MARCH 1ST: The President in the Chair. Also present, Messrs. Ralph J. Walker and George G. Overend, Vice-Presidents, Henry St. J. Blake, George A. Nolan, John R. Halpin, Desmond Mayne, John J. Sheil, John J. Nash, Terence de Vere White, James R. Quirke, P. R. Boyd, Francis J. Lanigan, F. J. Gearty, T. A. O'Reilly, John Carrigan, Cornelius J. Daly, Niall Gaffney, William J. Norman, R. McD. Taylor, Desmond J. Collins, Francis Gallagher, Patrick F. O'Reilly, Arthur Cox, James J. O'Connor.

The following was among the business transacted:

Consultations in the Smoking Room.

THE Council decided that the Smoking Room will be reserved for members between 12 noon and 3 p.m. and that consultations may be held therein with counsel and witnesses before 12 or after 3 on any day.

Application to take apprentice.

ON a report from a Committee in special circumstances the Council granted permission to a solicitor to take an apprentice notwithstanding that he has not been in continuous practice for seven years under Section 29 (2) of the Solicitors' Act, 1954.

Omission of partners' names from notepaper.

THE Council expressed the opinion that it is undesirable that solicitors should practise as a firm using notepaper which omits the names of individual partners.

Statute of Limitations Bill 1955.

THE Legislation Committee considered a copy of this Bill which was received from the Department of Justice for observations. The Bill was circulated to the Society's lecturers and examiners who reported thereon and it was decided that copies of these reports should be sent to the Department for consideration in connection with the third reading of the bill.

Registry of Deeds micro-filming of documents.

A COMMITTEE of the Council considered suggestions that the Department of Justice should be asked to instal micro-filming apparatus in the Registry of Deeds and that micro-films of deeds should be substituted for memorials. The Secretary was directed to obtain the views of the Registrar of Deeds and to bring them before the Council.

Long Lease not at Rack Rent.

THE Council were asked on a submission to arbitration to decide the proper scale of costs of a renewal lease granted pursuant to part III of the Landlord and Tenant Act, 1931, for a term of 21 years at the yearly rent of £230 per annum plus rates. Under lease which was due to expire the premises were held for 16 years at a rent of £200 per annum subsequently reduced to £175 plus rates by agreement. The Council were asked to decide the scale of costs legally applicable and whether there were any

special circumstances which would justify a reduction in the costs having regard to the statement published by the Council in the May, 1954, issue of the Society's Gazette. The Council held that the lease was a long lease not at rack rent and that members should be referred to the statement published in May, 1954 and should be informed that there would be no objection to a reasonable reduction in the lessor's costs but that this was a matter for the parties themselves.

Workmen's Compensation Commission.

THE Secretary reported that the Minister for Social Welfare had requested the Society to submit a memorandum and to give evidence before the commission on matters arising within its terms of reference. The matter was referred to a committee of the Council and it was decided to ask the Bar Associations to assist in preparing a memorandum of evidence.

APPOINTMENT OF LAW LECTURER.

COUNCIL have appointed Mr. Patrick C. Kilroy, M.A., LL.B., of 7 Suffolk Street, Dublin, as the Society's lecturer on Company Law and Executorship Law and Practice. This is a new course of lectures established under the Solicitors' Act, 1954 (Apprenticeship and Education) Regulations, 1955 and which will commence in October, 1956.

EXAMINATIONS 1956.

THE following are the dates of examinations in 1956.

Preliminary examination March 26th and 27th and September 4th and 5th. Intermediate examination May 22nd and 23rd and September 3rd and 4th. Final examination March 26th, 27th and 28th and September 3rd, 4th and 5th.

First and Second Irish examinations June 29th and 30th and September 7th and 8th.

Notice must be given not later than three weeks before the date of each examination.

COSTS OF ACQUISITIONS BY THE STATE, LOCAL AUTHORITIES AND PUBLIC BODIES

MEMBERS are reminded that following the rescission of Rule II, Part I, Schedule I, S.R.G.O. 1884, the costs of solicitors acting either for the owners of land acquired either compulsorily or voluntarily or the costs of solicitors acting for the acquiring authorities will be chargeable on the commission scale basis and not by detailed charges unless the solicitor *before undertaking any business* notifies the client by writing signed by the solicitor that the remuneration will be charged under the old system as altered by Schedule 2, S.R.G.O. 1884, as amended. If such notice is given to the client *before undertaking any business* the acquiring authority will be bound by it. Under the terms of pargaraph 6, S.R.G.O. 1884, (1956 Calendar and Law Directory page 497), notice must be communicated to the client and where a solicitor acts for the owner notice to the acquiring authority alone will not be sufficient. While notice of election must be given to the client it would be advisable also to send it simultaneously to the local authority or other body paying the costs. In cases in which the price paid is small it may be to the advantage of the solicitor acting for the owner or for the local authority to charge in detail for the work done rather than on the commission scale basis.

CALENDAR 1956.

THE Society's *Calendar and Law Directory* is on sale. It contains all regulations to date under the Solicitors' Act, 1954. Price 10/–, post free 10/10.

DELAY IN THE VALUATION OFFICE.

THE President attended with representatives from the Council at a conference with the Commissioner of Valuation and officials of the Valuation Office to discuss the present unsatisfactory position and arrear of business in the office. It was agreed on both sides that the present delay in obtaining determinations as to the value of property for the purpose of Death Duties and Stamp Duties is unsatisfactory and the Commissioner informed the Society's representatives that a reorganisation plan has been drawn up and has been in operation since last August. Some time must necessarily elapse before the full effects of the re-organisation are apparent, but the Commissioner hopes that by June, 1956 the arrears would be equivalent to six weeks intake of business and that from then

(*a*) city cases would be dealt with in six weeks to two months except during the months of January and February in each year.

(*b*) country cases would be dealt with where inspection is required with a maximum delay of six months.

The longer period in country cases is due to the fact that valuers visit each county twice during the year and with the present staffing position it is not possible to arrange for more frequent inspections. The Commissioner will try to have cases in the Dublin suburbs dealt with as in city cases.

(*c*) Unnecessary delay will be avoided by en-

deavouring to agree valuations with the office and personal visits from solicitors for this purpose will be welcomed. It was pointed out that in some cases which might otherwise have been disposed of without undue delay difficulty had been caused by the unrealistic nature of the figures submitted to the Valuation Office.

(*d*) It was pointed out to the Commissioner that extra delay was caused when an application was made for a Certificate under Section 11 of the Finance Act, 1894, because if land or house property is included in the assets the value of such property had to be referred back to the Valuation Office for final determination when the Certificate was applied for and this meant a second delay.

It was suggested that where a solicitor knew he would, in due course, be applying for a Certificate under Section 11 rather than for a non-statutory Certificate (Form 149) he should mark the form 77 at the time of lodging the Schedule of Assets with a note asking that a final determination be made of the value of the property in the first instance and so avoid a reference back. The Commissioner promised to consider this suggestion but pointed out that if a final determination had to be made it entailed a more thorough investigation and it was possible that he would have to insist on a higher figure in some cases where, if no determination was sought he might have allowed it to pass without comment. This arises by reason of the fact that after a final determination the Valuation Office cannot re-open the figure even on a subsequent sale at a higher sum while the client can, on the other hand, claim repayment of duty if a sale is subsequently made at a lower figure.

Here again, it was pointed out that valuations may be expedited by direct dealings between solicitors and the valuation office and it was agreed that where a notice of objection to a valuation is sent to the Revenue Commissioners a duplicate copy should be sent to the valuation office and that correspondence on the subject of valuation might be conducted direct with that office.

EXCHANGE CONTROL DEALINGS IN BRITISH AND IRISH SECURITIES.

1. The purpose of the control of securities, exercised under Exchange Control legislation, is to prevent transactions in securities being used as a means of making unauthorised transfers of funds to countries outside the Sterling Area. General authority has been granted to Solicitors, Banks and Stockbrokers in the State to arrange any transaction in Irish or Sterling securities subject to the conditions set out below. In this connection Solicitors, Banks and Stockbrokers are referred to as "Approved Agents" in Ireland and as "Authorised Depositaries" in Great Britain.

CONDITIONS.

NOTE: Where a transaction is effected at the request of another Approved Agent or British Authorised Depositary, the solicitor may assume that the relevant conditions are fulfilled. In all other cases the solicitor must confirm whether or not the conditions are fulfilled, and if they are not, he must obtain the permission of the Minister for Finance before proceeding with the transaction.

(1) *Subscriptions to New Issues.*

(*a*) The client must be resident in the Sterling Area and not the nominee of a person resident outside;

or

(*b*) (i) the security must be one which will be quoted on a Stock Exchange, and

(ii) payment must be received in the State in an approved manner (*see* paragraph 2).

(2) *Sales and Transfers.*

(*a*) (i) The client must be resident in the Sterling Area and not the nominee of a person resident outside,

and

(ii) either the sale must be made through a Stock Exchange, or the solicitor must be satisfied that the transferee is resident in the Sterling Area and not the nominee of a person resident outside;

or

(*b*) The transfer is under the will or intestacy of a *deceased resident of the State;*

or

(*c*) (i) The sale must be made through a Stock Exchange,

and

(ii) either the proceeds must be lodged to a blocked account or be reinvested, without delay, through a Stock Exchange, in an Irish or Sterling security which cannot be redeemed within five years of the date of reinvestment.

(3) *Purchases/ Acceptances of Transfers.*

(*a*) (i) The client must be resident in the Sterling Area and not the nominee of a person resident outside,

and

(ii) either the purchase must be made through

a Stock Exchange, or the solicitor must be satisfied that the transferor is resident in the Sterling Area and not the nominee of a person resident outside;

or

(*c*) The transfer is under a will or intestacy;

or

(*d*) The purchase must be made through a Stock Exchange and payment received in the State in an approved manner (*see* paragraph 2).

2. *Approved manners of payment.*

The following manners of payment are appropriate for securities to be issued or transferred to persons resident outside the Sterling Area—

(1) U.S. or Canadian dollars; or

(2) Irish currency or sterling from an American or Canadian Account; or

(3) If the subscriber or transferee is not resident in the American Account Area or Canada, Irish currency or sterling from a transferable account, or any specified currency; or

(4) provided the security cannot be redeemed in full within five years, Irish currency or sterling from a blocked account.

A solicitor's bank will find out for him the type of account on which a particular Irish currency or sterling draft or cheque is drawn.

3. *Lodgments to Blocked Account.*

Where a lodgment is being made to a blocked account, in accordance with condition (2) (*c*), a Form E.4. should be completed by the solicitor and presented to the bank holding the account. Copies of Form E.4. may be obtained from any bank.

4. *Import and Export of Securities.*

Sterling bearer securities (not including temporary bearer securities such as renounceable letters of allotment, acceptance or rights, or scrip certificates to bearer) may be imported freely but may not be exported except to a British Authorised Depositary. All other Irish and sterling securities, including temporary bearer securities, may be freely imported and exported.

5. *Presentation of Documents to Registrars.*

Registrars in Ireland and Great Britain have been authorised to act on instructions received from Irish solicitors, on the understanding that any necessary Exchange control permission has been obtained by the solicitors.

6. *Applications for Exchange Control Permission.*

Applications for Exchange Control permission should be made by letter in duplicate addressed to the Department of Finance, Exchange Control Section; where appropriate, approval will be conveyed by endorsing one copy of the letter and returning it to the applicant.

7. *Further Information.*

For definitions of the terms "Sterling Area," "American Account Area" and "Specified Currency" and for further information see Notice IC No. 77 issued by the Department of Finance.

EXAMINATION RESULTS.

At examinations held on the 27th and 28th days of January, 1956 under the Solicitors' Act, 1954, the following passed the examinations:—

First Examinations in Irish.

Michael G. Cody, Oliver J. Conlan, Michael B. Creed, John G. Fish, Brian A. Garland, Michael F. Gleeson, John O. Lee, Patrick J. Madigan, Dermod X. Murphy, Brendan A. J. Murrin, Charles L. McDonnell, Thomas F. O'Connell, Francis J. O'Mahony, Christopher T. N. O'Meara, Evelyn Phelan, Donald O. Stuart, Daire Walsh.

20 candidates attended; 17 passed.

Second Examination in Irish.

Timothy D. Allman, Maureen P. Bourke, Peter P. J. Callery, Margaret T. C. Casey, B.A., Gerard Charlton, B.A.; Brian Claffey, B.A.; Francis J. Plunkett Dillon, Patrick A. Dorrian, John L. Egan, William J. B. Fallon, Michael G. Fogarty, Thomas J. Furlong, John F. Garavan, Patrick J. A. Gearty, Niall C. Gibbons, John P. C. Goff, Daphne M. Gordon, John L. F. Hayes, William D. J. Hodgins, Brendan J. Jones, James J. Kelly, Donal M. King, Edward A. G. Lane, Gregory A. Lynch, John Molan, Gerard A. Murphy, Alan J. McGonagle, B.A., LL.B.; Edmond J. K. McGrath, B.A.; John McKnight, B.A.; Richard M. Neville, B.A.; Carmel O'Connell, Walter B. O'Donoghue, B.A., LL.B.; Mary O'Keefe, John Niall O'Sullivan, Patrick C. Powell, Michael P. O. Purcell, Peter H. Quinlan, Alban B. Rigney, Thomas A. Twomey.

40 candidates attended; 39 passed.

GOLFING SOCIETY.

THE competition for the Captain's Prize (Mr. T. F. McKeever) will be held at Portmarnock on Thursday the 26th April, followed by the usual dinner and it is expected that there will be a very big attendance. The Enterprise (Interprovincial) Trophy will be played at Killarney on Saturday 12th May (the

week before Whit.), under the auspices of the Kerry Solicitors' Association. Details will be circularised to members in due course as usual. New members will be warmly welcomed. The names of those wishing to play at Killarney should be sent in as soon as possible to the Honorary Secretary, L. K. Branigan, Four Courts, as the numbers may possibly have to be limited.

COUNTY GALWAY SOLICITORS' BAR ASSOCIATION.

At a General Meeting of the Association held on February 28th, the following Officers and Council were elected for the year 1956: President, James P. Glynn; Vice-President, William B. Gavin; Hon. Treasurer, William B. Allen; Hon. Secretary, Sean F. Mac Giollarnath. Council: Thomas A. O'Donoghue, Daniel G. Shields, Christopher P. Crowley, Dominick H. Kearns, Edward C. Cooke, Henry St. J. Blake.

DUBLIN SOLICITORS' BAR ASSOCIATION.

A most enjoyable function was arranged for the members and their friends, at the Dolphin Hotel, on Monday, the 13th February, 1956. Almost 100 were present at a film show, which was followed by a running buffet supper. The function was organised by a special sub-Committee appointed by the Council of the Association.

HAGUE ACADEMY OF INTERNATIONAL LAW.

The Twenty-Seventh Session of the Hague Academy of International Law will be held in the Peace Palace, The Hague, Netherlands, from the 16th July to the 11th August, 1956. Admission is open to solicitors, barristers and university graduates and application should be made to the Secretariat of the Academy, Peace Palace, The Hague, who will send a form to be filled and returned. Further information may be obtained on application to the Secretary.

RECENT LEGAL LITERATURE (continued)

Joint Property and Estate Duty (*S.J.*, 10th December, 1955).

Jurisdiction over Infants—Statutory Restriction—"Re E. an Infant" (Roxburgh J.) (*S.J.*, 10th September, 1955).

Jus Spatiandi—"Re Ellenboro' Park" (Danckwerts J.) (*S.J.*, 13th and 20th August, 1955).

Landlord and Tenant (England) Act, 1954—"Statutory Tenancies" (*L.T.*, 19th August, 1955).

Landlord and Tenant—Landlord entitled to possession if tenant of business premises inadvertently assigns these without his consent—"Thompson *v.* O'Neill" (Judge McCarthy) (*I.L.T.*, 12th November, 1955).

Landlord and Tenant—Sister assignee entitled to remain in possession of premises vacated by tenant—"McCabe *v.* McGonigle" (Murnaghan J.) (*I.L.T.*, 31st December, 1955).

Landlord and Tenant—Occupying tenant who sub-lets part of the premises does not lose the protection of the Rent Acts in relation to the portion sub-let—"O'Donohoe *v.* Keogh" (Haugh J.) *I.L.T.*, 8th October, 1955).

Landlord's liability for repair subject only to notice of disrepair: "Uniproducts Ltd., *v.* Rose Furnishers Ltd." (H.C.) (*S.J.*, 4th February, 1956).

Legal Aid in Magisterial and Criminal Proceedings (*S.J.*, 10th December, 1955).

Legal Aid Problems (*L.T.*, 12th August, 1955).

Locke—Kings Acts: Liability of Property to bear its own Charges (*S.J.*, 21st January, 1956).

Lorry Driver held personally liable to insurers of his employers in respect of their vicarions liability to follow employee as a result of negligence: "Romford Ice and Cold Storage Co. *v.* Lister" (C.A.) (*L.T.*, 20th January, 1956).

Metal in Black Pudding not due to defendant's lack of care in preparing food "Fleming *v.* Denny & Sons" (Supreme Court) (*I.L.T.*, 10th September, 1955).

Misfeasance Summons under Companies Acts: "Re B. Johnson & Co. (Builders) Ltd. (C.A.) (*L.T.*, 2nd December, 1955).

Non-Cohabitation Clause (*S.J.*, 27th August, 1955).

Notes from the Temple—Legal Aid (*I.L.T.*, 24th December, 1955).

Noteworthy Decisions of Judicial Year (*L.T.*, 19th and 26th August and 2nd, 9th, 16th, 23rd and 30th September, 1955).

Noteworthy Statutes of the Year (*L.T.*, 16th and 23rd September, 1955.

Notice of Intended Prosecution—Service on Unconscious Man—"Sandland *v.* Neale" (H.C.) (*L.T.*, 9th December, 1955).

Nuisance on Highway—Liability of Adjoining Owner—"Penney *v.* Berry" (C.A.) (*S.J.*, 1st October, 1955).

Options to purchase settled land at a valuation (*S.J.*, 4th February, 1956).

Opposing a New Rating Assessment (*S.J.*, 7th and 14th January, 1956).

Protection of Business Tenant at Will (*S.J.*, 28th January, 1956).

Persistent Delay in Paying Rent (*S.J.*, 1st October, 1955).

Poplar Trees—"Jennings *v.* Tavener" and "McCombe *v.* Read" (*L.T.*, 9th December, 1955).

Position of Sub-Contractors in Building Contracts (S.J., 3rd December, 1955).

Practical Procedure Cases (*S.J.*, 17th and 24th September, 1955, and 1st October, 1955).

Problems of Disclaimer of Land—"Re Nottingham General Cemetery (H.C.) (*L.T.*, 19th August, 1955).

Procedure and the Statute Book: Administration of Justice Bill (England) 1955 (*S.J.*, 3rd December, 1955).

Professional Ethics—The Solicitor (*L.T.*, 9th September, 1955).

Public Nuisance in the Highway—"Trevett *v.* Lee" (C.A.) (*S.J.*, 4th February, 1956).

Purchaser's Remedy when Vendor fails to complete (*S.J.*, 29th October, and 5th November, 1955).

Purchaser in possession paying Instalments pending Completion is a Licensee—"Wheeler *v.* Mercer" (C.A.) (*S.J.*, 17th December, 1955).

Queen's Proctor cannot issue Irish debtor summons in Bankruptcy in respect of costs incurred in English divorce proceedings (Budd J.) (*I.L.T.*, 24th December, 1955).

Rated Occupier (*I.L.T.*, 27th August, 1955).

Rating and Valuation Act (England) 1955 (*S.J.*, 3rd September, 1955).

Rating of Premises used for religious and charitable purposes (*S.J.*, 10th December, 1955).

Registration of Title to Land—A Critical Examination (*L.T.*, 30th December, 1955 and 13th January, 1956).

Rent Control: Exemption of Housing Trusts—"Guinness Trust *v.* Green and Cope" (C.A.) (*S.J.*, 27th August, 1955).

Rent fixed by Court for ensuing 21 years for shop in Drimnagh after expiry of 5 year agreement—"Mulligan *v.* Associated Properties" (Haugh J.) (*I.L.T.*, 15th October, 1955).

Reservation of Rent containing Gold Clauses—"Treseder-Griffin *v.* Co-Operative Insurance" (H.C.) (*S.J.*, 21st January, 1956).

Revaluation and the New English Rating Act (*S.J.*, 17th December, 1955).

Recent Road Traffic Cases (*S.J.*, 27th August, 1955).

Rights of Deserted Wife in Matrimonial Home (*L.T.*, 26th August and 2nd September, 1955)

Royal Commission on Taxation and Income Miller:—Tucker Report (*S.J.*, 27th August and 3rd and 10th September, 1955).

Safe Means of Access to Factories (*S.J.*, 27th August, 1955).

Sale by Surviving Joint Tenant (*S.J.*, 12th November, 1955), and 3rd December, 1955).

Sales under Private Street Works Legislation (*S.J.*, 3rd September, 1955).

Servant lent out by Master to third party—Whose responsibility? (*I.L.T.*, 17th December, 1955).

Slaughterhouse Licences—Tralee Slaughterhouse Case (*I.L.T.*, 28th January and 4th February, 1956).

Shooting on Sundays (*L.T.*, 13th January, 1956).

Surgeon's Liability for Negligence—Removal of Swabs and Packs (Eddy) (*L.T.*, 16th December, 1955).

Stamp Duty and Building Agreements (*L.T.*, 4th November, 1955).

Stopping Up and Diverting of Highway—Appeal by Person Aggrieved (*L.T.*, 23rd September, and 7th and 21st October, 1955).

Scottish Criminal Procedure (*I.L.T.*, 31st December, 1955).

Sharing rooms under a Tenancy (*S.J.*, 27th August, 1955).

Solicitor's Amendment Bill 1955 (England)—Text of (*S.J.*, 31st December, 1955).

Sub-Tenant protected in Rent Control (*S.J.*, 10th September, 1955).

Suspended Rates Increase under Rent Control (*S.J.*, 17th September, 1955.

Sub-Letting as a "Business"—"Bagettes Ltd., *v.* G. P. Estates" (H.C.) (*S.J.*, 24th December, 1955).

Stairs (*I.L.T.*, 24th September, 1955).

Taxation of Capitalisation Issues (*S.J.*, 20th August, 1955).

Tenant for Life as Trustee under Settled Land Acts—"Re Pelly decd." (Wynn Parry J.) (*L.T.*, 6th January, 1956).

Trade Unions—Remedy against—"Bonsor *v.* Musician's Union (H.L.) (*L.T.*, 25th November, 1955).

Transfer of Shares—Contract for, by one company to another—Shares of dissenting shareholders may be acquired within 4 months if by a nine tenths majority—"Re Western Manufacturing Ltd" (H.C.) (*S.J.*, 28th January, 1956).

Trespass (*I.L.T.*, 1st October, 1955).

Trial on Indictment or Summarily (*S.J.*, 1st October, 1955).

Tribunals and Administrative Procedure (*S.J.*, 10th, 24th and 31st December, 1955).

Trustees, Beneficiaries and Occupation—"Frish Ltd. *v.* Barclay's Bank". (C.A.) and "Hill's (Patents) Ltd. *v.* University College Hospital" (C.A.) (*S.J.*, 10th December, 1955).

Trusts for provision of Public Recreation Grounds—"Re Morgan Decd." (Harman J.) (*L.T.*, 25th November, 1955).

Trustee's Duty to provide information—"Hawksley *v.* May" (H.C.) (*L.T.*, 16th December, 1955).
Variation of Trusts—"Re Chapman" and "Re Simmons" (*S.J.*, 28th January, 1956) and (*L.T.*, 27th January, 1956).
Venue—High Court or County Court (*L.T.*, 3rd February, 1956).
Warranties on Sale of Motor Car (*S.J.*, 3rd September, 1955).
Workmen's Compensation—Employers in default of payments is not entitled to a review—"Devaney *v.* Abbeytown Mining Co." (Judge Lynch) (*I.L.T.*, 7th January, 1956).
Workmen's Compensation—Redemption Proceedings should be instituted by Notice of Motion—"Charlton *v.* Commrs. of Public Works" (Judge Lynch) (*I.L.T.*, 24th December, 1955).
Writers and the Law—Charles Lamb (*L.T.*, 6th January, 1956).

LIST OF LIBRARY ACQUISITIONS.

as compiled to 1st March, 1956.

Adkin—*Law of Dilapidations*, 4th edition, 1955; Australia—*Report of Royal Commission on Espionage*, 1955; *Australian and New Zealand Law List*, 1954 (donation); Bagenal—*Compendium of Board of Works Loan Acts* (1876) (donation); Bamber and Hunt—*Manual of Modern Mining Law* (1930); Barton and Barnes on the Death Duties (1890); *Belfast and Ulster Directory*, 1955; Benjamin on Sale—5th edition (1906); Bingham—*Motor Claims Cases*, 3rd edition (1954); Blundell and Wellings—*Rent Restriction Cases Annotated*, 3rd edition (1955); Bolton and Hughes—*Duties of a Company Secretary* (1950); Bolton—*Labourers Acts* (1908) 2 vols.; Bolton—*Housing of the Working Classes Acts*; Boughen-Graham—*Covenants*, Settlements and Taxation (1954); Breakey—*Handbook of Common and Statute Law of Ireland* (1895); Brown on *Law of Contract* (pamphlet, 1955); Bundesministerium (German Federal Ministry)—*Schrifttum zum Marshallplan* (bibliography relating to the Marshall Plan), 1953; Butterworth—*Empire Law List*, 1954-55 (donation); Byles on *Bills of Exchange* 21st edition, 1955.

Canadian Law List, 1954 (donation); Cairns—*Law of Tort in Local Government*, 1954; *Catholic Directory of Great Britain*, 1956; Charlesworth—*Principles of Planning Law*, 1948; Cherry and Wakely, *Irish Land Acts* (1888); Cheshire and Fifoot—*Law of Contract with Irish Supplement*, 3rd edition, 1952; Clancy, on *Irish Land Act of* 1896; Cleary and McWalter—*Public Health (Ireland) Amendment Act*, 1907; Colles, on *Irish Lunacy Law*, 1878; Cotton, on *Irish Public Health Acts*, 1891; *The Conveyancer*—Index of Articles and Precedents, Vol. 1–18 (1955); Crabb—*Conveyancing Precedents*, 1859; Crowther—*Religious Trusts*, 1954; *Current Law Year Book*, 1952, 1953 and 1954—and monthly from January, 1955.

Dail Eireann—*General Index to Parliamentary Debates*, 4 vols. (Vol. I—1922-27; Vol. II—1927-37; Vol. III—1937-40; Vol. IV—1940-47); De Moleyns—*Landowners Guide*, 8th edition, 1899; Dew, on *Divorce Law*, 1955; Drummond and Smith—*Irish Supreme Court Practice*, 1891; Dublin University—(Trinity College)—*Calendar*, 1955–56; Dymond and Johns—*The Death Duties*, 12th edition, 1955; Eddy—*Professional Negligence*, 1955; Edinburgh University—*Calendar*, 1955–56; Edwards—*Mens Rea in Statutory Offences*, 1955; *Encyclopaedia of Forms and Precedents*, 2nd edition, 20 vols., 1925; England—*Civil Judicial Statistics*, 1954.

English and Empire Digest—Third Cumulative Supplement, 1955; *English and Empire Digest*—Replacement Volumes 9 & 10 (Companies); Fletcher on *Law of Landlord and Tenant* (pamphlet, 1955); Fottrell—*Irish Tramway Acts*, (1883); Geary—*Official Cost of Living Index Number* (pamphlet); Gilchrist-Smith, on *Conveyancing* (pamphlet), 1955; Gill—*Notes on Costs*, 1927; Glanville-Williams—*The Proof of Guilt*, 1955; *Glasgow University Calendar*, 1955–56; Goodhart—*Essays in Jurisprudence and in the Common Law*, 1950 (donation); Griffith, on *Law of Torts* (pamphlet), 1955; Hague Academy of International Law—*Collection of Courses*—General Index, Vols. 1 to 84 (1923–1954); Halsbury—*Laws of England*, 3rd edition, ed. Lord Simonds, Vols. 10–13 published (Subjects—Compulsory Acquisition of Land and Criminal Law to Ecclesiastical Law and Education); Halsbury—*Laws of England*, 3rd edition, Cumulative Supplement, 1955; Hanna—*War and Suspension of Legal Remedies*, 1914; Hanson—*Death Duties*—6th Cumulative Supplement to 9th Edition, 1955; Hamson and Plucknett—*The English Trial and Comparative Law*, 1952; Hamson, Denning, Goodhart and Glanville-Williams—*Law Reform and Law Making* (broadcast talks, 1953); Hardy-Ivamy—*Show Business and the Law*, 1955; Harris—*Law of Lunacy in Ireland* (another copy); *Harvard Law Review*—Monthly from Volume 64, No. 5—March, 1951; Hene—*Law of Sea and Air Traffic*, 1955; Hill and Kerrigan—*English Town and Country Planning Act*, 1947—with Supplement, 1949; Hughes—*Irish Land Acts of* 1923 and 1927 (another copy).

Institute of Advanced Legal Studies, London (donations)—(1) *Survey of Legal Periodicals in British*

Libraries (1949); (2) *Union List of Commonwealth Law Literature in Oxford, Cambridge and London* (1952); (3) *Union List of United States Law Literature in Libraries in Oxford, Cambridge and London* (1954). Incorporated Law Institute of New South Wales (70th Annual Report), 1954; Industrial Credit Company—21 *Years of Industrial Financing* (1933–1954); Incorporated Law Society of Ireland—*Reported Cases on Costs* (1867–1891); *Incorporated Law Society Calendar*, 1955 and 1956; Institute of Chartered Accountants in Ireland—List of Members, 1955; Ireland—*Bound Statutory Instruments*, 1951 (2 vols.) and 1952 (2 vols.); *Ireland*—Central Bank Report, 1955; Ireland—*Finance Accounts*, 1954–55; Ireland—*Household Budget Inquiry*, 1951–52; Ireland—*Revenue Commissioners*, 31st Annual Report, 1954; Ireland—*Statistical Abstract*, 1954; *Irish Catholic Directory*, 1956; *Irish Forms and Precedents* (another copy); *Irish Tax Case Leaflets* (bound).

Jellett—*Common Law Practice in Ejectment*, 1865 (donation); Johnston—*Irish Land Act of* 1903 (donation); Kisbey—*Irish Land Act of* 1881 (donation); Kime—*International Law Directory*, 1954 (donation); *The Law List*, 1955; Law Society of Scotland—*Annual Report*, 1954; Leslie—*The Law of Transport by Railway*, 1920; *Liverpool University Calendar*, 1955–56; Love—*Schedule of Costs* (another copy); McCarthy—*Cases in Irish Land Law* (donation); *Manchester University Calendar*, 1955–56; Martindale-Hubbell—*Law Directory*, 3 Vols., 1954 (donation); Megarry—*Manual of Law of Real Property*, 2nd edition, 1955; Munkman—*Employer's Liability at Common Law*, second edition, 1950.

National University of Ireland—(1) *Calendar*, 1955; (2) *Graduate and Sessional Lists*, 1955; *New South Wales Law Almanack*, 1955; New York Bar Association—*Yearbook*, 1955; O'Neill—*Commercial Who's Who and Industrial Directory of Ireland*, 1955; O'Sullivan—*The Labourer's Acts* (donation); Palmer—*Company Precedents*, 14th edition, 3 vols., 1931–33; Pollard—*The English National Insurance (Industrial Inquiries) Acts from* 1946 *to* 1953 (pamphlet); Queen's University, Belfast—*Calendar*, 1955–56; Rating Officer's Association—Exemptions from Rating, 1954; Royal Commission on Taxation and Income—Final Report, 1955; Royal Institute of Architects—*Yearbook*, 1954.

Scottish Law Agents Society Memorandum Books, 1950 to 1955; Seanad Eireann—*General Index to Parliamentary Debates*, 2 vols. (Vol. I—1922–36; Vol. II—1938–48); Shawcross and Beaumont—*Air Law—Second Cumulative Supplement to 2nd edition*, 1955; Smith—*Irish Probate Practice* (another copy); Sohm—*Institutes of Roman Law* (1901); Society of Incorporated Accountants and Auditors, London—Syllabus of Examinations, 1953; Starke—*Introduction to International Law*, 1947; Street—*Law of Local Government in Ireland* (another copy); Superior Courts in Ireland—Judgments in Cases under the Criminal Law and Procedure (Ireland) Act, 1887 (1903); Swan—*Law of Vendor and Purchaser*, 1912.

Thom's Directory for Ireland, 1955; Trinity College, Dublin—*Register of Graduates*, 6th edition, 1955; Tristam and Coote—*Probate Practice*, 20th edition, 1955; Topham—*Company Law*, 12th edition, 1955; *United States Government Organisation Manual*, 1955–56; University College, Cork—*Calendar*, 1955–56; University College, Dublin—*Calendar*, 1955–56; University College, Galway—*Calendar*, 1955–56; Vickery—*Law and Accounts of Executors and Trustees*, 12th edition, 1955; *Whitaker's Almanack*, 1956; *Who's Who*, 1955; *World Almanack* (New York, 1955)—*British Journal of Administrative Law*, from Vol. I, 1954.

OBITUARY.

Mr. James Harte, Solicitor, died on the 7th February, 1956, at his residence, Troyswood, Kilkenny.

Mr. Harte served his apprenticeship with the late Mr. Michael M. Murphy, Kilkenny, was admitted in Trinity Sittings, 1896 and practised as senior partner in the firm of Messrs. James Harte & Son, Kilkenny.

Mr. Louis A. Meldon, Solicitor, died on the 22nd February, 1956 at Burlington Nursing Home, Burlington Road, Dublin.

Mr. Meldon served his apprenticeship with the late Mr. Louis Meldon, 14 Upper Ormond Quay, was admitted in Trinity Sittings, 1919 and practised under the style of Messrs. Meldon & Co., 71 Dame Street, Dublin.

Mr. David Fleming, Solicitor, died on the 29th February, 1956 at Maryville, Charleville, Co. Cork.

Mr. Fleming served his apprenticeship with Mr. Owen Binchy, Charleville, Co. Cork, was admitted in Easter Sittings, 1930 and practised at Charleville, Co. Cork.

Mr. John Joseph Walsh, Solicitor, died on the 29th February, 1956 at a Dublin Nursing Home.

Mr. Walsh served his apprenticeship with the late Mr. Frederick G. Sharpe, 16 College Green, Dublin, was admitted in Easter Sittings, 1922 and practised as partner in Messrs. McKeever & Son, 6 Foster Place and Drogheda, Co. Louth.

THE REGISTRY.

Register A.

Assistant Solicitor (Protestant) required by old established firm, Northern border town in Republic. Conveyancing,

Probate and general office work. Good prospects for suitable applicant. Please apply Box No. A161.

SOLICITORS PRACTICE for immediate sale in provincial town in Munster. Over twenty years established. Box No. A163.

WANTED: young solicitor with not less than three years' experience since admission for busy and growing general practice in Uganda, particularly to deal with conveyancing of registered land and company matter. Prospects of partnership which can be purchased from income if necessary; unmarried man preferred; salary by arrangement, leave every three years. Apply Box. No. A164.

Register C.

A WILL of Miss Elizabeth Ebrill, late of Summerville Cottage, South Circular Road, Limerick, who died on the 6th of July, 1955, is sought. Will any person having possession of, or information which might lead to the discovery of such Will, please communicate with Peebles Knox & Pigot, Solicitors, 21 Kildare Street, Dublin.

WILL any solicitor having knowledge of the Will of Coleman Maguire of Carrowshanbally, Gurtymadden, Ballinasloe, County Galway who died in or about 26 years ago and/or the Will of his son, Joseph Maguire, of same address who died in January, 1956, kindly communicate with A. D. Comyn & Co., Solicitors, Loughrea, Co. Galway.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

NOTICE.

Folio 533 County Tipperary
Registered Owner DAVID O'BRIEN

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of March, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of David O'Brien to 24a. 3r. 4p. of the lands of Crannavone situate in the Barony of Iffa and Offa West and County of Tipperary being the lands comprised in said Folio.

Printed by Cahill & Co., Ltd., Parkgate Printing Works, Dublin.

Vol. 49
No. 10

APRIL,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL.

MARCH 22ND: The President in the Chair. Also present Messrs. George G. Overend, Ralph J. Walker, Vice-Presidents, Francis J. Lanigan, James R. Quirke, John R. Halpin, Derrick M. Martin, Niall Gaffney, James J. O'Connor, Joseph P. Tyrrell, Peter E. O'Connell, William J. Norman, C. E. Callan, P. R. Boyd, John J. Nash, Joseph Barrett, Reginald Nolan, R. McD. Taylor, Thomas A. O'Reilly, Cornelius J. Daly, Patrick F. O'Reilly, Desmond J. Collins, Desmond J. Mayne, John Carrigan, John B. Jermyn.

The following was among the business transacted:

Statute of Limitations Bill, 1955.

THE Council considered a report from a committee stating that the Bill had been examined by the Society's examiners and lecturers who had sent in reports which had been forwarded to the Department of Justice.

Solicitors and Auctioneers.

A COMMITTEE reported that representations had been received from a bar association about alleged interference by auctioneers between solicitor and client with the object of diverting or directing clients to particular solicitors. By direction of the Committee the Secretary had sent a circular to the bar associations asking for their observations.

Change of Solicitors.

PROVISION for costs of former solicitor. The Council adopted a report from a Committee stating that there is no general or universal rule whereby a solicitor should not act for a client in business where the client has been represented by another solicitor unless provision is made by the client for payment of the other solicitors' costs.

ORDINARY GENERAL MEETING.

AN ordinary general meeting of the Society will be held in the Library, Solicitors' Buildings, Four Courts, Dublin, on Thursday, 10th May, 1956, at 2.30 o'clock.

CALENDAR AND LAW DIRECTORY, 1956.

THE Calendar is on sale at the Society's office. Price 10/–, post free 10/10d.

COMMISSION ON WORKMENS' COMPENSATION.

THE terms of reference of the commission are to examine and report on the present system of Workmens' Compensation and the question of replacing it by a scheme of national insurance or otherwise and to make recommendations. The Council have been asked by the Minister for Social Welfare to submit a memorandum and a circular has been issued to the local bar associations. Members interested should write to their bar associations.

FATAL INJURIES ACT, 1956.

THE Fatal Injuries Act is an important piece of legislation which repeals the Fatal Accidents Acts of 1846 (better known as Lord Campbell's Act) 1864 and 1908. This codifying legislation came into force on the 1st April, 1956, but does not apply in relation to the death of any person before that date.

The important provisions of the former Acts, are re-enacted. For instance where the death of a person is caused by the wrongful act, neglect or default (including a crime) or act as would have entitled the party injured, but for his death, to maintain an action and recover damages in respect thereof, the person who would have been so liable shall be liable to an action for damages for the benefit of the dependants of the deceased. The word "dependant" in this connection has been widened to mean any member of the family of the deceased who suffers loss and the word "member of the family" includes not merely wife and husband and ancestors up to grand-parents, but also includes a stepfather and stepmother; it includes too, descendants down to grandchildren, as well as a step-child and brother, sister, half-brother and step-children and brother, sister, half-brother and half-sister. An adopted child or a natural child are to be considered to be legitimate. This action may now be commenced within three years of death instead of one year as formerly, and must be for the benefit of all the dependants. The action may be brought firstly by the personal representative of the deceased, but if he has not done so within six months of the death, it may be brought by all or any of the dependants. The plaintiff is to furnish the defendant with particulars of the persons for and on whose behalf the action is brought and of the nature of the claim in respect of which damages are sought to be recovered. The damages to be awarded shall be the total of the amounts as the jury or the judge, as the case may be, think proportioned to the injury resulting from the death to each of the dependants respectively on whose behalf the action is brought. Each such amount shall be separately indicated in the award and is to be divided in such shares as the judge or jury may have determined. Damages may also be awarded in respect of funeral and other expenses actually incurred, either by the deceased, the dependants or the personal representative by reason of a wrongful act, neglect or default. In paying money into Court it shall be sufficient for the defendant to pay it in one lump sum as compensation for all the dependants without apportioning it. In assessing damages, account shall not be taken of sums payable on the death of the deceased under any contract of insurance or of any pension or gratuity payable under statute or otherwise in consequence of the death of the deceased.

The liability of the deceased as to his debts shall not be terminated by his death but shall be a liability of his real and personal estate for a period of six years in like manner and with a like priority as a debt under a simple contract. Accordingly proceedings under this act may be instituted against his personal representatives in respect of his debts, and furthermore proceedings instituted against any person shall not abate on his death but may be continued against his personal representative.

The Minister for Finance shall be liable to an action for damages under this act for the benefit of the dependants of the deceased if the death of a person is caused by the negligent driving, management or control of a mechanically propelled vehicle belonging to the State. Note that this does not apply to a pedal cycle or to a horse drawn vehicle. Such proceedings may be brought against the Minister without obtaining the prior fiat of the Attorney General. All the customary defences open to a master sued for damages in respect of his servant's negligence (including contributory negligence and the defence that the servant was not acting in the course of his employment) shall be open to the Minister and, if proved, shall be a good defence to the same extent as if the Minister were in fact the master. However no person shall be relieved from liability in respect of loss caused by his own negligence.

ASPECTS OF RECENT ROAD-TRAFFIC LEGISLATION IN IRELAND AND NORTHERN IRELAND (Contributed).

THE modern tendency of making the State the provider of all needs, has made the truism—hard cases make bad laws-sound like an outworn *cliche*. Lawyers with a grasp of philosophy as well as positive law, realise the danger that lurks in leaving

everything to the State and particularly where law reform becomes the prerogative of persons who preen themselves more on their powers for improvising temporary expedients than for resolving juristic issues in the light of generally-accepted principles.

Accordingly while the law is undergoing multiple changes—changes very often effected without much philosophic reflection or prior consultation with those who could offer valuable guidance—lawmakers have a grave responsibility to withold measures until an evaluation has been made as to the probable effect on the common good. To shun that responsibility means only that confusion and injustice will arise.

The recent statute—The Fatal Injuries Act, 1956 (No. 2 of 1956) is an example of the type of incompleteness which irritates the legal mind. Section 7 creates a right to damages where through the negligent driving of a state-owned *mechanically propelled vehicle*, a person is injured and dies from the injuries. The wording of the section corresponds with that of section 170 of the Road Traffic Act, 1933 (No. 11 of 1933) where the right was given for a non-fatal injury. The two Acts dispense with the fiat of the Attorney General which was formerly necessary before proceeding against a Minister of State.

But why is the new right limited to the negligent driving of a State-owned *mechanically propelled vehicle?* The person who meets with personal injury through the negligent driving of a pedal cycle or a vehicle drawn by a horse owned by the State, has not a corresponding right. That confusion exists through this anomalous state of the law is apparent from a statement made by a lawyer in the service of the State, namely that before proceeding against the Minister for Finance for damages arising out of the negligent driving of a State-owned vehicle the fiat of the Attorney General was no longer necessary. (Cf. Public Administration, Vol. II, pp. 20, 21, Civics Institute, Ireland).

Some features in the Road Traffic Act (Northern Ireland) 1955, are likely to be of interest to solicitors practising in the Republic. The expression "motor vehicle" in the Northern Ireland Act comprises what in the Republic is contained in the expression "mechanically propelled vehicle." But the expression "vehicle" does not include a "pedal cycle" or a "vehicle drawn by a horse or other animal," as it does in the Republic. Hence some of the incongruous situations which arise in the Republic are avoided in Northern Ireland. A manifest injustice for example is to be seen in the provisions contained in over-lapping sections of the Road Traffic Act, 1933—e.g., Sects. 173 and 175, whereby a pedal cyclist becomes amenable to a wider range of offences in respect of the act *of driving or riding a pedal cycle* than those applicable to the driver of a mechanically propelled vehicle; also the penalties applicable to the pedal cyclist are of the same order as these applicable to the driving of a mechanically propelled vehicle notwithstanding that the power of a pedal cyclist to cause serious injury or damage is not nearly as great as that of the driver of a motor vehicle.

Whether our legislature intended that a "pedal cycle" or a "horse drawn vehicle" should be included in the expression "vehicle" as used in sections 50 and 51 of the Road Traffic Act, 1933, is a debatable point. It is significant, that the part of the Act which contains sections 50 and 51 is entitled "Speed Limits for mechanically-propelled Vehicles" but this is unavailing because it is not permissible to use the title of a part of an Act for the purpose of construing the intention of the legislature in regard to ensuing sections (cf. Interpretation Act, 1937, sec. 11).

Another interesting feature of the Northern Ireland Act is the use of the expression "driving dangerously" to comprise both *driving at a speed or in a manner which was dangerous to the public*. . . . Also a pedal cyclist or driver of a horse-drawn vehicle can be convicted of "*driving carelessly*" (as can the driver of a motor vehicle) but only a motor driver can be convicted of *driving dangerously*.

The approach in Northern Ireland to the "notice of intention to prosecute" is more realistic than in the Republic, as the onus is placed on the "person prosecuted" to prove not only that he did not get a notice but that he was prejudiced in his defence through not receiving it.

In Northern Ireland the penalty for "riding" or "being in charge of" a pedal cycle or of a horse-drawn vehicle while drunk, is less than for a corresponding offence committed by the driver of a "motor vehicle." (£50 fine as against 12 month's imprisonment and £200 fine on summary conviction)

When in Northern Ireland the driver of a motor vehicle is convicted for being "drunk in charge" the law provides that the Court may modify the disqualification according to the circumstances as defined.

While propaganda for furthering road safety is best left to voluntary bodies, such as the Safety First Association of Ireland, the co-operation of local authorities is necessary for an effective indoctrination of the public. In Northern Ireland the Government has recognised this by permitting local authorities to expend money towards advancing measures for accident-prevention. In addition precautions are kept to the fore by requiring an

applicant for a driving licence to submit to a test of competence—a much needed requirement in the Republic.

Will our government realise that while there is plenty of room for improvement in the road-traffic law, this can best be achieved by seeking advice from those with a wide experience of road-traffic problems? In this connection it may be well to recall that when the Road Traffic Bill 1932 was going through the Dail a *casus ommissus* would have been created but for the intervention of a solicitor in private practice as a result of which a last minute section was inserted in the Bill.

It is to be hoped that no time will be lost in giving consideration to the above aspects of law reform.

GIFT OF AMERICAN LAW BOOKS.

His Excellency William Howard Taft III, United States Ambassador to Ireland, has very kindly donated as a free gift to the library the undermentioned volumes which were formerly in the American Information Library in Fleet Street, Dublin, prior to its closing in January, 1956. Mr. Taft's generous gesture, as well as the kind co-operation of the staff of the American Information Library, and of Mr. T. D. McLoughlin, who was instrumental in arranging this gift, is gratefully acknowledged.

Here follows an alphabetical list of the books :—

Annals of the American Academy of Political and Social Science, Philadelphia. May, 1946—The Netherlands during German Occupation. May, 1948—Peace Settlements of World War II. July, 1949—World Government. March, 1950—Aiding Under-Developed Areas Abroad. May, 1950—Gambling. July, 1950—Formulating a Point Four Economic Programme. January, 1952—Medical Care for Americans. July, 1951—Lessons from Asia. November, 1951—The Search for National Security.

ANDERSON (William)—*The Nations and the States, Rivals or Partners?*—1955. BALDWIN (Roger N.)—*A New Slavery—Forced Labour in Communist Countries*—1953. BARTHOLOMEW (Paul)—*Summaries of Leading Cases on the Constitution*—1954. BAUER (Elizabeth Kelly)—*Commentaries of Leading Cases on the Constitution*—1954. BOSTON UNIVERSITY—*The Gaspar G. Bacon Lectures on the Constitution of the United States* (1940–1950)—1953. CAHN (Edmond), ed. :—*Supreme Court and Supreme Law*—1954. COMMAGER (Henry Steele), ed. :—*Documents of American History*, 5th Edn.—1949. COYLE (David Cushman)—*The United States Political System*—1954. DOMICK (Marshall Edward)—*American Government in Action*—1947. FRIEDRICH (Carl) and MCCLOSKEY (Robert;) eds. :—*The Roots of American Constitutionalism from the Declaration of Independence to the Constitution*—1954. GABRIEL (Ralph), ed. :—*Hamilton, Madison and Jay on the Constitution—Selections from the Federalist Papers*—1954.

HAINES (Charter Grove)—*The Role of the Supreme Court in American Government and Politics* (1789–1835)—1944. *Harvard Law Review*—from March, 1951 to January, 1956. HUGHES (Charles Evans)—*The Supreme Court of the United States*—1928. HOLCOMBE (Arthur N.)—*Our More Perfect Union*—from 18th century principles to 20th century practice—1950. HYMAN (Sydney)—*The American President*—1954. JACKSON (Robert)—*The Supreme Court in the American System of Government*—1955. KETCHUM (Richard M.) ed.:—*What is Democracy?*—1955. KETCHUM (Richard M.), ed. :—*What is Communism?*—1955.

NEVINS (Allan)—*Ford: The Times, The Man, The Company*—1954. NEWMAN (Edwin S.), ed. :—*The Freedom Reader*—1956. MARKE (Julins)—*The Holmes Reader* (Writings of Justice O. Wendell Holmes)—1955. MCLAUGHLIN (Andrew)—*Constitutional History of the United States*—1935: PATMAN (Hon. Wright)—*Our American Government*—1954. RIKER (William H.)—*Democracy in the United States*—1953.

SECKLER-HUDSON (C.)—*The United States of America—A Government by the People:* SWISHER (Carl Brent)—*American Constitutional Development*—1954. UNITED STATES CONGRESS—COMMITTEE ON FOREIGN AFFAIRS—Report of Sub-Committee No. 5—Strategy and Tactics of World Commission—1948. UNITED STATES CODE—1946 Edn.—Supplement 4—Titles 34-50; 1946 Edn.—Supplement 5—Titles 1-33 (covers Legislation from January, 1947 to January, 1952).

GOLFING SOCIETY.

THE inter-provincial competition for the Enterprise Cup will be held in Killarney under the auspices of the Kerry Solicitors Association on Saturday, May 12th. Members should communicate with Mr. L. K. Branigan, Central Office, Four Courts.

REGULATIONS UNDER THE SOLICITORS' ACT, 1954.

THE following Regulations are on sale at the Government Publications Sale Office, G.P.O. Arcade, Dublin and are also printed in the 1956 edition of the Society's *Calendar and Law Directory*.

Solicitors' Accounts Regulations, 1955 (S.I. No. 218 of 1955); Solicitors' Act, 1954 (Professional Practice, Conduct and Discipline) Regulations, 1955 (S.I. No. 152 of 1955).

A booklet containing the text of these regulations with a commentary and explanatory notes has been prepared by direction of the Council for circulation to all practising solicitors. The Professional Practice Conduct and Disciplinary Regulations came into operation on 1st October, 1955. The Solicitors' Accounts Regulations will come into operation on 1st January, 1957.

DECISIONS OF PROFESSIONAL INTEREST.

Waiver of privilege in case where witness is cross-examined on statement signed by him and made to other party.

A witness for a plaintiff had made a statement to the defendant before the hearing of the case. At the hearing the witness was cross-examined by counsel for the defence. Counsel had in his hand a written statement. He asked the witness whether he had made a statement to defendant and signed it. The witness admitted that he had and, in answer to a further question, admitted that he had stated certain facts in it. Has any privilege attached to such document been waived by the cross-examination so as to entitle the plaintiff's counsel to see the whole document?

Yes, said the Court of Appeal (Denning, Hodson and Morris, L.JJ.) affirming the ruling of Sellers, J. Denning, L.J., said that where a document was used by cross-examining counsel in this way, he waived the privilege, certainly for that part which was used; and in a case of this kind if the privilege is waived as to part, it must be waived as to the whole. It would be unfair that cross-examining counsel should use the part which was to his advantage and not allow anyone, even the judge or opposing counsel, to see the rest of the document, much of which might have been against him. (*Burnell v. British Transport Commission* (1955). 3 *All* E.R. 822.)

Private car used for carriage of goods for trade or business is a goods vehicle and subject to higher rate of duty.

A company director, who was the owner of a Standard Vanguard shooting brake, used the vehicle for the conveyance of cameras and other photographic equipment in connection with the company's business of photographic printers and freelance photographers. The vehicle was taxed as a private vehicle and no goods licence in respect of it had been obtained. The director was accordingly charged with offences under the Road Traffic Act, 1933, s. 1 (in respect of the user without a goods licence), the Road Traffic Act, 1930, s. 35 (third party insurance), and the Vehicles (Excise) Act, 1949, s. 13 (tax). Should he have been convicted?

Yes, said a Divisional Court (Lord Goddard, L.C.J., Hilbery and Stable, J. J.). The vehicle was a goods vehicle as defined by sect. 27 (1) of the 1949 Act and was not within the exemption allowed by sect. 7 (2) of the Finance Act, 1952 (which applies where the vehicle is not used (*inter alia*) for or in connection with a trade or business).

Per Lord Goddard, C.J.:—Therefore, the position is quite clear. These estate car delivery vans are constructed in such a manner that they can be goods vehicles. Being goods vehicles, they would attract the higher rate of duty if they are either used for the conveyance of goods or burden for hire or reward or if they are used for the carrying of goods in connection with a trade or business. If a person has one of these vans and he carries in it nothing except his own luggage, or his own farm produce for his own use and nothing which has to do with his trade or business, he is committing no offence if he licenses it and keeps it licensed at what one may call the private car rate. However, if he does carry goods, that is to say, as it seems to me, anything in connection with his trade or business, at once it becomes a goods vehicle and has to bear the higher rate. (Query would these considerations apply to a vehicle in which a solicitor carries client's papers or a barrister carrying his wig and gown on Circuit?) (*Taylor V. Thompson* (1956) 1 *All* E.R. 352.)

Land belonging to Irish Company in England ordinarily forfeited to Crown unless it held a licence under the Mortmain Acts need not be maintained by the Crown until it takes steps to enforce the forfeiture.

In 1862, land in Hammersmith was demised for a term of 99 years from 1858. Title to the leasehold interest was registered at the Land Registry with a good leasehold interest in 1917. In February 1953 the leasehold interest was assigned by registered disposition to Arffe, Ltd., for valuable consideration. Arffe, Ltd., was a company incorporated in the Republic of Ireland having its registered office in Dublin. Arffe, Ltd., had not delivered to the Registrar of Companies any documents for registration under Part 10 of the Companies Act, 1948, and consequently it had not the power to hold land which an oversea company can acquire under that Part of that Act, nor had it been granted a licence to hold land in mortmain. The Crown had taken no step towards enforcing any forfeiture of the land leased and had not entered on it under the Mortmain and Charitable Uses Act, 1888, s.1.

Held by the House of Lords: (Lords Jowitt, Porter, MacDermott and Cohen, Lord Morton of Henryton dissenting) reversing the Court of Appeal that the assignment to Arffe, Ltd., did not cause an automatic forfeiture of the unexpired residue of

the term of years to the Crown because the word "forfeited" in the Mortmain and Charitable Uses Act, 1888, s. 1 (1), was to be construed as meaning "liable to be forfeited" and accordingly the land comprised in the lease would not vest in the Crown unless and until Her Majesty took steps to enforce the forfeiture.

Per Earl Jowitt :—The Court of Appeal had decided in *Morelle v. Waterworth* in which a leasehold interest had been transferred to an Irish company without licence to hold lands in mortmain that an automatic forfeiture to Her Majesty had resulted and the Court of Appeal rightly decided in the present case, that they ought to follow this previous decision. We have, therefore, to consider whether *Morelle, Ltd. v. Waterworth* was rightly decided.

The consequences of the decision in that case are, indeed, far-reaching. It would follow that any person holding a short unexpired residue of a leasehold interest would merely have to transfer that interest to a company without licence to hold lands in mortmain to bring about the result that the unexpired residue would be vested in Her Majesty, so as to make Her Majesty liable under the covenants contained in the lease. Such covenants commonly involve an obligation to repair and, at the end of a long lease, such covenants may, and generally will, involve onerous burdens. It is not improbable, if this be good law, that many leasehold interests involving onerous burdens will be transferred indirectly to Her Majesty by the simple expedient of transferring such interests directly to a company without licence to hold lands in mortmain. (*Attorney-General v. Parsons* (1956). 1 *All E.R.* 65.)

Note :—The Court of Appeal had held that there was an automatic forfeiture of the residue of the term assigned to Arffe, Ltd., notwithstanding that the assignment was by registered disposition and the terms of s. 80 and s. 23 of the Land Registration Act, 1925. In the House of Lords it was not necessary, in view of the majority decision, that a decision should be reached on this question. Two opinions were expressed on it. Earl Jowitt doubted the conclusion of the Court of Appeal, but Lord Morton of Henryton dissenting, considered that the Land Registration Act, 1925, did not negative forfeiture. A consequence of the present decision is, therefore, that *Morelle, Ltd. v. Wakeling* is overruled in so far as it followed the ratio decidendi of automatic forfeiture, but stands as regards the effect of s. 23 and s. 80 of the Land Registration Act, 1925.

Must an executor or trustee inform beneficiaries of his benefit under a will or settlement?

Yes, said the High Court. In exercise of a special power of appointment given to her by a settlement made in 1893, Mrs. M., by her will, appointed property to the plaintiff and C. (without words of severance). In 1930 Mrs. M. died and the plaintiff and C. (both of whom were then infants) became immediately jointly entitled to the fund appointed to them. In 1934 counsel gave a written opinion to the trustees that the plaintiff and C. took as joint tenants. The plaintiff attained his majority in February, 1939 and C. in February, 1942. The trustees of the settlement did not inform the plaintiff of his rights under the settlement and appointment and no part of the capital or income was paid to him. On March 19th, 1942, C. wrote to her solicitor asking him to pay the dividends into her account at Martin's Bank, Kensington. In September, 1942, C's share of the trust funds was transferred to her.

Held by Havers, J., in an action for damages for conspiracy: (i) Immediately on his attaining the age of twenty-one years the plaintiff became entitled to receive one-half share of the income as it became payable notwithstanding that the joint tenancy had not, as regards the capital, been severed. (ii) The trustees of the settlement of 1893 were under a duty to inform the plaintiff on his attaining the age of twenty-one that he had an interest in the capital and income of the funds subject to the settlement of 1893; but there was no duty on the trustees to give the plaintiff legal advice or to inform him of his right to sever the joint tenancy, although they would be bound to disclose on demand any document relating to the trust including the opinion of counsel. (iii) The trustees were under a duty to pay the income of the plaintiff's share to the plaintiff on his attaining the age of twenty-one years without any demand by him; and also to pay the capital to the plaintiff and C. as joint tenants on C.'s attaining the age of twenty-one years without any demand by them, or, after severance of their respective shares, to each of them without any demand.

Per Havers, J. :—"Some argument was addressed to me on the question whether or not the plaintiff was entitled to income on attaining twenty-one. I can see nothing in the Trustee Act, 1925, which lays down, or by inference indicates, that the trustees ought not to pay income to the plaintiff on attaining twenty-one, or the capital to him and his sister on both attaining twenty-one.

So far as an executor is concerned, I am bound by the decision of the Court of Appeal in *Re Lewis* (1904) 2 *Ch.* 656) to hold that there is no legal duty on him to give notice of the terms of the legacy to the legatee. I see no reason, however, to extend this doctrine, which has no attraction for me on

the merits, to a trustee under an express trust. The position of an executor and a trustee, although now, for many purposes, they have been assimilated under the Law of Property Act, 1925, is still not an identical one and there is a distinction between a will, which is a public document in the sense that anybody can go to Somerset House and see it, and a trust deed, which is a private document to which the *cestui que* trust has no access. In the absence of any authority to the contrary I decline to extend this doctrine to trustees under an express trust.

I hold, therefore, that there was a duty on the defendant trustees of the settlement, to inform the plaintiff on attaining twenty-one that he had an interest in the capital and income of the trust funds of the settlement. A fortiori, if the trustees did not hand over income to the plaintiff on attaining twenty-one to which he was entitled, it would be their duty to explain to him that he was entitled to call for and have the interest paid to him. (*Hawksley v. May* (1955) 3 *All E.R.* 353.)

Note:—Among the duties of trustees of a settlement are those of obeying lawful directions in the settlement and of paying trust moneys, whether income or capital, to the persons entitled thereto (*see e.g., Underhill on Trusts* (10*th Edn.*), *pp.* 251, 340). The performance of these duties will normally have the consequence that the beneficiary learns of the existence of beneficial interests in his favour, and his remedy for failure to carry out the duties lies in equity. The present case is exceptional in that the points in relation to trustees' duties arose in an action at law for damages for conspiracy.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

NOTICE.

Folio 5042 County Sligo
Registered Owner: BERNARD BREHENY

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of April, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Bernard Breheny to 8a. 1r. 31p. of the lands of Moytirra East situate in the Barony of Tirerrill and County of Sligo being the lands comprised in said Folio.

THE REGISTRY

REGISTER B.

PRACTICE or Partnership required by young solicitor. Substantial capital available. Box No. B. 204.

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MAY,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL.

APRIL 19TH: The President in the Chair. Also present Messrs. Ralph J. Walker and George G. Overend, Vice-Presidents, James R. Quirke, F. J. Lanigan, Derrick M. Martin, Niall S. Gaffney, Henry St. J. Blake, George A. Nolan, John J. Sheil, P. R. Boyd, James J. O'Connor, John Carrigan, Patrick F. O'Reilly, F. Gallagher, R. McD. Taylor, John R. Hilpin, Cornelius J. Daly, Francis J. Gearty, Seán O'hUadhaigh, Thomas A. O'Reilly, Charles Downing, Reginald J. Nolan, Desmond J. Collins, Terence de Vere White, Peter E. O'Connell.

The following was among the business transacted:

Sittings of the High Court on Circuit.

THE Secretary reported that an inquiry had been addressed to the Bar Council to ascertain whether that Council would join with the Society in a submission that Sittings of the High Court on Circuit should be at equal half yearly intervals, but that no definite reply had been received. It was decided that a deputation from the Council with representatives of the Southern Law Association would ask the President of the High Court to receive them.

Sittings of the High Court in Cork.

IT was decided that a request should be submitted to the Superior Courts Rules Committee that a new rule should be made to enable actions to be remitted to the High Court in Cork by consent of the parties by a direction in the Central office without any formal application in Court which adds to the expense of the trial. If this rule were made an application to the Court would be necessary only in the absence of consent of all parties.

Solicitor's liability for witnesses' fees and expenses.

THE Council considered a report from a Committee which had obtained senior counsel's opinion on the question of the liability if any of a solicitor on record in an action for payment of such items as hospital treatment, medical, fees for treatment of the client and expert witnesses fees and expenses for attending court to give evidence in the action. Counsel referred to the question of liability to medical witnesses principally but his advice also

covered the question of liability for fees of other experts such as engineers and actuaries. The Council considered the matter from two aspects, *viz*: (*a*) the solicitor's legal liability if any, (*b*) the solicitor's obligation as a matter of professional conduct and etiquette apart from the question of legal liability. As regards (*a*) counsel stated that, apart from any expressed or implied undertaking, a solicitor is not legally liable for fees of medical witnesses for treatment, or medical reports or fees for attending court or for fees of other expert witnesses for reports and attending court where the solicitor acts as agent for a disclosed principal—the client. A special case may arise where the money received by the solicitor is paid to him as a result of an agreed settlement of the client's claim. In such case the defendant occasionally requires an undertaking by the solicitor that the statutory liability imposed upon the defendant under Section 174 of the Road Traffic Act, 1933 will be discharged out of the settlement monies, but this is only one instance of the rule that a solicitor must carry out an undertaking given expressly or by implication. As regards (*b*) the Council decided that the solicitor's liability as a matter of professional etiquette should be co-extensive with his legal liability, although a solicitor may voluntarily accept wider obligations towards witnesses. In this connection reference was made to the Council's statement published in the Society's *Gazette* for November 1954, page 39, on the question of payment of medical hospital and other expenses. The Council there stated that in any case in which damages are assessed and paid on the basis of specific claims for hospital, medical or other professional fees *it is not unprofessional* for the solicitor for a successful claimant to pay these expenses *at his own risk as to legal liability towards the client if the claim is disputed.*

The Council in that statement merely expressed an opinion on the question of professional practice and etiquette and expressed no view on the legal question of civil liability towards the client. The question put to Counsel and extracts from his opinion will be issued to members with the *Gazette* at an early date.

Debt Collecting Agencies. Fees payable to solicitors.

THE Council expressed the opinion that the minimum fee for enquiries on behalf of a trade protection association should be £1 1s. It was decided to inform members and also the agencies carrying on business in Ireland.

Workmen's Compensation Commission.

MESSRS. T. A. O'Reilly and J. J. Nash of the Council with Messrs. C. A. Boyle and E. O. Knapp were asked to form a sub-committee to consider reports from Bar Associations and draw up a memorandum for the Commission.

ORDINARY GENERAL MEETING.

A GENERAL MEETING of the Society was held in the Society's Library on Thursday, 10th May, 1956. The President Mr. Dermot P. Shaw in the Chair. The following members of the Society signed their names as being present: Ralph J. Walker, Vice-President; George G. Overend, Vice-President; Henry St. J. Blake, Patrick R. Boyd, Francis X. Burke, Desmond J. Collins, Arthur Cox, Charles J. Downing, Niall S. Gaffney, Francis J. Gearty, John R. Halpin, Desmond J. Mayne, John J. Nash, William J. Norman, Peter E. O'Connell, James J. O'Connor, Seán O hUadhaigh, Patrick F. O'Reilly, Thomas A. O'Reilly, James R. Quirke, John J. Sheil, Robert Mc.D. Taylor, Joseph P. Tyrrell, Terence de Vere White, Derrick M. Martin, Reginald J. Nolan, Christopher E. Callan, John B. Jermyn. T. Desmond McLaughlin, Richard J. McDonnell, Brendan J. Wallace, John Maher, Kevin Burke, David R. Pigot, James J. Hickey, David R. Pigot (Junr.), Desmond Moran, Hyman Tarlo, John J. Kennedy, Gabriel F. Haughton.

The notice convening the meeting was by permission taken as read. The Minutes of the Ordinary General Meeting held on 24th November, 1955 were read confirmed and signed by the Chairman. The Chairman announced that he nominated the following members of the Society to act as scrutineers of the ballot for election of the council to be held on 15th November, 1956:—John R. McC. Blakeney, James R. Green, Thomas Jackson, Brendan P. McCormack, Roderick J. Tierney.

The President addressing the meeting said:—

Obituary.

SINCE the last General Meeting of the Society in November, 1955, we have with regret to record the deaths of our members: Robert Hayes (Dublin), Samuel G. Rutherford (Dublin), John L. Keane (Youghal), Mark F. Conroy (Galway), H. V. Bantry White (Dublin), Ignatius J. Rice (Dublin), Jerome J. Ronayne (Midleton), Francis Devine (Dublin), Joseph P. Walsh (former Secretary of the Department of External Affairs, and one time Ambassador to the Holy See), James Harte (Kilkenny), Louis A. Meldon (Dublin), David Fleming (Charleville), John J. Walsh (Drogheda), John L. Kealy (Drogheda).

To their relatives and friends, I would express our sincere sympathy. I must also refer to the loss we have sustained by the tragic death of Colonel Blair Mayne, Secretary of the Northern Ireland

Society. He was a good friend to our Society and to many of us. We will miss him very much.

It is my duty as President at this half yearly meeting to review briefly the main activities of the Society and to render an interim report of my stewardship since I took office as President from my predecessor, Mr. O'Reilly. During Mr. O'Reilly's most successful year of office, he had steered through the Council, and the various Committees which considered them, all the necessary regulations under the Solicitors' Act, 1954. We are now settling down to the work of implementing these regulations and dealing with various queries which are bound to arise. We shall, no doubt, in the course of time, find that the regulations are not perfect and they may require amendment in one or other respect; however, we have not so far found any serious defects, and we hope that with the assistance of the Local Bar Associations, we shall be able to operate them moothly and effectively for the benefit both of the public and the profession.

The Regulations which have been made by the Council so far deal with the following subjects :—

Apprenticeship and Education.
Procedure on applications to the Disciplinary Committee.
Procedure on applications for grants out of the Compensation Fund.
The Solicitors' Accounts Regulations.
The Professional Practice, Conduct and Discipline Regulations.
Regulations dealing with the issue of Practising Certificates.

The Professional Practice, Conduct and Discipline Regulations came into operation on 1st October, 1955 and were printed in the Society's *Gazette*. They will be circulated to all our members. To the majority they mean little because they embody a code which has always been understood and acted upon by solicitors of standing, but they do enable the Society to take action where necessary to control and prevent abuses of practice which tend to bring discredit upon the profession.

The Solicitors' Accounts Regulations will come into operation on 1st January, 1957, and as both these and the Accounts Regulations are of vital interest to members, we have prepared and will very shortly send to every member of the profession a booklet containing the text of the Accounts an the Professional Practice Regulations with explanatory notes. The Council have also caused a model system of book-keeping to be prepared by a firm of accountants, setting out the principal books which are or should be kept by solicitors, with rulings of the columns used, and instructions on the installation and operation of the system. As from 1st January next, a practising solicitor will be under a statutory obligation to maintain and keep written up to date proper books of accounts, showing all monies received for clients and distinguishing these monies from his own. The Council thought that it would be helpful to solicitors and accountants who audit solicitors' books to have a model book-keeping system with an explanation in everyday non-technical language. Many solicitors already have systems of book-keeping which have been operated for a number of years. If any existing method complies with the essential requirements of the Accounts Regulations there will be no necessity to make any change but young solicitors starting in practice and others whose systems of book-keeping may be capable of improvement may find it advantageous to study the model prepared by the Society's accountants.

If as is expected the method outlined in the Society's booklet is adopted by a large number of members, the Society will probably place an order with a firm of printers for producing a large number of the sheets with the headngs and rulings suggested for sale to members of the Society. Many solicitors, nowadays, use loose leaf ledgers and cash books and it would be quite a simple matter to produce the sheets in quantities for binding into existing folders.

Retirement Benefits.

It is hardly necessary to remind this audience that the professional man is not the favourite child of the Welfare State—or at least the modified version of it which we have in this country. The self-employed professional man such as the barrister, solicitor, accountant or doctor, particularly the solicitor who has to maintain an office and pay an office staff, suffer acutely from the ever-rising price index, which affects both his personal cost of living and the cost of running an office. Furthermore, the high rate of income tax now prevailing, makes it impossible for any self-employed person to provide for old age or retirement. And in fact a glance around will show that solicitors have to die in harness and that there is no such thing as a solicitor in a position to enjoy a leisurely old age on the income from his accumulated savings. The Council were struck by the anomaly, which prevails between the position of employed workers, many of whom enjoy sheltered occupations and very favourable salaries and conditions with the position of the solicitor who is often in a comparatively unfavourable financial position. There seems to be no adequate reason—as a measure of fiscal justice—why a self-employed man should receive less favourable treatment in the matter of taxation of contributions

towards retirement or old age than employees in state-controlled concerns or private industry. When one comes to consider the position of professional men such as accountants and solicitors whose activities result in the creation of no substantial assets but merely in the intangible asset known a professional goodwill, the discrepancy is still more apparent. Contributions by both employer and employees to approved superannuation schemes are exempt from tax where pensions are provided for employed workers but there is no tax remission or exemption in the case of contributions by self-employed persons towards schemes to provide for themselves in old age. The Council therefore, approached the representative bodies of other professions, who gave their support and we intend to submit a case to the appropriate authorities in favour of tax remission on contributions by self-employed professional men towards retirement benefit schemes. It is of interest to see that the Chancellor of the Exchequer in England has recently granted concessions on the lines indicated. I am sorry to see that the Minister for Finance has been unable to make a similar concession in this country. I hope to be able to make a further report on this matter at the next half-yearly meeting, and we hope in making such representations to point out that professional men, such as solicitors and accountants, are in the course of their work in connection with Income Tax, Estate Duty and Stamp Duties, in effect, the great unpaid Collectors of Taxes and so are entitled to special consideration from the Minister for Finance. And when I refer to the Minister for Finance—and I speak in the shadow of his budget speech—I must say that we welcome the abolition of the 25 per cent. tax on certain purchases by non-Nationals. This tax has served its purpose and its removal will be of undoubted benefit. I am sorry, however, that he has not been able to reduce the high rates of Stamp Duty on ordinary transfers of property and to follow the example of the Chancellor of the Exchequer in England. The Stamp Duty on a purchase of £3,500 in England is £17.10s. The Stamp Duty on a similar purchase in this country is £105. The Chancellor in giving his reasons for the reduction said and I quote "There is no better stimulue to saving than house ownership and I believe that many more people will commit themselves to it if the initial costs are reduced."

Let us hope that the Minister will follow this excellent example in the near future.

Workmen's Compensation Commission.

Mr. Patrick F. O'Reilly, a member of the Council of the Society, was appointed by the Government as a member of the Workmen's Compensation Commission which was set up to examine the existing Workmen's Compensation code and to report whether any change is necessary or desirable, particularly the question of replacing the present system by a scheme of national insurance. This is obviously of vital interest to the solicitors' profession as well as the public and the business community. The government asked the Society to submit a memorandum of evidence and a circular has been sent to all the Bar Associations asking for their views. Sub-Committee of the Council with members of the Society not on the Council but having special experience of this matter has been set up and a memorandum will be prepared for submission to the Government in due course. I do not propose to comment further except to say that any proposition to transfer from the Courts to the administrative machine a jurisdiction which has been satisfactorily operated for over 50 years, and which has unequalled facilities for determining questions of fact, should not be adopted without the most serious consideration.

Labourers' Acts.

We have made representations to the Minister for Local Government on the subject of the inadequacy of the scales of costs allowed in connection with improvement schemes and at a meeting of the Department in July last we reached agreement with the officials on proposed new scales. The reform was not overdue as the initial representations were made in 1948. The Order has been held up on questions of drafting but we hope that it will not be delayed very much longer. In the meantime it will interest members to know that we hope that the Order when operative will take effect as from 1st October, 1955.

Land Commission.

The Council have been in correspondence with the Land Commission about the unsatisfactory scales of costs in connection with proceedings for the resumption or acquisition of tenanted land. A deputation was received by the Land Commission, consisting of members of the Council with special knowledge of this matter, and we put forward the submission that justice requires that where land or other property is compulsorily acquired by the State, the dispossessed owner should receive full indemnity not alone in regard to the price or compensation paid but in regard to his costs and expenses in connection with the acquisition. Yet the costs payable under the present scales—particularly in resumption cases—are only comparable with the District Court Scale, and the unfortunate owner

who is compulsorily dispossessed of his lands will only receive a sum which is not even sufficient to cover the expenses of his valuer, let alone his solicitor and counsel. We had a preliminary meeting with the Land Commission and now intend to submit a new and reliastic scale.

Another ground for public dissatisfaction with Land Commission Acquisition procedure arise from the payment of the purchase money costs and expenses in Land Bonds which stand at a discount on the Stock Exchange. Thus 4¾% Land Bonds first issued in 1953 now stand at about 81. The Land Commission bring the Bonds to credit on taking possession of the holding but the owner cannot receive them until after the examination of Title has been completed. There is usually an interval of 12 to 18 months during which the owner is powerless to help himself and the result is that an owner whose land has been compulsorily acquired finds himself facing a loss of almost 20 per cent. in his purchase money from the price as fixed by the Appeal Tribunal. Surely elementary equity demands that such an owner should receive the purchase price of his land in marketable Bonds worth their par value at the date of allocation.

Legislation in the Oireachtas.

As the result of representations made by the Society which resulted in the moving of an amendment in the Seanad certain obnoxious provisions in the Gaming and Lotteries Bill which might have enabled the Gardai to enter solicitors' offices and require information concerning clients' business were removed.

The Council also received a copy of the Statute of Limitations Bill which proposes to consolidate the Statutory provisions of this complicated subject. The Bill was considered by the Legislation Committee who requested the views of the Society's examiners and lecturers. These gentlemen kindly examined the Bill and submitted their observations which were referred to the Department of Justice. I wish here to acknowledge particularly the valuable services of Mr. Tarlo the Society's lecturer on Real Property and Equity who prepared a very detailed and comprehensive report on the whole Bill which we transmitted to the Department. Many of you will have seen extracts from Mr. Tarlo's report which were printed in the *Irish Law Times* and *Solicitors Journal.*

The complexity of modern legislation makes it extremely difficult for bodies such as ours to keep track of it and to deal with the many points upon which the interests of the profession and our clients will be affected but we endeavour to do this by reading the bills which appear to be of interest to us and making immediate representations to the appropriate Government Department where necessary. Sometimes an apparently innocuous statute will contain a sub-clause of a paragraph of a sub-section which may be of vital interest to us. As an example I refer to the provisions in the Gaming and Lottery Bill which I have already mentioned. So far as we can we try to watch these matters.

Solicitors in the Local Government Service.

We are still pressing our claim with the Minister for Local Government that the solicitors in the Local Government service who are paid by full time salaries should have parity with the County Medical Officers and County Engineers. We believe that the County Managers' Committee approved of the claim and we are now endeavouring to get it through the Department. Justice in this matter is long overdue as the initial claim was made in 1948. The solicitors concerned are few in number but we feel that their claim is of importance both for the standing and position of the profession as well as in their purely personal interests.

Delays in Government Departments.

I come now to the question of delay in Government Offices. This is a current and continuing complaint; and quite a lot of our time at Council Meetings is taken up with consideration of such matters. At the last General Meeting, a special resolution was adopted unanimously, complaining that there was great and unnecessary delay in public offices and departments and requesting the Council to take steps to rectify matters.

The Council were of opinion that their best course was to tackle the evil at its principal source, namely the Valuation Office. I refer to the Valuation Office as the principal source of delay, not in any critical spirit but because delay in that office has repercussions principally in the Estate Duty and the Stamp Office. We approached the Commissioner of Valuation who received a deputation; and I must express our appreciation of the courteous, sympathetic and helpful attitude of the Commissioner and his principal officers. The Commissioner frankly admitted that the present state of arrears was unsatisfactory but he explained that they had been working with a depleted staff, who had been burdened by the large increase in cases concerning Revision of Rateable Valuations. However, he explained, that a re-organisation plan had been put into effect and that as and from June 1956 he would regard a complaint of delay as legitimate where the delay:

(*a*) in city cases exceeded six weeks.

(*b*) in country cases exceeded six months.

The trouble in the country is due to the fact that the staff valuers from Dublin visit each county twice yearly and that inspections of property can only take place on such occasions. The remedy is either to appoint additional staff or even better still—if I might suggest it—to decentralise the system and to establish regional offices whose resident local staff could deal with cases in their area, quickly, expeditiously and with knowledge of local conditions. It does too seem a pity that the office of Referee, who used to afford a satisfactory means of dealing with appeals, no longer exists.

The position in the Probate Office and Land Registry, in our experience, shows some improvement, if not entirely satisfactory. We have found that there is a genuine desire on the part of the officers in charge to help and to effect improvements and they are always ready to expedite cases of particular urgency.

The fault, therefore, would seem to lie in the system. We accept that there is a shortage of skilled staff in many departments and that their ordinary work has been affected by additional duties imposed on them, such as the vesting of labourers' cottages in the Land Registry and the increase in Rateable Valuation cases to which I have referred. An analysis of the causes would show that delay arose :

Firstly, because of a shortage of staff.

Secondly, because of the failure to deal with a case comprehensively in the first instance or to raise quite unnecessary and unimportant queries.

Thirdly—and here I speak as a provincial solicitor, because of the excessive centralisation of legal administrative work in Dublin, and in particular in the Land Registry and Probate Office. The Act of 1891 bore the title "Local Registration of Title (Ireland) Act," and was intended to create genuine Local Registries. Yet, now the word local has been deleted (by an amending Act) from the Act of 1891, and all the work of Transfer of Land in any part of Ireland must be dealt with through the Principal Registry in Dublin. In like manner many of the District Probate Registries have been closed and the work transferred to Dublin. These offices, presided over by a solicitor, gave the most efficient and satisfactory services. The Registrar was available for consultation on points of difficulty. The records were available locally for inspection. There can be no doubt but that the closing of such offices was a retrograde step, and that the result has only been to create inconvenience and delay to the profession and the public without any corresponding advantage.

While speaking of centralisation, I am glad to record that the Trial of High Court Actions in Cork is now operating satisfactorily and at the last Sittings over 40 actions were listed and disposed of to the manifest advantage of litigants, witnesses and our profession.

Bar Associations.

The enactment of the Solicitors' Bill makes the position of the local Bar Associations particularly important, and it is, to my mind, quite necessary that every practising solicitor should be not only a member of the Society but also a member of his local Association. I have had the pleasure, during my six months tenure of office of President, of attending a number of their functions and I am pleased to say that the Associations, of which I had this personal experience, seem to be functioning very effectively. I regret, however, to have to report that in two areas the Bar Associations have, for reasons unknown to me, been dissolved, and before my term of office runs out I intend to make a personal approach to the solicitors in these counties or either to revive the Association or approach Associations in adjoining counties with a view to amalgamation.

In conclusion I would like to express my appreciation of the help and assistance given to me during the past six months by my Vice-Presidents, Mr. Walker and Mr. Overend. They have only been too glad, at all times, and often times at personal inconvenience, to relieve me in the discharge of my duties. I would also pay tribute to the members of the Council, who both in Council and Committee, have worked individually and as a team in your interest. And finally a special word of gratitude to Mr. Plunkett for his invaluable advice and assistance, and for his unceasing efforts to modify and mitigate the duties of my office, and also to his staff for their willing co-operation and help.

On the motion of Mr. Henry St. J. Blake a vote of thanks to the President for his address to the meeting and for his services to the Society during the past six months was carried with acclamation. The President replied and declared the meeting at an end.

EXAMINATION RESULTS.

At the Preliminary examination for intending apprentices to solicitors held on 26th and 27th of March the following candidate passed the examination.

John N. Lavelle.

FINAL EXAMINATION.

At the Final Examination for apprentices to solicitors held on the 26th, 27th and 28th days of March, the following passed the examination and their names are arranged in order of merit :—

Passed with Honours

1. John C. Farrell.
2. John F. Buckley, B.A., LL.B.

Passed

Michael C. Halpenny, B.A.; Dermot Hegarty, Michael A. Regan, Noel M. Gleeson, Timothy McEniry, Robert McGonagle, Patrick Kelly, Gerard O'Malley, James J. O'Sullivan, Owen Binchy, Michael A. Noonan, Kevin P. St. G. McClenaghan, B.A., LL.B.; Patrick R. O'Gorman, Anthony F. McCormack.

24 candidates attended; 16 passed.

The Council has awarded a Silver Medal to John C. Farrell and a Special Certificate to John F. Buckley.

The following passed in Part I or Part II Final Examination and their names are arranged in order of merit :—

Part I.—James B. O'Leary, B.A.; Mairead F. Ruttledge, William Nicholl, Patrick A. Glynn, Edward J. Duffy, John P. Clifford, Iseult Clare Kennedy, William W. Blood-Smyth.

Part II.—Michael G. Fogarty, Terence M. Williams, B.A.; Brenda Halpin, Matthew P. Drum, Gerald B. Coulter, William J. B. Fallon, Charles R. M. Meredith, Mary M. Murray, B.A.; Susanna Bowler.

First and Second Irish Examinations

The next examinations will be held on June 29th, and 30th. Notice must be given on or before June 8th.

DECISIONS OF PROFESSIONAL INTEREST.

Failure of Complaints against Solicitor is no Protection for Clerk.

The Divisional Court (Goddard L. C. J. Cassels and Donovan J. J.) in a reserved judgment, dismissed the appeal of a solicitor's clerk, against an order of the Disciplinary Committee of January the 27th, 1956, under section 16 (1) (*b*) of the Solicitors' Act, 1941, which provides that "where it appears . . . that in the course or as a result of any proceedings before the Disciplinary Committee a person who is or was a clerk to a solicitor but is filing and indeed he was the actual person who not himself a solicitor has been a party to any act or default of such solicitor in respect of which an application or complaint has been or might be made against such solicitor . . . an application may be made to the Disciplinary Committee that an order be made directing that no solicitor shall in connection with his practice as a solicitor take or retain the said person into his employment or remunerate him without the written permission of the Law Society."

The clerk appealed on the ground that there was no act or default proved against his principal to which he had been a party, and therefore the Disciplinary Committee had no power to make the order against him.

Per Lord Goddard, C. J. :—A complaint had been preferred on behalf of the Law Society against a solicitor alleging that he had been guilty of professional misconduct in that he had (*a*) caused or permitted to be filed in the High Court of Justice an affidavit which he knew or ought to have known was false, or alternatively misleading in a material respect, and (*b*) failed adequately to supervise his clerk, the appellant in the present proceedings. An inquiry was duly held by the Disciplinary Committee of the Society.

The committee found that a false and misleading affidavit had been filed and used in a proceeding in which the solicitor was acting for the party on whose behalf the affidavit was prepared and filed. But they also found that the solicitor did not know and in fact could not have known of the contents of the affidavit. Nevertheless they considered he was not altogether blameless in that he should have exercised special care in the particular case, because there was a possibility of a conflict of interest between the client and the solicitor's clerk. The clerk had certain financial dealings with the client, and as managing clerk to the solicitor he was undertaking the conduct of the proceedings, and at the most material times the solicitor was away from his office.

The Court believed the present case to be the first one in which an order against an unadmitted clerk under section 16 of the Act of 1941 had come before them on appeal.

The appellant's objection was that, as the committee had found the complaints against the solicitor to have failed, no order could be made against him (the clerk) in that he could not be a party to an act or default of a solicitor in respect of which an application or complaint had been made if the committee found the case not proved against the solicitor.

The committee found, and it was not disputed, that the clerk was a party to the preparation and prepared and filed the affidavit and he knew that it was misleading. The solicitor escaped punishment

because he neither knew nor was in a position to know the misleading character of the affidavit and therefore it would not be right to make him what might be called for this purpose "criminally liable" for what was done. But the section did not require that the solicitor himself should be found guilty or punished before the clerk could be dealt with by the committee. It would be a strange result if because the solicitor showed that he had no knowledge of what his clerk did, the clerk could escape the consequences of his misconduct. It would mean that a clerk who was able to conceal his misconduct from his master could escape any punishment by the Disciplinary Committee.

As soon as it was discovered that a false affidavit had been filed in an action or proceeding it was clear that an application could be made against the solicitor who was responsible as the solicitor on the record for the filing of the affidavit. He might be able, as in the present case, to show that the affidavit was false. In my opinion there was no doubt that the Society, who had learnt of the clerk's action in the course of the inquiry against the solicitor, could take the proceedings authorised by the section. (*In Re a Solicitor's Clerk*, [1956] 2. *All. E.* R. 242).

It should be noted that the Solicitors' Act, 1954 does not contain any provision similar to s.16 of the (English) Solicitors' Act 1941 enabling the Law Society to exercise disciplinary jurisdiction over solicitors' clerks.

A Solicitor held negligent in not ascertaining standard Rent before completion of sale.

The plaintiff instructed the defendant, a solicitor, to act for him on the plaintiff's purchase of a leasehold dwelling-house. At the plaintiff's suggestion the vendor instructed the defendant to act in the matter on his, the vendor's, behalf. The premises were registered with a good leasehold title and were within the Rent Restrictions Acts. The house contained three floors, and was to be sold with vacant possession of the ground floor. The two upper floors were each let at 25s. per week. The defendant noted answers to questions raised on a printed form of "Inquiries before contract," and in reply to a question relating to subsisting tenancies, with particular reference to the Rent Restrictions Acts and to the amount of the statutory and net rents, the defendant noted, on information supplied by the vendor, that the two upper floors were each let at 25s. weekly inclusive of rates. As regards the top floor the defendant noted that 25s. was the rent receivable when the vendor bought the property in 1948 and no increase in rates had been passed on to the tenant. It was further stated that the vendor could give no information of previous lettings. The contract of sale contained a special condition referring to the fact that the two upper floors were each let at rentals of 25s. per week inclusive. When the plaintiff attended to sign his part of the contract, the defendant went through the inquiries and answers and remarked that as there had been increases in rates since 1950 it was possible that the plaintiff could increase the rents. In January, 1954, the sale was completed. In May, 1954, the plaintiff proposed an increase of rent to the tenants of the upper floors. In reply a reduction was demanded and in September, 1954, the standard rents of the upper floors were fixed by the county court at 15s. each, the recoverable rents with permitted increases being 17s. 6d. per week and 18s. 4d. per week respectively. In consequence the plaintiff had to make repayments of overpaid rents to the tenants. He claimed damages for the defendant's negligence.

Held by Danckwerts, J.:—that the defendant was liable for negligence because he had accepted the information given by the vendor relating to rents without ascertaining, either by questioning the vendor further or by asking the tenants, what were the standard and recoverable rents of the property, and because he had failed to advise the plaintiff that he could not rely on the rents which were being paid being recoverable rents.

Per Danckwerts, J.:—Where inquiries before contract have been made, it is still the duty of a purchaser's solicitor to make the appropriate requisitions and inquiries after the formal contract is signed, even if the preliminary inquiries have been so complete that it is only necessary to ask whether the answers thus received are still complete and accurate. (*Goody v. Baring* [1956] 2 *All. E.R.* 11.)

OBITUARY.

Mr. John L. Kealy, Solicitor, died on the 3rd May, 1956 at St. Vincent's Hospital, Dublin.

Mr. Kealy served his apprenticeship with the late Mr. Joseph M. Reilly, Drogheda, was admitted in Hilary Sittings 1928 and practised at Drogheda, Co. Louth.

Mr. John Lombard, Solicitor, died on the 13th May, 1956 at St. Lawrence's Hospital, Dublin.

Mr. Lombard served his apprenticesnip with the late Mr. William Devoy, 74 Dame Street and the late Mr. John Hawthorn, 15 Eustace Street, was admitted in Hilary Sittings, 1928 and practised at Gorey, Co. Wexford.

THE REGISTRY.

Register A.

SOLICITOR, sole principal of large well-established Firm in Southern town, contemplates retiring on the grounds of age, and is willing to offer a partnership in, with a view to an ultimate sale of his practice. Only Candidates with at least three years experience need apply. A sound knowledge of Conveyancing essential. Capital desirable. Replies will be dealt with in strictest confidence and should be sent to The Secretary, Incorporated Law Society of Ireland.

Register B.

LADY SOLICITOR having experience in Conveyancing, Land Registry, Probate and General Office work in the country and Dublin desires change. Box B205.

SOLICITOR (blind), admitted June 1955; experience so far mainly Probate but also anxious to extend practical knowledge in other branches; seeks Assistantship, preferably Dublin. H. Studdert, Clonderlaw, Enniskerry, Co. Wicklow.

Register C.

FOR SALE Hallsbury's Laws of England, 30 volumes including Index. G. H. Sargint & Co., Cahir, Co. Tipperary.

SPANISH student in Vigo, Spain, wishes to exchange temporary residences with Irish student wishing to come to Spain. For further particulars apply to Box No. C147.

COLONEL MICHAEL GOOLD ADAMS, late of No. 10 Fitzwilliam Square, E. Dublin who died on 28th May 1875. Will any person having information as to the original or copy Will and Probate of above please communicate with Barry M. O'Meara & Co., Solicitors, 38, St. Stephens Green, Dublin, and 18, South Mall, Cork.

JOHN POWER, late of Brown Street, Portlaw, County Waterford and York Street, Dublin. Will any Solicitor holding a Will or Wills of the above-named Deceased, which might have been made during the year 1954, please communicate with the undersigned Solicitor for the next-of-kin. M. M. Halley, Solicitor, Waterford.

Registration of Title Acts, 1891 and 1942
Issue of Duplicate Land Certificate.

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of May, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

1. Registered Owner Annie M. O'Brien, Folio number 10549. County Meath. Lands of Ardrums in the Barony of Deece Upper containing 8a. 2r. 11p.

2. Registered Owner Michael Lane. Folio Number 47. County Limerick. (1) 68a. 3r. 10p. of the lands of Ballinloughane and (2) 25a. 3r. 25p. of the lands of Ballyan in the Barony of Shanid.

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JUNE,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

Meetings of the Council

MAY 10TH: The President in the Chair. Also present Messrs. R. J. Walker, G. G. Overend, D. J. Mayne, H. St. J. Blake, A. Cox, D. J. Collins, J. R. Quirke, J. J. Nash, F. J. Gearty, C. E. Callan, John B. Jermyn, Peter E. O'Connell, J. P. Tyrrell, J. J. O'Connor, P. F. O'Reilly, P. R. Boyd, J. J. Sheil, W. J. Norman, T. A. O'Reilly, Niall Gaffney, Joseph Barrett, C. J. Downing, R. McD. Taylor, S. O'hUadhaigh, F. X. Burke, J. R. Halpin, R. J. Nolan, G. A. Nolan, C. J. Daly, T. de Vere White, Derrick M. Martin.

The following was among the business transacted :

Cattle Sales Company.

ON an enquiry of a member as to whether there would be any professional objection to his acting as secretary and director of a cattle sales company the Council replied stating that there would be no objection provided that no part of the business of the company is conducted in the solicitor's office or in a building having a common entrance with it. It was also stated that the company should have a separate telephone and notepaper and that communications from the company should not describe the secretary as a solicitor.

Agency with other solicitors.

A member acted for a client resident in Ireland and instructed English solicitor to institute proceedings in England on the client's behalf. The action was settled, the English solicitor taxed his costs as between party and party and offered to pay agency commission to member. Member proposed to charge the client for attendances on and correspondence with the client and asked for the Council's opinion as to :—

(*a*) whether he was obliged to pay to the client the whole or any portion of the agency fees allowed to him by the English solicitor.

(*b*) whether he may properly charge the client in addition for correspondence with or attendances on the client in Ireland. Reference was made to Cordery on Solicitors 4th edition page 254 in which it is stated that a solicitor who is employed to buy or sell or otherwise act as agent for a client and who obtains a secret profit from the transaction from the other party must according to well-known principles account for it to the client.

The Council expressed the following opinion on the facts before them. (1) Agency allowance covers the correspondence between the Irish and the foreign solicitor. Member could not be paid twice for this correspondence and it would probably be an implied term of the retainer that member would be entitled to the agency allowance which would relieve the client from any further liability in respect of this work. (2) Member is not obliged to pay to the client the whole or any portion of the agency fees allowed to him by the English solicitor. (3) Member may properly charge the client additional fees for correspondence with or attendances on the client in Ireland if this work has not already been charged in the English solicitor's bill. (4) Commission received by one solicitor from another on the usual agency terms is not a secret commission as the practice is well established and recognised. (5) The allowance of agency does not increase the costs for which the client is liable and avoids the necessity of submitting two bills, one from the English solicitor to the client and the other from the Irish solicitor to the client in respect of correspondence with the English solicitor. (6) The costs of the English solicitor are payable by the client unless recovered from the other side and it is immaterial whether the English solicitor keeps the whole or shares it with the instructing solicitor.

Land Registry Northern Ireland. Affidavit of attesting witness.

THE Secretary reported that as the result of representations made by the Incorporated Law Society of Northern Ireland at this Society's request the Registrar of Deeds in Northern Ireland had made a rule whereby documents bearing the attestation of a solicitor who holds a practising certificate in the Twenty-Six Counties will not require an affidavit of attesting witness.

Depreciation of Land Bonds.

IT was decided to make representations to the Irish Land Commission that where bonds stand at less than par either at allocation or date of issue additional bonds should be issued to make up the deficiency to the payee.

MAY 31ST: The President in the Chair. Also present Messrs. R. J. Walker, G. G. Overend, T. A. O'Reilly, J. R. Quirke, F. X. Burke, D. J. Collins, R. J. Nolan, George A. Nolan, F. J. Lanigan, J. R. Halpin, A. Cox, T. de Vere White, Joseph Barrett, Desmond Mayne, J. J. O'Connor, Derrick M. Martin, C. J. Downing, John J. Sheil, P. R. Boyd, F. Gallagher, Peter E. O'Connell, John Carrigan, N. Gaffney, R. McD. Taylor, W. J. Norman, C. J. Daly, P. F. O'Reilly, John F. Foley.

The following was among the business transacted:

Regulation.

THE Solicitors Act 1954 (Apprentices' Fees) Regulations 1956 (S.I. No. 140 of 1956) were made by the Council for submission to the Chief Justice. The Regulations having been approved by the Chief Justice may be purchased at the Government Publications Sales Office.

Schedule 2 Costs.

THE Council discussed the advisability of making application to the Statutory Committee under Section 2 of the Solicitors' Remuneration Act 1881 for an increase in the item costs under the old system as amended by Schedule 2 S.R.G.O. 1884. The matter was referred to a Committee with instructions to draft the details of such a proposal for consideration by the Council.

Land Commission Costs.

THE Council considered and approved a written application to have meetings convened of the Statutory Committees under Sections 3 and 7 of the Land Act 1933 to consider an application by the Society with reference to costs and a deputation was appointed.

GRANTS FOR HOUSES FOR LETTING.

THE attention of members is drawn to the principal provisions of the Housing (New Houses) Regulations 1954—S.I. No. 261 of 1954 as follows:—

1. By section 13 of the Housing (Amendment) Act, 1954 the Minister for Local Government may with the consent of the Minister for Finance and subject to regulations made under this section make, out of money provided by the Oireachtas to a person *providing a house for letting* a grant not exceeding £175 if the number of rooms in the house does not exceed three; £225 if the number of rooms in the house does not exceed four and £275 if the number of rooms is five or more; these rates are reduced by £50 for each grant if sewerage and piped water supply are not available. In order to obtain the grant, the erection of the house must have been begun before the 1st April, 1954, and must have been completed before the 1st April, 1956. The applicant must also comply with all the regulations.

2. The conditions in respect of sites, aspect, planning, construction and sanitation and number per acre of houses set out in the previous Housing (New Houses) Regulations of 1948, 1950 and 1953 shall be prescribed conditions in relation to these regulations. The Minister may in any particular case dispense with any of the said conditions where he is satisfied that circumstances exist which render rigid adherence to the conditions undesirable.

3. A house shall be deemed to have been begun when the construction of the foundations has started. Irish materials shall be used in the erection as far as possible. The grant house shall not be connected with a shop or business premises.

4. Plans shall be submitted to the appointed officer in the form required by any local act or by the bye-laws in force together with :—

(*a*) a site plan and a house plan. Each house on the site plan shall be marked by a separate distinguishing number. The house plan shall contain a schedule setting out the floor area of each room and the total floor area of the house.

(*b*) an undertaking in writing that the standard of construction will be in accordance with one of the specifications issued with the prescribed plans.

(*c*) evidence in writing that the appropriate local authority has approved of the plans under building bye-laws.

(*d*) an undertaking in writing that throughout the erection of the houses trade union rates of wages will be paid and conditions of labour observed.

5. When the appointed officer has received the plans and documents he shall examine them to see if they comply with the provisions of section 13 of the 1954 Act and these regulations ; if so he will prepare a certificate of approval. One copy of the certificate will be issued to the applicant. If it is proposed to erect 10 or more houses on one site the appointed officer shall not issue a certificate of approval until the Minister has approved of the site plans.

6. When a house has been completed and let in accordance with these regulations, an applicant for a grant shall first apply to the appointed officer for a certificate that the house has been completed in a proper and workmanlike manner ; the appointed officer if satisfied after an inspection of the house shall duly issue a certificate of satisfactory completion. The applicant shall thereupon forward such certificate to the Minister with a written application for a grant in the prescribed form together with the :—

(*a*) documents of title

(*b*) the letter of agreement relating to the house and

(*c*) such other evidence as the Minister may require.

The Minister if satisfied that the requirements of the Act have been complied with may make a grant in respect of such house to the applicant and shall notify the appointed officer that such a grant has been made.

7. Any person aggrieved by the neglect or refusal of the appointed officer to give a certificate may appeal to the Minister. On such appeal the Minister may as he shall think fit give or refuse such a certificate and his decision shall be final.

8. *A grant house shall when completed not be let for a longer period than 10 years. No fine other than the rent reserved in the lease and a deposit not exceeding three months' rent shall be charged. The person to whom the grant is made shall not reside in the house. The rent reserved shall not include any charge in respect of the use of furniture. The lease shall provide that the tenant shall not sub-let, sub-divide, or part with or share possession of the house or any part thereof.*

9. *If unregistered, the title deeds of the house shall have endorsed thereon a note to the effect that an undertaking has been given by the person providing the house that subject to the provisions of these regulations he will not sell the house within 15 years from the date of the undertaking and that he will let the house within that period subject to the regulations. If the house is registered under the Registration of Title Acts, an inhibition shall be entered on the folio relating to the premises to the effect that no disposition of the said premises shall be registered within a period of 15 years from the date of the undertaking without notice to the Minister.*

10. A grant house may with the consent of the Minister be sold within the period of 15 years from the date of the undertaking *subject to the following conditions :*

(*a*) the house shall not be sold if it is untenanted and shall only be sold subject to the tenancy existing at the time of the sale;

(*b*) the house shall not be sold to the tenant;

(*c*) the purchaser shall give to the Minister an undertaking that he will not sell the house within a period of 15 years from the date of the first undertaking given.

11. No grant will be paid by the Minister unless he has received the aforementioned undertaking that the house will not be sold within the 15 years and that he is satisfied that the house has been completed in a proper and workmanlike manner and that it has been let in accordance with these regulations.

NOTICE TO SOLICITORS' APPRENTICES

1. New regulations will come into operation on 1st September, 1956, and are printed in the Society's Calendar and Law Directory. Copies may also be obtained from the Government Publications Sales Office, G.P.O. Arcade, Dublin. (S.I. No. 217/1955).

2. Examinations.

The following examinations will be held:—

(*a*) the first Irish examination to be passed before entering into indentures. The examination is held three times yearly in winter, summer and autumn.

(*b*) the first law examination in the subject of real and personal property, the law of contract and the law of tort held twice yearly in spring and autumn. The standard of the examination in these subjects will be final level and an apprentice who passes the examination will not be examined again in these subjects except on certain branches of the law of contract under the heading commercial law. The examination may be taken at any time after two years' service under indentures.

(*c*) the book-keeping examination held twice yearly in spring and autumn. The examination may be taken at any time after three years' service under indentures.

(*d*) the second Irish examination held three times yearly in winter, summer and autumn. The examination may be taken within two years before the expiration of the term of apprenticeship or within two years before admission.

(*e*) the second law examination held tiwce yearly in spring and autumn. The subjects will be the practice and procedure of the Supreme Court and High Court (except probate), company law, the law and practice of conveyancing, land law (including Landlord and Tenant, the Rent Restrictions Acts, Registration of Titles and Deeds, and the Land Acts, but excluding land purchase), and equity. The examination may be taken after 12 months from the date of passing the first law examination and not earlier than six months before being eligible to attend the third law examination hereinafter mentioned.

(*f*) the third law examination held twice yearly in spring and autumn on the law of wills, and intestacy probate and administration of estates contentious and non-contentious, taxation (including death duties), criminal law and practice, law of evidence, and commercial law (the Bills of Exchange Acts, Sale of Goods Acts, Hire Purchase Acts, insurance excluding marine insurance) and the practice of the Circuit and District Courts. The examination may be taken at any time within six months before the expiration of the term of indentures or thereafter.

3. Lectures.

(*a*) University lectures.
Before attending the first law examination an apprentice must produce to the Society a certificate of credit for a year's course of lectures at a university approved by the Society in the law of real and personal property, contract and tort and before attending the second law examination you must produce a certificate of credit from a University for attendance at a year's course of lectures in equity.

(*b*) In addition to the university law lectures an apprentice must attend a year's course of lectures at the Society by the Society's lecturers in each of the following subjects:

Course A. Conveyancing law and practice and land law.
Course B. The procedure and practice of the Courts.
Course C. Company law and executorship law and practice.
Course D. Taxation including death duties.
Course E. Book-keeping and the rights, duties and responsibilities of solicitors.

The Society's lectures in the various courses should be taken before attending the examinations in which the subjects are included. These lectures may be taken together in one year if the apprentice wishes.

An apprentice who has already obtained credit for attendance at university law lectures or at the Society's law lectures in any subject under the former regulations will be exempted from further attendance at the University or at the Society for lectures in that subject. It should however be noted that an apprentice who may already have attended the Society's lectures in property, contract and tort may have to attend lectures in the University, in order to obtain the remission of one year in the term of apprenticeship under paragraph 3 of the second schedule to the Solicitors Act 1954. Apprentices attending the compulsory university law lectures under regulation 21 and obtaining credit therefor will be automatically entitled to this remission.

4. Transitional provisions.

The last intermediate examination under the present regulations will be held in spring 1957 and the new first law examination will commence in autumn 1957. Under the existing practice of the Council an apprentice may attend the intermediate after two years' service but may be admitted as a concession to the examination after 18 months' service. Apprentices who pass the intermediate examination including the book-keeping examination may attend the final examination under the present regulations which will continue until spring 1960, subject to conforming with the regulations as to time, etc.

An apprentice who passes the first law examination which will commence in autumn 1957 may also attend the book-keeping examination and the final examination under the present regulations down to spring 1960, subject to conforming as above. If he passes the present final examination he need not attend the second and third law examinations under the new regulations. An apprentice who does not pass the final examination before spring 1960 must attend and pass the new first, second and third law examinations. During the transitional period the Court of Examiners may on special application permit such an apprentice to take the examinations together or separately. The regulations confer wide powers on the Court of Examiners to deal with special cases of difficulty during the transitional period.

5. Apprentices who enter into indentures after 31st August, 1956, will not be subject to the transitional provisions and will be bound by the regulations as to the times at which the various examinations may be taken and other matters.

6. The principal change effected by the new regulations is that the first law examination (unlike the present intermediate examination) will be conducted at final level and the successful candidate will not be subject to further examination in the subjects except as mentioned above. It is important therefore for each apprentice now serving under indentures to decide whether he will take the present intermediate or the new first law examination and to plan his studies accordingly. Apprentices who intend to take the first law examination will bear in mind that there will be no examination in practice at this stage but a full and detailed examination in the theory subjects. Apprentices who intend to take the intermediate examination will bear in mind that there will be a paper on practice and that some of the more difficult parts of the law of property will be excluded. Apprentices who pass the final examination in or before spring 1960 will be examined over the whole course as at present, but after spring 1960 the subjects taken at the first law examination (except commercial law as mentioned above), will not be included in the second and third examinations.

7. Members who have apprentices are asked to bring the above to their notice.

DEATH DUTIES AND STAMP DUTIES. FINANCE BILL, 1956.

THE attention of members is drawn to the following important provisions of the Finance Bill, 1956, of special interest to solicitors.

1. Where the property passing on the death of any person dying domiciled in the State includes any Irish stocks, shares, or securities the value of such stocks, shares and securities for the purposes of assessment of estate duty shall be deemed to be two-thirds of their full value. In order to benefit from this concession the deceased person must have been beneficially entitled to such shares for at least three years before his death (Section 21), but any charge or incumbrance may be deducted in full.

2. It will be recalled that Section 13 of the Finance (No. 2) Act 1947 imposed a stamp duty of 25 per cent.

upon all purchases of lands by aliens. Under Section 13 (4) of the 1947 Act, in order to claim exemption from this rate of stamp duty it was necessary to certify that the purchaser was either an Irish citizen or a person ordinarily resident in the State or a body corporate satisfying certain conditions. Under the Bill as introduced the following alternative certificate may, in appropriate cases, be included in the instrument by the transferee or assignee.

(*a*) that the property being conveyed or transferred is property which is being acquired for private residential purposes and does not include land exceeding five acres in extent or

(*b*) that the property being conveyed or transferred is property which is being acquired exclusively for the purposes of an industry other than agriculture.

If such a certificate is given the purchaser will only have to pay the ordinary rate of stamp duty on a conveyance or transfer although he is not a citizen.

There are similar provisions with respect to leases (Section 31).

Section 26 of the Finance Act 1949 (which provides that certain dispositions by way of mortgage shall attract the 25 per cent. duty) will not apply to conveyances of property within (*a*) and (*b*) above.

Sections 24 and 25 of the Finance Act, 1949 increased the rates of stamp duty on fines in leases and by Section 16 of the Finance Act, 1956 certain leases under the Housing of the Working Classes Acts were exempted from the increased duty provided that the instrument affected contained a certificate in the form prescribed by Section 24 of the Finance Act, 1949, or that the Revenue Commissioners were satisfied that such a certificate might properly have been given. These certificates will be no longer required in the case of such a lease which contains a certificate to the same effect as (*a*) and (*b*) above.

PRESENTATION OF CERTIFICATES.

On 31st May the President at a ceremony in the Society's Library presented certificates to the following solicitors :—

Owen Binchy (Jnr.), Gortskagh, Charleville, Co. Cork; William W. Blood-Smyth, 29, Lr. Gardiner Street, Dublin; John F. Buckley, B.A., LL.B., 25, Maxwell Rd., Rathgar, Dublin (*2nd Place Special Certificate March Final*); Gerald Bernard Coulter, 2 Glenn Terrace, Glasthule, Co. Dublin; Matthew P. Drum, 4 Lavarna Grove, Terenure, Dublin; Edward J. Duffy, Virginia, Co. Cavan; John C. Farrell, Longford (*1st Place March Final, Silver Medal*); Michael G. Fogarty, Newbridge Rd., Naas, Co. Kildare; Michael J. Gleeson, 36 Trimleston Gardens, Bootertown, Dublin; Patrick A. Glynn, 1 The Crescent, Limerick; Daphne M. Gordon, 32 Sundrive Rd., Kimmage, Dublin (*Special Certificate September Final*); Brenda Mary Halpin, 1 Fitzwilliam Square East, Dublin; Dermot Hegarty, 2 Killeen Terrace, Malahide, Co. Dublin; Patrick B. Kelly, West End, Mallow, Co. Cork; Mary Margaret Murray, B.A., 176 Merrion Rd., Ballsbridge, Dublin; Robert W. McGonagle, Church Road, Swords, Co. Dublin; William Thomas Nicholl, 65 Highfield Park, Dundrum Rd., Dublin; Michael A. Noonan, St. Kyran's, Rathkeale, Co. Limerick; Albert O'Dea, Vesington, Dunboyne, Co. Meath; James B. O'Leary, B.A., Ballyfarna, Claremorris, Co. Mayo; Gerard O'Malley, 18 Waterloo Road, Dublin; James J. O'Sullivan, Portarlington, Co. Laois; Mairead F. Ruttledge, Ardagh Park, Newtownpark Avenue, Blackrock, Co. Dublin; John P. Clifford, Cahirciveen, Co. Kerry.

REGISTRATION OF TITLE ACTS, 1891 and 1942

Issue of Duplicate Land Certificate

Applications have been received from the registered owners mentioned in the Schedule annexed hereto for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of June, 1956.

Joseph O'Byrne,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

1. Registered Owner MICHAEL MULLIN
Folio number 8507 County Mayo
Lands of Creevagh South in the Barony of Kilmaine containing 5a. or. 32p.

2. Registered Owner RODY CLEARY
Folio number 22014 County Tipperary
Lands of Knigh in the Barony of Lower Ormond containing 46a. 2r. 31p.

3. Registered Owner JOSEPH FREEHILL
Folio number 21631 County Cavan
Lands of Killygreagh in the Barony of Tullyhunce containing 4a. or. 23p.

4. Registered Owner JAMES GUIRKE or GUIRK
Folio number 8850 County Meath
Lands of Dromone containing 17a. 1r. 30p. and lands of Galmoystown containing 17a. 1r. 30p. both situate in the Barony of Fore.

SOLICITORS PRACTISING WITHOUT CERTIFICATES.

CASES have been reported to the Council of solicitors who have practised or are practising without certificates and they wish to draw the attention of members and of Bar Associations to the following provisions of the Solicitors Act 1954.

3.—In this Act "unqualified person" means—
(*a*) solicitor who is not a solicitor qualified to practise or
(*b*) a person who is not a solicitor.

55.—(1) An unqualified person shall not act as a solicitor.

(2) A person who contravenes subsection (1) of this section shall without prejudice to any other liability or disability to which he may be subject be guilty of an offence under this section and shall be liable—

(*a*) on conviction thereof on indictment to imprisonment for a term not exceeding two years or, at the discretion of the Court to a fine not exceeding two hundred pounds or to both such fine and such imprisonment or,

(*b*) on summary conviction thereof to imprisonment for a term not exceeding six months or at the discretion of the Court to a fine not exceeding fifty pounds or to both such fine and such imprisonment.

(3) A person who contravenes subsection (1) of this section in relation to a court of justice shall also be guilty of contempt of that court and shall be punishable accordingly.

57.—(1) Where a solicitor acts as a solicitor while he is not a solicitor qualified to practise, costs in respect of anything done by such solicitor so acting shall not be recoverable in any action suit or matter by such solicitor or any person claiming through or under him.

(2) Nothing in subsection (1) of this section shall affect any indemnity which a client of a solicitor has under an order of any court in respect of costs awarded under the order, to the extent (if any) to which the client may have paid such costs to the solicitor at the date of the order.

SOLICITORS' GOLFING SOCIETY.

THE Society's Spring outing was held at Portmarnock on Thursday, April 26th, the entries from the city and country were satisfactory notwithstanding rather unfavourable weather conditions. The following were the prize winners :—

The Golfing Society Challenge Cup with the prize of the Captain (Mr. T. F. McKeever), D. Lynch (3) three down. Runner-up R. J. Tierney (16) six down.

St. Patrick's Plate (Handicaps 12 and under), D. M. Murphy (6) seven down.

Veteran's Cup : E. Walshe (6) eight down.

The remaining prize winners were D. Guinan first nine three down. S. V. Crawford second nine one down.

Special Prizes :—J. H. Crawford, W. Tormey and G. McGrath.

At dinner in the club-house Mr. Dermot P. Shaw, President of the Law Society, proposed the toast of the Captain, who replied. The toast of the guests was proposed by Mr. T. A. O'Reilly and Mr. John Coleman, B.L., Captain of the Bar Golfing Society, replied.

The Inter-Provincial competition for the enterprise trophy was held at Killarney on Saturday, May 12th, at the invitation of the Kerry Solicitors' Association. Munster won the competition and Ulster and Leinster took second and third place respectively. The best individual score was that of Mr. John Boston (3), Belfast, with 37 points.

A competition between this Society and the Bar Golfing Society has been arranged for Saturday 28th July, 1956, at Baltray and intending competitors are requested to give their names to the Hon. Sec. of their Society as early as possible. It is proposed to hold a foursome competition in the morning and a four-ball in the afternoon. There will be a draw for partners and opponents save where players otherwise arrange. There will be a dinner in the club-house at the conclusion of the competition.

A meeting of the Society will be held in the autumn for the President's Prize and subsidiary competitions. Particulars will be circulated to members in due course.

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THE INCORPORATED LAW SOCIETY OF IRELAND

Solicitors' Act, 1954.

On 27th June 1956, the Disciplinary Committee made an order directing that the name of Charles Harvey who practised at Castlerea, Co. Roscommon, shall be struck off the roll of solicitors.

27th June, 1956.

Eric A. Plunkett.
Registrar of Solicitors.

Solicitors' Buildings,
Four Courts,
Dublin.

Vol. 50
No. 3

JULY,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL.

JUNE 28TH: The President in the Chair. Also present G. G. Overend, Ralph J. Walker, Henry St. J. Blake, Desmond Mayne, James R. Quirke, Francis J. Lanigan, John R. Halpin, Derrick M. Martin, John J. Nash, Thomas A. O'Reilly, F. J. Gearty, William J. Norman, J. F. Foley, Peter E. O'Connell, Niall Gaffney, John Carrigan, Patrick R. Boyd, R. McD. Taylor, C. E. Callan, Cornelius J. Daly, Reginald J. Nolan, John J. Sheil, James J. O'Connor, Desmond J. Collins, Patrick F. O'Reilly, Francis Gallagher, Terence de Vere White.

The following was among the business transacted:

Application under Section 38.

AN application by a solicitor's apprentice for permission to accept office as a company director while serving under indentures was granted; the Council being satisfied that the duties of the position would not interfere with due service under indentures.

Registry of Deeds Searches.

MEMBERS referred to the common practice of vendors of houses forming part of building schemes of including a condition on the sale of an individual house that the purchaser will be entitled to a copy, certified by the vendor, of the negative search affecting the whole scheme or an extract therefrom. In some cases the lessor bespeaks a negative search which is kept open in the Registry of Deeds and the lessee is given an authority to inspect with an undertaking from the lessor to furnish a certified copy of the search when finally closed. Members raised the question of liability for a mistake in the certified copy and suggested that as the action might be ex delicto the defence of contributory negligence might be available in an action by the purchaser against the vendor. There is also the question of possible liability of the purchaser's solicitor for negligence towards his own client. Members also raised the question of the liability of the Registry of Deeds where a purchaser is given a photostat copy of the original Negative Search. Would the Registrar of Deeds be liable to a purchaser or lessee taking a photostat copy if the original search were erroneous or would he be liable only to the person who originally bespoke the search? Members pointed out that the scale fee makes no provision for paying the solicitor for a purchaser for comparing

a certified copy search with the original and that a proper comparison would require the service of two persons simultaneously. The Council expressed the opinion that the Registrar of Deeds is personally liable under Section 26 2nd and 3rd William IV Cap. 87 for loss suffered by any person who acts on an incorrect negative search. They were further of opinion that solicitor for a purchaser must if so advised compare a copy search with the original search when closed in the Registry of Deeds.

Sale and resale of leasehold premises with goodwill.

A and B carried on business in partnership the assets being leasehold premises £14,000, moveable chattels £3,000, goodwill £3,000. Total £20,000. On dissolution A purchased B's interest for £10,000 apportioned as follows: leasehold premises £7,000, moveable chattels £1,500, goodwill £1,500.

A purchased as agent for a company about to be formed and shortly afterwards assigned such interest to the company and also sold to the company his own interest in the partnership in consideration of £10,000 apportioned as above. Member acted for A on the purchase from B on which occasion there was a full investigation of title and also acted for both A and the Company on (1) the assignment of the interest purchased by A as agent and (2) the sale of A's beneficial interest. A's intervening sole title was investigated and further searches made. He asked for advice as to the costs which should be charged. The Council stated that (1) the commission scale fee is not payable on the value of the moveable chattels; (2) if the goodwill is adherent or "cat" goodwill within the meaning of Whiteman Smyth Motor Company *v.* Chaplin (1934 2. K.B.) it should be regarded as part of the premises sold for the purpose of costs. (3) On the assumption that commission scale fee is chargeable on the goodwill and that member substantially performs all the work described in schedule to S.R.G.O. 1951, member is entitled to charge the following commission scale fees, (*a*) on £8,500 payable by the company on the purchase by A as agent for the company; (*b*) on £8,500 payable by A on the sale of his beneficial interest to the company, and (*c*) on £8,500 payable by the company on the purchase of A's beneficial interest.

Taxation of Costs. Review.

MEMBERS drew the attention of the Council to the provisions of Order 65 rule 66 (1) Rules of the Supreme Court 1905 (1956 Calendar page 480) which provides inter alia that "any party who may be dissatisfied with the allowance or disallowance by the Taxing Master of any bill of costs taxed by him . . . *may before the certificate is signed* but not later than 10 days after such allowance or disallowance of any item deliver to the other party and carry in before the Taxing Master an objection in writing." Clause 3 of the same rule provides that the Taxing Master shall not be at liberty after the certificate has been signed to review the taxation or amend the certificate. Members pointed out that although the rule appears to allow ten days for an application to review, the applicant's rights may be defeated if the certificate is signed without notice to him within this period. The Council decided to refer the matter to the Society's representatives on the Superior Courts rules committee.

Agreement for gross sum or commission costs.

MEMBERS acted for beneficiaries of an American estate and propose to charge a commission fee of 5 per cent. on the amount received by each client being the fee prescribed by the rules of the local Bar Association. They asked for the Council's advice as to the legal authority for charging this fee. In their opinion the Council stated that the matter depends on the construction of Section 4 of the Attorneys' and Solicitors' Act 1870 and Section 8 of the Solicitors' Remuneration Act 1881. The Attorneys' and Solicitors Act 1870 generally speaking applies to work which does not fall within the Solicitors' Remuneration Act.

If the business is transacted in any action or in the court an agreement relating to it is regulated by the Act of 1870. Broadly speaking non-contentious business falls within the Solicitors' Remuneration Act 1881. Section 4 of the Act of 1870 provides that a solicitor may make an agreement in writing with the client respecting the amount or manner of payment for any past or future services either by gross sum or by commission or percentage or salary or otherwise but the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by a Taxing Master. Section 8 of the Solicitors' Remuneration Act 1881 enables a solicitor to make an agreement with a client before or after or in the course of a transaction for payment of the solicitor either by a gross sum or by commission or by salary or otherwise. The agreement must be in writing signed by the person to be bound. There is no provision similar to that in the Attorneys' and Solicitors' Act 1870 that the solicitor may not receive the agreed sum before taxation but a client may have the agreement referred to the Taxing Master. Apart from any agreement the Solicitors' Remuneration General Order (No. 2) 1920 enables a solicitor to charge

by a gross sum in lieu of detailed charges in respect of any business falling within clause 2 (*c*) S.R.G.O. 1884 but the solicitor must deliver a written statement of the charge with notification that the client may within twelve months therefrom or within one month after payment whichever is later required a detailed bill which will be subject to taxation. The Council expressed the opinion that (1) the reference to business in any action or transacted in any court in Section 2 of the Solicitors' Remuneration Act 1881 prima facie and probably means business in any Court in the Republic and accordingly that Section 8 of the Solicitors' Remuneration Act 1881 would apply to an agreement with reference to business in a foreign court (2) Member could enter into a binding agreement with the client subject to the provisions of the Section. (3) Member could also charge a gross sum complying with the requirements of S.R.G.O. (No. 2) 1920.

Branch Office.

A member who proposed to open a branch office attending in person for one hour each day asked for the approval of the Council. The Council affirmed their previous ruling published in the Society's GAZETTE in June 1951 in which it was stated that it is not in accordance with proper professional practice that a solicitor's office should be managed by an unqualified assistant without adequate professional supervision of clients' business. While the adequacy of the supervision must depend upon the facts of particular cases the Council are generally of the opinion that a branch office which is open daily should be managed by a qualified assistant. If there is no permanent qualified assistant in charge of the office it should be open only on days when the principal attends in person. The question of the adequacy of the supervision over a branch office may be raised under Section 49 (1) (*g*) of the Solicitors Act 1954 on the issue of a practising certificate by the Registrar's Committee to whom the functions of the Society in this respect are delegated. Member's attention was directed to the Section and the Council stated that they could not anticipate any decision of the Registrar's Committee thereon.

Dinner Dance.

A DINNER dance for members and their friends will be held in the new ballroom of the Shelbourne Hotel, Dublin, on Thursday, 22nd November next, the date of the Ordinary General Meeting. Further particulars will be published in the August issue of the Society's GAZETTE. Applications from members will be dealt with in order of receipt. Members may apply for tickets for friends. The price of tickets will not exceed £1 5s. 0d. per head, to include dinner and dance. Applications for tickets should not be made until after the next announcement.

PROGRAMME OF LECTURES, 1956-57.

COURSE A.

Company Law and Administration of Estates. Fifty lectures delivered as follows :—

Michaelmas Sittings—18; Hilary Sittings—22; Easter Sittings—10. Minimum attendance for credit is, Michaelmas—14; Hilary—17; Easter—7. Lectures each Monday and Thursday at 2.15 o'clock, save where otherwise notified.

COURSE B.

Conveyancing Law and Practice and Land Law, 50 lectures delivered as follows :—

Michaelmas Sittings—18; Hilary Sittings—22; Easter Sittings—10. Minimum attendance for credit is Michaelmas—14; Hilary—17; Easter—7. Lectures each Tuesday and Friday at 2.15 o.clock, save where otherwise notified.

COURSE C.

The Procedure and Practice of the Courts, 50 lectures delivered as follows :—

Michaelmas Sittings—18; Hilary Sittings—22; Easter Sittings—10. Minimum attendance for credit is, Michaelmas—14; Hilary—17; Easter—7. Lectures each Tuesday and Saturday at 9 a.m., save where otherwise notified.

COURSE D.

Taxation including death duties, 50 lectures delivered as follows :—

Michaelmas Sittings—18; Hilary Sittings—22; Easter Sittings—10. Minimum attendance for credit is, Michaelmas—14; Hilary—17; Easter—7. Lectures each Monday at 9 a.m. and Saturday at 10.15 a.m., save where otherwise notified.

COURSE E.

Book-keeping, 50 lectures delivered as follows :—

Michaelmas Sittings—18; Hilary Sittings—22; Easter Sittings—10. Minimum attendance for credit is, Michaelmas—14; Hilary—17; Easter—7. Lectures each Monday and Thursday at 3.30 o'clock, save where otherwise notified.

COURSE F.

The rights, duties and responsibilities of solicitors, 2 lectures. An apprentice to obtain credit must attend both lectures. The dates on which the lectures will be held will be announced at a later date.

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

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

Fee—8 guineas for each course except course E £6–6–0 and course F for which there is no fee.

EXAMINATIONS, AUTUMN 1956.

Examination	*Date*	*Latest date for giving notice.*
Intermediate	September 3rd and 4th	August 13th
Final	September 3rd 4th and 5th	August 13th
Preliminary	September 4th and 5th	August 14th
First and Second Irish	September 7th and 8th	August 17th

FINANCE ACT, 1956. Death Duties.

IN a note published in the June issue in the Society's GAZETTE on the provisions of Section 21 of the Finance Bill 1956 it was stated that where property passing on the death of any person domiciled in the State included any Irish stocks shares or securities the value of such property for the purposes of assessment of estate duty would be deemed to be two-thirds of their full value. The statement as published was inaccurate as the concession proposed in the Finance Bill is limited to stocks shares or securities issued before or after the passing of the Finance Act to which Section 7 of the Finance Act 1932 applies. The last mentioned Section applies only to a limited class of Irish investments. It should also have been stated that under the terms of the Bill the concession will only be granted where the Revenue Commissioners are satisfied that the deceased person was beneficially entitled to the property continuously from the date of the original issue thereof up to the day of his death or continuously for a period of not less than three years immediately preceding the date of his death.

BUSINESS NAMES.

THE attention of members is drawn to the following important Sections of the Registration of Business Names Act, 1916, which oblige people using business names to register. It would seem that the definition section would make the provisions apply to a profession as well as to a business.

SECTION 1.

(*a*) Every firm having a place of business in the United Kingdom and carrying on business under a business name which does not consist of the true surnames of all partners who are individuals and the corporate names of all partners who are corporations without any addition other than the true Christian names of individual partners or initials of such Christian names ;

(*b*) Every individual having a place of business in the United Kingdom and carrying on business under a business name which does not consist of his true surname without any addition other than his true Christian names or the initials thereof ;

(*c*) Every individual or firm having a place of business in the United Kingdom, who, or a member of which, has either before or after the passing of this Act changed his name, except in the case of a woman in consequence of marriage ;

shall be registered in the manner directed by this Act :— Provided that—

(i) where the addition merely indicates that the business is carried on in succession to a former owner of the business, that addition shall not of itself render registration necessary ; and

(ii) where two or more individual partners have the same surname, the addition of an " s " at the end of that surname shall not of itself render registration necessary ; and

(iii) where the business is carried on by a trustee in bankruptcy or a receiver or manager appointed by any court, registration shall not be necessary ; and

(iv) a purchase or acquisition of property by two or more persons as joint tenants or tenants in common is not of itself to be deemed carrying on a business whether or not the owners share any profits arising from the sale thereof.

SECTION 7. If any firm or person by this Act required to furnish a statement of particulars or of any change in particulars shall without reasonable excuse make default in so doing in the manner and within the time specified by this Act, every partner in the firm or the person so in default shall be liable on summary conviction to a fine not exceeding five pounds for every day during which the default continues, and the court shall order a statement of the required particulars or change in the particulars to be furnished to the registrar within such time as may be specified in the order.

SECTION 8.—(1) Where any firm or person by this Act required to furnish a statement of particulars or of any change in particulars shall have made default in so doing, then the rights of that defaulter under or arising out of any contract made or entered into by or on behalf of such defaulter in relation to the business in respect to the carrying on of which particulars were required to be furnished at any time while he is in default shall not be enforceable by action or other legal proceeding either in the business name or otherwise.

SECTION 13.—(1) If any firm or individual registered under this Act ceases to carry on business, it shall be the duty of the persons who were partners in the firm at the time when it ceased to carry on business or of the individual or if he is dead his personal representative within three months after the business has ceased to be carried on, to send by post or deliver to the registrar notice in the prescribed form that the firm or individual has ceased to carry on business, and if any person whose duty it is to give such notice fails to do so within such time as aforesaid, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(2) On receipt of such a notice as aforesaid the registrar may remove the firm or individual from the register.

SECTION 18.—(1) After the expiration of three months from the passing of this Act every individual and firm required by this Act to be registered shall, in all trade catalogues, trade circulars, showcards, and business letters, on or in which the business name appears and which are issued or sent by the individual or firm to any person in any part of His Majesty's dominions, have mentioned in legible characters—

(*a*) .....

(*b*) in the case of a firm, the present Christian names, or the initials thereof and present surnames, any former Christian names and surnames, and the nationality if not British, and if the nationality is not the nationality of origin the nationality of origin of all the partners in the firm or, in the case of a corporation being a partner, the corporate name.

SECTION 22. In the construction of this Act the following words and expressions shall have the meanings in this section assigned to them, unless there be something in the subject or context repugnant to such construction:—

"Firm" shall mean an unincorporate body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit, but shall not include any unincorporated company which was in existence on the second day of November eighteen hundred and sixty-two:

"Business" shall include profession;

"Individual" shall mean a natural person and shall not include a corporation;

"Christian name" shall include any forename;

"Initials" shall include any recognised abbreviation of a Christian name;

"Business name" shall mean the name or style under which any business is carried on, whether in partnership or otherwise;

"Foreign firm" shall mean any firm, individual, or corporation whose principal place of business is situate outside His Majesty's dominions.

CHANGE OF ADDRESS.

By Section 81 of the Solicitors Act 1954 a practising solicitor shall within fourteen days of any change of his place of business give notice thereof to the Registrar of Solicitors.

OBITUARY.

MR. ROBERT CHARLES GRAHAM died on the 22nd May, 1956. Mr. Graham served his apprenticeship with the late Mr. John W. Richards and was admitted in Trinity, 1922, and carried on practice under the name of S. S. & E. Reeves & Sons at Scottish Provident Buildings, Donegall Square West, Belfast.

MR. JOSEPH H. DIXON died on 23rd June, 1956, at his residence, "Sunnyside," Seafield Avenue, Monkstown, Co. Dublin. Mr. Dixon was admitted in Hilary Sittings, 1920 and practised at 15 Parnell Square, Dublin.

MR. BRENDAN C. RUSSELL died on 23rd June, at a private nursing home. Mr. Russell was apprenticed to Mr. Charles M. Russell, Dundalk, was admitted in Hilary Sittings, 1932 and practised as a partner in the firm of MacMahon, Russell & Co., Dundalk.

PROCEEDINGS AGAINST SOLICITORS.

ON 27th June 1956 the Disciplinary Committee made an Order directing that the name of Charles Harvey who practised at Castlerea, County Roscommon shall be struck off the Roll of Solicitors.

On 17th July, 1956, the Disciplinary Committee made an Order directing that the name of Peadar (otherwise Peter) Cowan, who practised at 67 Dame Street, Dublin, shall be struck off the Roll of Solicitors.

LAND COMMISSION.

LETTERS of conditional consent to sub-division.

The Society has been informed by the Land Commission that in letters of conditional consent to the sub-division of registered land where consolidation is involved the following explanatory sentence is now being added to the paragraph regarding the feasibility of implementing consolidation:

"It should be clearly understood that the responsibility of ensuring that all the lands to be consolidated are in fact held in the same capacity is a matter for the interested parties or their solicitors and is not a matter either for the Land Commission or the Land Registry."

DECISIONS OF PROFESSIONAL INTEREST.

Substituted Bill of Costs to replace Bill which omitted Counsel's Fees.

THE Court of Appeal (Jenkins and Hodson, L.JJ.) affirming Pearson J. dismissed this interlocutory

appeal by the Marchioness of Winchester, from an order in chambers on April 11th, 1956, granting leave to solicitors, Messrs. Polak & Co., to withdraw a bill of costs delivered to the appellant on September 7th, 1955, and to deliver in substitution therefor a new bill of costs differing only from the original bill in including disbursements to counsel included in the original bill but not paid at the date when the bill came before the taxing master. Leave to appeal was given by the Court on May 7th, 1956.

Mr. Curtis-Bennett, for the appellant, said that when the original bill came before the taxing master it was discovered that counsels' fees had not been disbursed and the solicitors applied for an adjournment so that a new bill could be substituted. Immediately the adjournment was granted, counsel's fees were paid; the fees amounted to a large proportion, £302 14s. out of £531 14s. 3d., of the bill. The main ground of appeal was that the judge had no jurisdiction to allow the solicitors to substitute a bill in the manner ordered, and the second ground of appeal was that, in so far as the Judge had a discretion, he had exercised it on the wrong principles. No imputations of any kind were made against the solicitors and he, counsel, was anxious to keep away from the merits of the matter; it sufficed to say that the detailed taxation as and when it took place would be most bitterly contested by the appellant.

Per Jenkins, L.J. :—" In my judgment if the Court was satisfied that the case was one in which the solicitor had acted honestly and merited assistance the inherent jurisdiction of the Court extended to a withdrawal of a bill already delivered, where counsel's fees had not actually been paid, and the substitution of another bill, by which time the fees would have been paid.

On the question whether the present case was one in which the Judge should have exercised his discretion in favour of the solicitors, I agree that this was a borderline case, but the Judge was justified in coming to the conclusion that he could exercise his discretion in the solicitors' favour, and I feel that if I had been sitting as a Judge of first instance I would have come to the same conclusion."

(Polak *v.* Marchioness of Winchester — [1956] 2. All E. R. 660).

County Manager entitled to separate costs on appearance before Local Inquiry directed by Minister for Local Government.

THE Minister for Local Government directed that a local inquiry be held into the performance by D. McC., the County Manager for the County of Cavan, of the executive functions of the Council. By Order dated the 3rd October, 1950, the Minister, in the exercise of the powers vested in him by s. 90 of the Local Government Act, 1946, directed that D. McC. might appear separately at the inquiry. This Order did not purport to limit the cost of the separate appearance. The County Council refused to requisition taxation of D. McC.'s costs and on the 1st February, 1951, the Taxing Master taxed the costs at £2,488 17s. 2d. By letter dated the 15th January, 1952, the Minister in purported pursuance of s. 90 sub-s. (2) (*b*) of the Local Government Act, 1946, purported to limit to £900 the sum to be paid by the County Council to D. McC. for his costs and on the 5th April, 1952, the County Council sent to D. McC. the said sum of £900.

Held by Supreme Court (Maguire C. J., Lavery and Kingsmill Moore, JJ., O'Byrne J., dissenting) reversing Dixon J., that the Minister's direction of the 15th January, 1952, purporting to limit the cost of the County Manager's separate appearance at the inquiry was ultra vires and void, and that the plaintiff was entitled to the declaration sought and to judgment against the Cavan County Council for the sum of £2,488 17s. 2d.

Per Lavery J. :—" The Minister has ample powers to punish an officer of a local authority who has failed in his duty and it is satisfactory to know that he does not consider that condemning him to bear his reasonable legal costs and expenses is one of them. No indication was given by Counsel as to what they submitted the Minister should take into consideration, and, of course, none as to what he had considered in the present case.

In the exercise of the power, whatever may be its nature and extent, the Minister is, of course, bound to act according to the rules of reason and justice, not capriciously or arbitrarily, but on judicial grounds and for substantial reasons. The Court cannot, however, control the exercise of the power in the absence of evidence as to the grounds on which the Minister acted and it is not claimed that there is any material on which the Court could enter into an inquiry. The only question, therefore, is when the power may be exercised.

There are many considerations which lead me, with reasonable certainty, to the conclusion that the power should ordinarily be exercised when the order under sub-section 1 is made and that it certainly cannot be exercised after the Manager has, in pursuance of the order, appeared at the inquiry at least in so far as liability has been incurred.

When, in pursuance of an order the County Manager appears—as may be his duty and certainly is his necessity—costs are incurred and if no limit has been imposed—he is on the strictest reading of the section entitled to be paid these costs, being reasonable."

Per Kingsmill Moore, J. :—"When the inquiry is concluded the Minister is in a position to decide how far such representation was necessary, justified, helpful or successful and to measure his award accordingly. But very different considerations arise where, from the nature of the inquiry, it is desirable that a Manager should appear and be represented separately from the local authority. To meet the necessities of such cases section 90 was enacted in terms which, whatever is their true interpretation, are completely different in form from those of section 91.

Leaving aside the bracketed parenthesis, section 90 (2) (*b*) provides that the reasonable costs of the Manager's appearance shall be paid by the local authority. The costs are to be reasonable—presumably the taxing authority can see to this—but the right to recover costs is given by law and is not an ex gratia concession by the Minister. I find it impossible to suppose that it was intended, by a mere parenthesis, to allow the Minister not only to reduce a prima facie legal right to a nullity but also to do so ex post facto when all the reasonable costs have been incurred. Such a power would surely have called for a separate and carefully drafted sub-section; and such a sub-section would surely give the Minister express power to fix the amount of costs to be paid. The use of the word "limit" conveys not a reduction of a sum already ascertained, but the imposition of a boundary which the liability for costs, *not yet incurred*, shall not exceed. To limit is to impose bounds outside which a man cannot go. You cannot impose bounds after he has gone."

(McCarthy *v.* Cavan County Council and Minister for Local Government, 90 I.L.T.R., 77.)

In Libel Action, Jury entitled to return verdict after close of plaintiff's case although no direction given by Judge.

At the trial of a libel action which had lasted eight days in which the defendants pleaded justification the plaintiff called his evidence but did not himself give evidence; before the defence had been concluded the jury asked to retire and were permitted by the court to do so. On their return they brought in a verdict in favour of the plaintiff and awarded him a farthing damages. It was contended by the plaintiff that his case was not closed since he was entitled to withhold his own evidence and to give it in rebuttal of the evidence to be given by the defendants in support of their plea of justification, and that therefore the verdict ought not to be accepted, and that the jury ought to be discharged and a new trial ordered.

Held by Finnemore J., that the verdict, which, on the facts, was not unreasonable, must be accepted because :—

(1) as a matter of law the plaintiff's case had been closed and the jury were entitled to return their verdict notwithstanding the fact that it was or might be open to the plaintiff to give his own evidence in rebuttal of the plea of justification, particularly as no direction had been asked by the defendant.

(2) there was no necessity for the judge to give a direction to the jury on their retirement where, as in the present case, the jury had heard the plaintiff's case and had intervened only after his case had been concluded, for the right of a jury to stop a case at the end of the plaintiff's, or of the defendant's case has always been recognised.

(Beevis *v.* Dawson, 1956, 2. All E.R. 371).

LIBRARY VACATION ARRANGEMENTS.

The Library will be closed from Thursday, 16th August, to Sunday, 16th September inclusive and will reopen on Monday, 17th September. It is regretted that, as arrangements have been made to redecorate the Library, it will not be possible for members to borrow books until Thursday 6th September.

Registration of Title Acts, 1891 and 1942.

Notice.

Folio 1885 Co. Kildare
Registered Owner: Owen Brooks

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of July, 1956.

Joseph O'Byrne,
Registrar of Titles.

Schedule.

Land Certificate of Owen Brooks to 1a. or. 20p. of the lands of Leixlip situate in the Barony of Salt North and County of Kildare being the lands comprised in said Folio.

Registration of Title Acts, 1891 and 1942.

NOTICE.

Folio 897 County Tipperary
Registered Owner : JAMES HOURIGAN

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of July, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of James Hourigan to 19a. or. 31p. of the lands of Killea situate in the Barony of Clanwilliam and County of Tipperary being the lands situate in said Folio.

HOUSING AMENDMENT ACT 1956

THE attention of members is drawn to the Act which makes important amendments in the law relating to housing. Part 2 of the Act as passed contains financial provisions relating to housing grants, stamp duties, schemes for guaranteeing advances by building societies and assurance companies and grants for the provision and installation of private water supply and sewerage facilities. Part 3 amends Section 7 and 8 of the Housing Amendment Act 1948 relating to the control of certain premises. Part IV deals with the acquisition of land for street etc. under part III of the Housing of the Working Classes (Ireland) Act, 1890 of Part V contains miscellaneous amendments of the Labourer's Acts, 1936, 1950 and 1952 and provides for the amendment of powers to annul or confirm compulsory purchase orders. Part VI deals with the Acquisition of Small Dwellings and the proportion of the purchase price which may be advanced and the rate of interest.

STAMP DUTIES. GRANT HOUSES

MEMBERS' attention is drawn to the provisions of Section 7 (4) of the Housing (Amendment) Act 1956 which is as follows :—

7 (4) (*a*) Subject as hereinafter provided this subsection applies to every instrument giving effect to the purchase of a house upon the erection thereof.

(*b*) Section 13 of the Finance (No. 2) Act 1947 (No. 33 of 1947) and section 24 of the Finance Act 1949 (No. 13 of 1949) shall not apply to any instrument to which this subsection applies and, in lieu thereof, such stamp duties shall be chargeable as would have been chargeable if those sections had not been enacted.

(*c*) Paragraph (*b*) of this subsection shall have effect if, but only if, there is endorsed on the instrument a certificate under the seal of the Minister for Local Government that a grant under section 16 of the Act of 1948 has been or will be made in respect of the house so purchased, not being a grant to a public utility society or to the occupier of the house when erection thereof is completed.

(*d*) Where—

(i) an instrument has been charged with stamp duty in accordance with section 13 of the Finance (No. 2) Act 1947 or with section 24 of the Finance Act 1949.

(ii) A person requires under section 12 of the Stamp Act 1891, the Revenue Commissioners to express their opinion with reference to the instrument, and

(iii) It is shown to the satisfaction of the Revenue Commissioners that there could properly have been endorsed on the instrument a certificate under paragraph (*c*) of this subsection,

the instrument shall be deemed to have endorsed on it such certificate and to have been chargeable with duty accordingly, whether or not it has previously been stamped with a particular stamp denoting that it is duly stamped.

(*e*) In any such case as is referred to in paragraph (*d*) of this subsection, the Revenue Commissioners may repay the difference between the amount of duty actually charged on the instrument and the amount deemed to be chargeable thereon by virtue of paragraph (*d*) of this subsection, provided that the application for repayment is made within two years after the date of the instrument.

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AUGUST,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL.

JULY 19TH: The President in the Chair. Also present Messrs. G. G. Overend, Ralph J. Walker, Vice-Presidents, John R. Halpin, Francis J. Lanigan, James R. Quirke, Arthur Cox, John J. Sheil, Francis X. Burke, Joseph Barrett, Derrick M. Martin, Sean Ó hUadhaigh, John J. Nash, James J. O'Connor Reginald J. Nolan, R. McD. Taylor, Francis J. Gallagher, Peter E. O'Connell, Joseph P. Tyrrell, Terence de Vere White, Desmond J. Mayne.

The following was among the business transacted.

Item charges under Schedule 2 S.R.G.O. 1884
A Sub-committee which was appointed to consider proposals and draft any necessary submission to the statutory committee under the Solicitors' Remuneration Act 1881 for an increase in the present item charges reported that the case should be supplemented as far as possible with figures of solicitors' gross earnings and expenses in 1938 and 1956, and that a questionnaire should be drawn up for circulation to the profession or selected members. The Committee's report was adopted and the Council referred the matter back for the necessary action.

Long lease not at rack rent.
By lease of 4th July, 1896, premises were demised for 61 years at the yearly rent of £60 by A to B. C. took part of the property with a publican's licence by sub-lease dated 1st May, 1939 for 16 years at the yearly rent of £35. C has now obtained a renewal lease from A of the last mentioned premises for a term of 65 years from 1st May, 1955 at the yearly rent of £50 with the usual covenants and conditions. The property consists of a two-storey shop, licence and dwellinghouse with the yard at rere. The landlord's valuer suggested a rent of £75 and the tenant's and lessee's valuers suggested £50 which was agreed. The rateable value is £26 and both parties agreed that C would in all probability have had rights of renewal under the Landlord & Tenant Act, 1931, but the rights were lost as the lessee failed to serve notice of intention for renewal or relief under Section 24. Members asked on submission to arbitration whether the costs should be drawn on the higher scale or on the lower scale applicable to leases at a rack rent. A committee whose report was adopted by the Council stated that the costs are payable on the scale appropriate to a long lease not at a rack rent.

Client's privilege.
A member received a witness summons to attend Court to give evidence on a criminal charge against his former client of communications made to him by the client. It appeared that the communications from the client to member were in furtherance of an intention or attempt to commit a fraud which was the subject of criminal proceedings. Member enquired whether the communications were privileged. On the facts given the Council stated that in their opinion no privilege existed, but that member should raise the question of privilege and must abide by the ruling of the Court thereon.

THE BORDER

On representations received from the Donegal Solicitors' Association it has been suggested that the Council of this Society should approach the Incorporated Law Society of Northern Ireland with a view to making practice regulations under the Solicitors' Act, 1954, and the corresponding statute in Northern Ireland. The object of the regulations would be to make it illegal for a solicitor in Northern Ireland to engage in conveyancing transactions relating to land in the Republic unless he holds a practising certificate from this Society, with corresponding provisions preventing a solicitor in the Republic from acting in relation to land in Northern Ireland unless he holds a practising certificate from the Incorporated Law Society of Northern Ireland. The Council would suggest that whole-time salaried solicitors should be excluded from the scope of such regulations if made. As the regulations would be far reaching in their effects the Council do not wish to proceed in the matter without giving all members interested an opportunity of expressing their views. Members who wish to submit any observations or objections to the proposals on particular or general grounds are asked to write fully to the Secretary without delay.

NEW MEMBERS.

1st August, 1955 to 31st July, 1956.

Max W. Abrahamson, 57/58, Parnell Square, Dublin.
William W. Blood Smyth, 29, Lower Gardiner Street, Dublin.
John J. Delap, Dungloe, Co. Donegal.
Edward F. English, 14a, Eustace Street, Dublin.
John M. Flanagan, Ballaghaderreen, Co. Roscommon.
Michael J. Gleeson, Drogheda, Co. Louth.
Daphne M. Gordon, 6, Westmoreland Street, Dublin.
William F. Harpur, 22, Kildare Street, Dublin.
John A Harte, Kilkenny.
Gabriel F. Haughton, 2, Lr. Ormond Quay, Dublin.
Nicholas S. Hughes, 9, South Mall, Cork.
Patrick C. Jones, 5, Cavendish Row, Dublin.
Timothy Lucey, (Jnr.), Macroom, Co. Cork.
Robert W. McGonagle, 34, Upper O'Connell Street, Dublin.
James Maguire, 32, Bachelor's Walk, Dublin.
Daniel B. O'Connell, 17a, South Mall, Cork.
Patrick J. O'Connor, 4, Upper Ormond Quay, Dublin.
Aidan O'Donnell, Portarlington, Co. Laois.
John A. O'Meara, 18, South Mall, Cork.
Margaret O'Shea, 48, South Mall, Cork.
Thomas Owens, Manorhamilton, Co. Leitrim.
Henry P. J. Powell, 6, Merrion Row, Dublin.
Theresa P. Purcell, Macroom, Co. Cork.
Dominic B. Spellman, Castleblayney, Co. Monaghan
Kathleen R. Stokes, Rathangan, Co. Kildare.
Hallam J. C. Studdert, 20, Upper Merrion Street, Dublin.
Francis T. D. Sweeney, 30, Lower Ormond Quay, Dublin.
Richard Woulfe, Abbeyfeale, Co. Limerick.

ADMISSIONS AS SOLICITORS.

1st August, 1955 to 31st July, 1956.

Name	*Service with*
Abrahamson, Max William, B.A., LL.B., 40, Fitzwilliam Place, Dublin.	Desmond J. Mayne, 6, Dawson Street, Dublin.
Binchy, Owen (Jnr.), Gortskagh, Charleville, Co. Cork.	Owen Binchy, Charleville, Co. Cork.
Blood Smyth, William Whitton, 29, Lower Gardiner Street, Dublin.	George P. Andrews, 29, Lower Gardiner Street, Dublin.
Buckley, John Francis, B.A., LL.B., 25, Maxwell Road, Rathgar, Dublin.	Maurice J. Kenny, 11, Molesworth Street, Dublin and Anthony Dudley, 1, College Street, Dublin.
Carolan, Patrick J., B.A., Mullagh, Co. Cavan.	Aodhagan B. O'Reilly, Cootehill, Co. Cavan.
Clancy, Fintan Patrick, 63 St. Mobhi Road, Glasnevin, Dublin.	Charles J. Holohan, 19, Lincoln Place, Dublin.
Clifford, John P., Cahirciveen, Co. Kerry.	John C. Kieran, 12, Clare Street, Dublin.
Colfer, Patrick, 68, Foxfield Road, Raheny, Dublin.	Michael P. O'Neill, 71, Middle Abbey Street, Dublin.
Coulter, Gerald Bernard, 2, Glenn Terrace, Glasthule, Co. Dublin.	James J. Hickey, 8, Clare Street, Dublin.

Name	*Service with*
CUSSEN, CLIODNA MARY, M.A. Newcastle West, Co. Limerick.	ROBERT J. CUSSEN, Newcastle West, Co. Limerick.
DELAP, JOHN JOSEPH, B.A., LL.B., Gweedore, Co. Donegal.	JAMES P. SWEENEY, Falcarragh, Co. Donegal.
DILLON, FRANCIS J. PLUNKETT Ludford Park, Dundrum, Co. Dublin.	JOHN PLUNKETT DILLON, 25, Suffolk Street, Dublin.
DILLON, JOHN PASCHAL, 10, Castle Road, Dundalk, Co. Louth.	JAMES MCCOURT, Dundalk, Co. Louth, and PHILLIP E. MCCOURT, Dundalk, Co. Louth.
DRUM, MATTHEW P., 4, Lavarna Grove, Terenure, Dublin.	DESMOND M. J. EARLY, Carlow.
DUFFY, EDWARD J., Virginia, Co. Cavan.	VINCENT P. DUFFY, Viginia, Co. Cavan. MARY MATTHEWS, Virginia, Co. Cavan, and JOSEPH M. L. DOCKERY, Virginia, Co. Cavan.
FARRELL, JOHN C., Longford.	MATTHEW A. FARRELL (JNR.), Longford.
FOGARTY, MICHAEL G., Newbridge Road, Naas, Co. Kildare.	JAMES J. HICKEY, 8, Clare Street, Dublin.
GLEESON, MICHAEL JOHN, 36, Trimleston Gardens, Booterstown, Co. Dublin.	RICHARD J. MULDOWNEY, 1a, Lower Ormond Quay, Dublin. JOHN N. ROSS, 20, Upper Merrion St. Dublin.
GLYNN, PATRICK A., 1, The Crescent, Limerick.	JAMES J. SEXTON, 100, O'Connell Street, Limerick.
GORDON, DAPHNE MABEL, 32, Sundrive Road, Kimmage, Dublin.	ALBERT E. ASHTON, 6, Westmoreland Street, Dublin.
HALPENNY, MICHAEL, CLEMENT, 96, Upper George's Street, Dun Laoghaire, Co. Dublin.	PATRICK C. L. HALPENNY, 96, Upper George's Street, Dun Laoghaire.
HALPIN, BRENDA MARY, 1, Fitzwilliam Square, East, Dublin.	JOHN S. MORRIS, 10, Clare Street, Dublin.
HARPUR, WILLIAM FRANCIS, 127, Whitehall Road, Terenure, Dublin.	DENIS R. PEART, 38, St. Stephen's Green, Dublin.
HAUGHTON, GABRIEL FRANCIS B.A., "St. Annes," Seaview Rd., Wicklow.	THOMAS M. COSTELLOE, 5/6, Upper O'Connell Street, Dublin.
HEGARTY, DERMOT, 2, Killeen Terrace, Malahide Co. Dublin.	CECIL E. PRENTICE, 20, Upper Merrion Street, Dublin.
HENDERSON, GORDON ALAN, 83, Terenure Road, West, Dublin.	M. GREENE, 18, Lower Baggot Street, Dublin.
KEAVNEY, MARTIN S., Rhue, Tubbercurry, Co. Sligo.	THOMAS J. FITZPATRICK, Farnham Street, Cavan.
KELLY, PATRICK B., West End, Mallow, Co. Cork.	PATRICK A. HEALY, High Street, Kilkenny.
KENNY, JAMES FLANNAN, B.A., LL.B., 26, South Hill, Dartry, Dublin.	WILLIAM J. NORMAN, 1, Dame Street, Dublin.

Name	*Service with*
KNIGHT, RICHARD, 136, Brandon Road, Drimnagh, Dublin.	FRANCIS A. J. O'HARE, 11, Lr. Ormond Quay, Dublin.
MACCURTAIN, JOHN EDWARD, B.A., "Melbrook," Colville Rd., Clonmel, Co. Tipperary.	DOMNICK H. KEARNS. Portumna, Co. Galway.
MCGONAGLE, ALAN, "Fingal," 225, Clontarf Rd. Dublin.	JOSEPH BARRETT, 15, Eustace Street, Dublin and LIAM. D. MCGONAGLE, 34, Upr. O'Connell Street, Dublin.
MCGONAGLE, ROBERT W., Church Road, Swords, Co. Dublin.	GERRARD L. MCGOWAN, Ballbriggan, Co. Dublin LIAM. D. MCGONAGLE, 34, Upr. O'Connell St.
MALONEY, GEORGE VINCENT, Cavan.	GEORGE VINCENT MALONEY, Cavan.
MEREDITH, CHARLES R. M., "Finnahinch," Foxrock, Co. Dublin.	RAYMOND C. MEREDITH, 32, Molesworth Street, Dublin.
MOLAN, JOHN "Lyrefune," Ballyporeen, Co. Tipperary.	EUGENE P. FINN, Mitchelstown, Co. Cork.
MOYLAN, ANTHONY GERARD, Castledaly, Loughrea, Co. Galway.	THOMAS A. MOYLAN, Loughrea, Co. Galway.
MURRAY, MARY MARGARET, B.A., 176, Merrion Road, Ballsbridge, Dublin.	MICHAEL J. DUNNE, 14, Ely Place, Dublin.
NICHOLL, WILLIAM THOMAS, 65, Highfield Park, Dundrum Road, Co. Dublin.	EDWARD H. BYRNE, 7, Lr. Ormond Quay, Dublin
NOONAN, MICHAEL ANTHONY, "St. Kyran's," Rathkeale, Co. Limerick.	MAURICE F. NOONAN, Rathkeale, Co. Limerick.
O'CONNOR, BRIAN JOSEPH, M.A., LL.B., 40, Park Drive, Dublin.	JAMES R. QUIRKE, 15, South Frederick Street, Dublin.
O'CONNOR, PATRICK J. F., 74, Merrion Square, Dublin.	ALEXANDER J. MCDONALD, 116, Grafton Street, Dublin.
O'DEA, ALBERT LOUIS, Vesington, Dunboyne, Co. Meath.	LOUIS E. O'DEA, Galway, and JOHN C. O'DONNELL, Galway.
O'DONOGHUE, WALTER BRIAN B.A., LL.B., 36, Herbert Park, Ballsbridge, Dublin.	MICHAEL P. O'NEILL, 71, Middle Abbey Street, Dublin.
O'GORMAN, JOHN A., Hacketstown, Co. Carlow.	THOMAS F. MILLETT, Baltinglass, Co. Wicklow.
O'LEARY, ARTHUR J., "Villa Maria," Ivy Terrace, Tralee, Co. Kerry.	PATRICK J. O'CONNOR, Ashe Street, Tralee, Co. Kerry.
O'LEARY, JAMES BRENDAN, B.A., Ballyfarna, Claremorris, Co. Mayo.	WILLIAM B. GAVIN, Galway.
O'MAHONY, FRANK, Kilrohane, Bantry, Co. Cork.	CHARLES K. MURPHY, 53, South Mall, Cork.
O'MALLEY, GERARD, 18, Waterloo Road, Dublin.	LYNDON G. CARR-LETT, 23, Ely Place, Dublin.
O'SULLIVAN, JAMES J., Portarlington, Co. Laois.	ALPHONSUS FARRELL, Portarlington, Co. Laois.
OWENS, THOMAS PATRICK, B.A., LL.B., 48, Gilford Road, Sandymount, Dublin.	JOHN A. G. CULLEN, 46, Dawson Street, Dublin, and ALEXANDER J. MCDONALD, 116, Grafton Street, Dublin.

Name	*Service with*
POWELL, P. J. GERARD, 3, Ailsbury Road, Ballsbridge, Dublin.	HENRY P. POWELL, 6, Merrion Row, Dublin.
RUTTLEDGE, MAIREAD F., "Ardagh Park," Newtownpark Ave., Blackrock, Dublin.	PATRICK J. RUTTLEDGE, 16, Molesworth Street, Dublin, and SEAN GIBBONS, 16, Molesworth Street, Dublin.
RYAN, MARY ELIZABETH, B.A. "Deepwell," Blackrock, Co. Dublin.	GERARD SWEETMAN, 30, Lr. Baggot Street, Dublin.
STAINES, MICHAEL A., 8, Castle Road, Clontarf, Dublin.	EDWARD M. O'BEIRNE, 2, Inns Quay, Dublin.

EXAMINATION RESULTS

AT examinations held on the 29th and 30th days of June, 1956, under the Solicitors' Act, 1954, the following passed the examinations :—

First Examination in Irish.

Robert E. Blakeney, Vincent S. Carroll, Patrick J. M. Connellan, Michael N. Dolan, Iain R. Farrell, Lewis J. Goldberg, Peter F. Houlihan, Peter J. McMahon, Thomas G. Neiland, Arthur O. J. O'Connor, James G. Orange, Malcolm B. Yaffe, Howley, Declan J.

15 candidates attended : 13 passed.

Second Examination in Irish.

Susanna Bowler, Pierce O'Brien Butler, Robert B. Haythornthwaite, Kenneth M. S. Kenny, Martin E. Marren, Anthony F. McCormack, Patrick M. A. MacNamee, Patrick R. O'Gorman, Patrick L. Tracey, Terence Michael Williams, Desmond P. Windle, Henry J. Wynne.

12 candidates attended : 12 passed.

SOLICITORS' APPRENTICES' DEBATING SOCIETY.

THE Solicitors' Apprentices' Debating Society have elected the following Auditor and Committee for 1956-57 :—

Auditor : T. Michael Williams, B.A. ; Treasurer : Vacant ; Correspondance Secretary : Franklin O'Sullivan ; Record Secretary : Peter Smithwick.

Committee.

Neasa Gibbons, Richard M. Neville, B.A., John F. Buckley, B.A., LL.B., (Ex-Auditor Ex-officio).

The following are the awards for the session 1955-56 :—

Oratory.

Incorporated Law Society's Gold Medal ... ... Desmond P. M. Windle, B.A.

Debating Society's Silver Medal ... ... Richard M. Neville, B.A

Special Certificate ... Vincent Maher, B.A.

Legal Debate.

President's Gold Medal ... Richard M. Neville, B.A.

Debating Society's Silver Medal ... ... Franklin O'Sullivan.

Inpromptu Speeches.

Vice-President's Gold Medal ... ... Joseph J. Kiernan.

Vice-President's Silver Medal ... ... Desmond P. M. Windle, B.A.

Irish Debate.

Debating Society's Gold Medal ... ... Richard M. Neville, B.A.

Debating Society's Silver Medal ... ... Finnbarr Dempsey.

First Year Speakers.

Debating Society's Silver Medal ... ... Finnbarr Dempsey.

LECTURES, MICHAELMAS SITTINGS.

Course A.—Company Law and Administration of Estates. Mondays and Thursdays, 2.15 p.m., commencing Monday, October, 1st.

Course B.—Conveyancing Law and Practice and Land Law. Tuesdays and Fridays, 2.15 p.m., commencing Tuesday, October 2nd.

Course C.—The Procedure and Practice of the Courts. Tuesdays and Saturdays at 9 a.m., commencing Tuesday, October 2nd.

Course D.—Taxation including death duties. Mondays at 9 a.m., and Saturdays at 10.15 a.m., commencing Monday October 1st.

Course E.—Book-keeping. Mondays and Thursdays at 3.30 p.m., commencing Monday October 1st.

Course F.—The rights, duties and responsibilities of solicitors, 2 lectures. The dates on which the lectures will be held will be announced at a later date.

Fee £8 8s. for each course except course E for which the fee is £6 6s. and Course F for which there is no fee.

RECENT PERIODICAL LEGAL LITERATURE.

Administration of Criminal Justice in Northern Ireland (*Crim. L. Q.*, May, 1956).

Administrative Law Reform—Conservative Approach (Smith) (*Brit. Journ. Admin. Law*, June, 1955).

Advocacy at Petty Sessions (Fraser Harrison) (*Crim. L.R.*, September and October, 1955).

Administrative Law and Administrative Justice (Davies) (*Brit. Journ. Admin. Law*, June 1955.)

Adoption in the Conflict of Laws (Jones) (*Internat. & Compar. L.A.*, April, 1956).

Aspects of Forensic Science—The Ball Point Pen (Wilson Harrison) (*Crim. L.R.*, September, 1955).

Bar as a Profession (Travers Humphreys) (*Crim. L.R.*, May, 1956).

Basis of Legal Sovereignty (Wade) (*Camb. L.J.*, November, 1955).

Bigamy—Burden of Proof (Norval Morris) *M.L.R.*, September 1953).

Capacity of an Infant to appoint an Agent (Webb) (*M.L.R.*, September, 1955).

Carriage of Goods by Sea—English and French Enactments relating thereto (Wolfson) *Internat. & Compar. L.Q.*, October, 1955).

Causation in Law—A Survey of Common-sense Principles (Hart and Honore) *L.Q.R.*, January and April, 1956).

Charity—Some recent developments in the law of (Cross) (*L.Q.R.*, April, 1956).

Confirmation by Subsequent Events (Gotlieb) (*L.Q.R.*, April, 1956).

Consolidation as a Root of Title (Johnson) (*Camb. L.J.*, November, 1955).

Copyright Bill 1956 (Goodman) (*M.L.R.*, March, 1956).

Covenants to reside on premises (*The Solicitor*, September, 1955)

Crichel Down Affair (Griffith) (*M.L.R.*, December, 1955).

Courts and Tribunals (Denning) (*Brit. Journ. Admin. Law*, March, 1955).

Definition of Embezzlement (Cross) (*Crim. L.R.*, December, 1955).

Damages for Wrongful Expulsion from a Trade Union (Lloyd) (*M.L.R.*, March, 1956).

Depositions by Dictaprinte. (Harbour) (*Crim. L.R.*, November 1955).

Covenants for Title in Leases: "Miller *v.* Emcer Products" *The Solicitor*, May, 1956.

Deserted Wife may remain in possession of matrimonial home: "Shakespear *v.* Atkinson" (Supreme Court, New Zealand) *The Solicitor*, February, 1956).

Dating Documents (Harrison) (*Cim. L.R.*, June, 1956).

Discretion in Prosecuting (Glanville Williams) (*Crim. L.R.*, April, 1956).

Domicile—Convention and Committee (Kohn) (*L.Q.R.*, October, 1955).

Domicile of Minors without parents (Spiro) *Internat. & Compar. L.Q.*, April, 1956).

Drafting Recitals in a Deed (Bodkin) (*The Soicitor*, February, 1956).

Duty of the Legislature to improve the Courts (Heck) (*N.Y. Bar Assocn. Record*, April, 1956).

Duty Problem in Negligance (Dias) (*Lamb L.J.*, November, 1955).

Duties and Resposibilities of Prosecution Counsel (Humphreys) (*Crim. L.R.*, December, 1955).

Economics of Conversion of Old Dwellings (Bernard Brown) (*The Conveyancer*, March-April, 1956).

Easements of Pleasure and Prospect—"Re Davies decd." (*The Solicitor*, October, 1955).

Error in the Scottish Law of Contract (Smith) (*L.Q.R.* October, 1955).

Estate Duty on Determined Limited Interests (Boughen, Graham) (*The Conveyancer*, 1955).

Excusable Breaches of Trust (Sheridan)—(*The Conveyancer*, November-December 1455).

Fit for human consumption (Smith) (*Crim. L.R.*, February, 1956).

Forged Signatures (Wilson Harrison) (*Crim. L.R.*, December 1955).

Fraud and Surprise in Legal Proceeding (Sheridan) (*M.L.R.*, September, 1955).

Fraudulent Intent in Lareeny (Lo*Lb*) (*Crim. L.R.*, February, 1956) (Smith) (*Crim. L.R.*, April, 1956).

Fundamental Care of a Contract (Melville) (*M.L.R.*, January, 1956).

General Pecuniary Legacies (Ryder) (*Camb. L.J.*, April, 1956).

Governments under Law in Post-War England (Evershed) (*L.Q.R.*, January, 1956),

Hire Purchase Agreements—Entering Into (Beetlestone) (*The Solicitor*, December, 1955).

Hire Purchase Law Developments (Hardy Ivamy) (*The Solicitor*, May, 1956).

Identification Parades (Williams) (*Crim. L.R.*, September, 1955).

Income Tax Commissioners decision that an "adventure in the nature of trade" is not taxable reversed by House of Lords—"Edwards *v.* Bairstow" (*The Solicitor*, December, 1955).

Intention and knowing the nature and quality of an act (Gotlieb) (*M.L.R.*, April, 1956).

Intention in Criminal Law (Craymer) (*Cim. L.R.*, September, 1955).

International Contracts and the Unruly Horse (Blom-Cooper) (*The Solicitor*, May, 1956).

John Marshall and the Judicial Function (Frankfurter) (*Harvard L.R.*, December, 1955).

Judicial Attitudes to Administrative Powers (*Brit. Journ. Admin. Law*, September, 1954).

Judicial Selection (*N.Y. Bar Assocn. Record*, December, 1955).

Judicial Powers of Chief Land Registrar (Rooff) (*Conveyancer*, January–February, 1956).

Judicial Control of the Spending Powers of Local Authorities (Fox) (*L.A.*, April, 1956).

Judicial Review of Legislative Policy (Jackson) (*M.L.R.*, November, 1955).

Juvenile Courts in Germany (Adlam) (*Crim. L.R.*, June, 1956).

Judicial Review: Question of Law (Taffe) (*Harvard L.R.*, December, 1955 and April, 1956).

Judicial Review of Administrative Action on the Merits (Pennington) (*Brit. Journ. Admin. Law*, March, 1955).

Law and Justice (Jackson) (*N.Y. Bar. Assocn. Record*, April, 1956).

Landlord and Tenant Act 1954—Objections to New Leases (Newton) (*The Solicitor*, February, 1956).

Legal Education in the United States (Feeton) (*The Solicitor*, December, 1955).

Legal Therapeutics—Salvage Factor in Counsel Fee Awards (Hornstein) (*Harvard L.R.*, February, 1956).

Law Reform and Occupier's Liability (Boweth) (*M.L.R.*, March, 1956).

Landlord and Tenant Act 1954—Notes on Part II (Blundall) (*The Conveyancer*, March–April, 1956).

Letters of Administration according to the Law of Domicile—"Re Pikelny" (*The Solicitor*, September, 1955).

Legal Aspects of Rainmaking (Hene) (*M.L.R.*, May, 1956).

Lifts—Functioning of, in houses (Wellings) (*The Conveyance*, November–December, 1955).

Limited Driving Disqualifications (Palmer) (*Crim. L.R.*, November, 1955).

Lord Kingsdown's Act and Revocation of Wills (Blom-Cooper) (*Internat. & Compar. L.Q.*, January, 1956).

Loss of Insured Goods in Enclosed Yards (*The Solicitor*. January, 1956).

Master and Servant—Right to Indemnity (Jolowicz) (*Camb. L.J.*, April, 1956).

Meaning of "Land" in Property Legislation (Kiralfy) (*Conveyancer*, January–February, 1956).

Mens Rea in Conspiracy (Fridman) (*M.L.R.*, May, 1956).

Misrepresentation by Agent—Principal's Liability (*The Sclicitor*, September, 1955).

Mistakes and Sales of Land at Existing Use Value (Maudsley and Goff) (*The Conveyancer*, September–October, 1955).
Murder—Compensation for Victim's Dependants (Kent-Jones) (*The Solicitor*, February, 1956).
Negligence in replies to requisition (Bodkin) (*The Solicitor*, June, 1956).
Non-Feasance Revisited (Sawer) (*M.L.R.*, December, 1955).
Northern Ireland Special Powers Act (Edwards) (*Crim. L.R.*, January, 1956).
Northern Ireland divorce valid in England if husband domiciled there—"Carr *v.* Carr" (*The Solicitor*, November, 1955).
Opposition to New Tenancy by Landlord (*The Solicitor*, November, 1955).
Parliamentary Disqualification by Felony—The Mid-Ulster Case (*The Solicitor*, September, 1955).
Payment of Wages during Stoppage of Work (Riethmann) (*Internat. & Compar. L.Q.*, April, 1956).
Person may take immediate interest in land even though not named in deed-Effect of provision (Elliott) (*The Conveyancer*, January–February, 1956).
Preparing a Scott or official Referee's Schedule in Building Contracts (Keating) (*Conveyancer*, January–February, 1956).
Premiums and Income Tax (Withworth) (*The Conveyancer*, November–December, 1955).
Presumptions of Legitimacy (Gullmann) (*Internat. & Compar. L.Q.*, April, 1956).
Power to Prosecute (Glanville Williams) (*Crim. L.R.*, October, and November, 1955).
Preparation and Presentation of Rating Appeals (Lamb and Eyre) (*Conveyancer*, March–April, 1956).
Protection of Accused in French Criminal Procedure (Vovin) (*International & Compar. L.Q.*, January, 1956).
Public Inquiries as Instrument of Govt. (Robson) (*Brit. Journ. Admin. Law*, December, 1954).
Putting Character in Issue (Newton) (*Crim. L.R.*, April, 1956).
Quasi—Contract (Clarence Smith) (*M.L.R.*, May, 1956).
Reconveyances of Mortgages by Receipt instead of by Deed (*The Solicitor*, December, 1955).
Registered Land—Rectification and Indemnity (Ruoff) (*The Conveyancer*, September–October, 1955).
Rationale of Gifts and Favours (Stoljar) (*M.L.R.*, May, 1956).
Remedies for Infringment of Copyright (*The Solicitor*, December 1955).
Remedies for Breach for Landlord's Covenant to Repair (Sweetman) (*The Solicitor*, September–October, 1955).
Revaluation for Rating and Rent Restricted Premises (*The Conveyancer*, January–February, 1956, and *The Solicitor*, February, 1956).
Receiving (*Crim. L.R.*, January, 1956).
Roots of Title (*The Solicitor*, November, 1955).
Scope of the Rule against Hearsay (Cross (*L.Q.R.*, January, 1956).
"Stare Decision" in Court of Appeal (Mason) (*M.L.R.*, March, 1956).
Statutory Instruments To-Day (Carleton Allen) (*L.Q.R.*, October, 1955).
Statutory Restriction of Judicial Review (Smith) (*M.L.R.*, December, 1955).
Summary Trial of Minor Offences—Report of Departmental Committee (Cmd. 9524) (*The Solicitor*, November, 1955 and *Crim. L.R.*, September, 1955).
Taking a stying deposition (Jones) (*Crim. L.R.*, June, 1956).
Taxation of Profits and Income—Report of Royal (Millard-Tucker) Commission (*The Solicitor*, September, October and November, 1955).
Testing of the Unconscious in Criminal Cases (Silving) (*Harvard L.R.*, February, 1956).
Void Promises as Consideration (Smith) (*The Conveyancer*, January–February, 1956).
Untimely Performances in the Law of Contract (Stoljar) (*L.Q.R.*, October, 1955).
Trade Union Congress Machinery for Disputes between Unions (Bonfield) (*Brit. Journ. Admin. Law*, September, 1955).
Trade Unions and Other Members (Thomas (*Camb. L.J.*, April, 1956).

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AGRICULTURE, LANDS AND FISHERIES.

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Agricultural Credit Act, 1947—Forms for Registration of Chattel.
Mortgage and for Sheriff. Execution Order—42/1956.
Agricultural Wages (Minimum Rates)—102/1956, 103/1956.
Committees of Agriculture Officers' Travelling Expenses and Maintenance.
Allowance and Expenses Regulations—70/1956.
Committees of Agriculture—Increased salaries of Officers' Regulations —69/1956.
Cork District Milk Board—Election day fixed for 31st July, 1956—121/1956.
Agricultural Produce (Cereals) (Amendment) Act, 1956 in force from 1st May, 1956—107/1956.
Emergency Powers (No. 39) Order 1940 Revocation—107/1956.
Emergency Powers (Storage of Grain) Order, 1942 revoked—89/1956.
Feeding Stuffs (Restriction of Exports) Order, 1953 amended 93/1956.
Foyle Area Control of Netting Regulations, 1956.
Fowl Pest (Infected Area, Castlemartyr and Youghal, Co. Cork) —147/1956. 188/1956—revoked by 202/1956.
Foyle Area (Rivers Finn and Foyle) (Close Season for Angling) Regulations, 1956.
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Agricultural Seeds (Restriction on Cleaning of Grass Seeds)—211/1956.
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Gas Fund Contribution—2/10 per Million Cubic Feet of Gas sold in 1955—49/1955.
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Bohammer and Ballymacartle in Coolock E. D. Co. Dublin to form part of Balrothery Public Assistance District—112/1956.
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House Painting and Decoration Trade Apprenticeship Committee—Confirmation of Rules—127/1956.
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Game Birds (Pheasants; Partridges, Quails and Plovers) Protection—81/1956.
Racing Board can retain 15 per cent. of sums staked with totalisator, instead of 10 per cent. as formerly—146/1956.
Totalisator (Amendment) Regulations—146/1956.

POST OFFICE

SUBJECT MATTER AND REFERENCE NUMBERS.

Foreign Post Amendment (No. 4) Warrant, 1956—148/1956.
Inland Post (Amendment No. 8) Warrant—116/1956.
Inland Post—Increased rates for printed packets, newspapers, parcels, express delivery and registered parcels—116/1956.
Money Order Amendment (No. 15) Regulations—114/1956.
Money Orders—Poundage increased—114/1956.
Postal Order (Inland) Amendment (No. 6) Regulations—115/1956.
Postal Orders—Poundage increased—115/1956.
Printed Matter—Large Quantities for Foreign Countries posted in bulk chargeable at 9d. per lb.—148/1956.
Telephone (Amendment No. 1) Regulations—117/1956.
Telephone charges increased from 1st July, 1956—117/1956.

SOCIAL SERVICES

SUBJECT MATTER AND REFERENCE NUMBERS.

Rates of Disability, Unemployment and Marriage benefit payable after July, 1956, if number of contributions is less than 48 but not less than 26—157/1956.
Social Welfare (Claims and Payments) Amendment Regulations—85/1956.
Social Welfare (Disability, Unemployment and Marriage Benefit Amendment) Regulations—157/1956.
Social Welfare (Modification of Contributions Conditions for Benefit) Regulations—156/1956.
Unemployment Assistance (Employment Period)—129/1956.
Unemployment Assistance (Second Employment Period)—135/1956.
Unemployment Benefit—Contributions reduced from £50 to £48 to qualify for benefit from July, 1956—156/1956.

TRANSPORT AND TRAFFIC

SUBJECT MATTER AND REFERENCE NUMBERS.

Air Navigation and Transport Act, 1936—Modified Warsaw Convention to apply to internal Carriage by Air—110/1956.
Carriage of Wheat—84/1956.
County Donegal Railways Joint Committee and Strabane and Letterkenny Railway—Increase in Fares of 5 per cent. granted—88/1956.
Dublin Airport (Admission Charges) Bye-Laws, 1953 revoked—134/1956.
Dublin Airport (Parking Fees) Bye-laws, 1956—133/1956.
Derrygreenagh, Co. Offaly—short line to constructed by Bord na Mona—37/1956.
Mount Dillon, Derryaroge and Lanesboro, Co. Roscommon—Railway of 2 and a half miles and bridge over Shannon to be constructed by Bord na Mona—123/1956.
Provincial Omnibus Services—Increase in Fares of 5 per cent. granted—118/1956.
Road Transport Act, 1932, Regulations—118/1956.
Road Vehicles (Additional Index Marks for Dublin)—154/1955.
Sligo, Leitrim and Northern Counties Railway—Increase in Fares of 5 per cent. granted—77/1956.
Sligo Traffic (Parking and Waiting) Bye-Laws, 1948, Amendment Bye-Laws, 1956—54/1956.
Turf Development Act, 1946 (Transport Works, No. 1)—37/1956.
Turf Development Act, 1946 (Transport Works, No. 2)—12/1956.

SOLICITORS IN STATE SERVICE.

AN assistant solicitor in the office of the Chief State solicitor contended that he was not liable to pay contributions under the Social Welfare Act, 1952, on the ground that he was performing professional services under the direction of the Attorney General for the people and was consequently not a civil

servant in the service of the Government. The Supreme Court (Kingsmill Moore J. Ó Dalaigh J. and Martin Maguire J.,—Maguire C. J. dissenting) upheld this contention and reversed the decision of Dixon J., who had affirmed the decisions of the Deciding Officer and of the Appeals Officer under the Social Welfare Act, 1952 that this solicitor was liable to pay contributions under the Social Welfare Act. The main ground, of the Supreme Court decision was that under Section 6 of the Ministers and Secretaries Act, 1924, the powers relating to the public services specified including those of the Chief State Solicitor had been specifically vested in the Attorney General and that under Article 30 of the Constitution of 1937 the Attorney General was the independent law adviser of the Government and could not be a member of the Government. Consequently as the Attorney General was an organ of State independent of the Government the solicitor concerned could not be said to be a civil servant in the service of the Government but a civil servant in the service of the State, furthermore it could not be said that the Taoiseach had control over the office of the Attorney General under the omnibus clause contained in Section 1 of the Ministers and Secretaries Act, 1924, under which the administrative control of and responsibility for such public services as may not for the time being be comprised in any of the other Departments of State constituted by this Act became vested in the then President of the Executive Council—now the Taoiseach.

It will be recalled that as a result of representations made at the special General Meeting of the Society of the 25th November, 1954, an amendment was introduced into the Solicitors' Bill, 1954, deleting the expression "*Civil service solicitor*" in Section 54 (3) and substituting therefor "*solicitor in the full-time service of the State.*" and this fact is of special significance by reason of the present decision. As the appeal according to the Supreme Court raised an issue of considerable public importance, costs of the appeal and of the High Court proceedings were awarded to the appellant.

(McLoughlin *v.* Minister for Social Welfare).

SOLICITORS' GOLFING SOCIETY

A very pleasant and successful meeting was held at Baltray on Saturday, 28th July, when a team competition was played against the Bar Golfing Society to be decided on the best six cards from each side, scoring as four-ball against bogey. In the result this Society won with an aggregate of 27 up against 25 up by the Bar Golfing Society. The best card was returned by members of the Society, D. Bell and G. Doyle who had 8 up. Three pairs tied for the second place with scores of 7 up, namely A. D. Pringle and H. McWilliam (Bar Golfing Society), J. Griffin and D. Murphy (this Society) and G. Hickey and M. T. Neary (this Society). There was a large and representative attendance from each Society and it was felt that the inter-Society competition should not be allowed to lapse. Dinner was held in the Clubhouse. A telegram from the President of the Incorporated Law Society, Mr. D. P. Shaw, as President of this Society, was included in the messages received expressing regret at inability to attend and wishing the meeting every success.

It is proposed to hold the meeting for the President's Prize and associated prizes at Mullingar at a date (to be fixed) between mid-September and the end of the month. Particulars will be circulated to members in due course.

OBITUARY.

MR. RICHARD O'BRIEN, Solicitor, died on the 24th July, 1956, at his residence Ballykisteen, Tipperary.

Mr. O'Brien served his apprenticeship with the late Mr. James F. D'Arcy, Tipperary, was admitted in Trinity Sittings 1936 and practised under the style of Messrs. O'Brien and O'Sullivan, Tipperary.

MR. DIARMUID MURTAGH, Solicitor, died on the 19th August, 1956, at the Bon Secour Hospital, Dublin.

Mr. Murtagh served his apprenticeship with Mr. P. C. Murtagh, Solicitor, Athlone, was admitted in Hilary Sittings 1929, and practised as partner in the firm of Messrs. Fair & Murtagh, Athlone.

THE REGISTRY.

Register C.

TWO offices available Kildare Street, Dublin. Rent £104 per annum. Reply to McCann, White & Fitzgerald, Solicitors, 72, St. Stephen's Green, Dublin.

THE Laws of England by Halsbury; preferably on India paper. Please state edition, price, etc. Box C148.

INFORMATION is sought as to the whereabouts of the Will of THOMAS FLANAGAN, late of Ballymoe, County Galway, Merchant, Deceased, who died on the 25th June, 1956. It is possible that the deceased made a Will, perhaps with a Dublin Solicitor, between the months of October 1954 and January 1955. Anyone having such information is requested to communicate with HENRY CONCANON & CO., Solicitors, 9, William Street, Galway.

REGISTRATION OF TITLE ACTS, 1891 and 1942

ISSUE OF DUPLICATE LAND CERTIFICATE

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of

the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of August, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

1. Registered Owner Peter Leonard, Folio number 2373. County Sligo. Lands of Banada in the Barony of Leyny containing 22a. 1r. 33p.
2. Registered Owner Edward Beattie, Folio number 3748. County Donegal. Lands of Lurgy in the Barony of Raphoe North containing 58a. 1r. 14p.
3. Registered Owner Richard Fitzgerald, Folio number 350. County Waterford. Lands of Kilmaloo East in the Barony of Decies-within-Drum containing 25a. 3r. 31p.
4. Registered Owner Bridget Joy, Folio number 5639. County Limerick. Lands of Abbeyfeale West in the Barony of Glenquin containing 1a. 1r. 9p.
5. Registered Owner North Eastern Oil Company Limited, Folio number 15070. County Monaghan. Lands of Drummond Otra in the Barony of Farney containing 5a. 2r. 8p.
6. Registered Owner Patrick Ryan, Folio number 20316. County Tipperary. Lands of Knockanpierce containing 17a. 2r. 19p. and Lands of Farnamurray containing 6a. 1r. 35p. situate in the Barony of Ormond Upper.
7. Registered Owner William Merriman (Senior) Folio number 1576. County Kildare. Lands of Moortown in the Barony of Ikeathy and Oughterany containing 2a. 1r. 4p.

STAMP DUTIES

CONVEYANCES, TRANSFERS AND LEASES.

SPECIMEN CERTIFICATES.

THE specimen certificates printed below are not intended to be precedents but are intended merely to be a guide to solicitors as to the matter essential to be contained in such certificates and as to the form in which it is desirable that the certificates should be drawn. It is desired to draw attention specially to the fact that the appropriate certificate must in every case be expressed to be given by the party to whom the property is conveyed, transferred or leased.

Finance (No. 2) Act, 1947; Section 13 (2) (*b*) (i).
Finance Act, 1949; Section 24 (2).

I/We certify that the transaction hereby effected does not form part of a larger transaction or of a series of transactions, in respect of which the amount or value, or the aggregate amount of value, of the consideration (other than rent*) exceeds £500.

*The words included in brackets are required in the case of a lease only.

Finance (No. 2) Act, 1947, Section 13 (2) (*b*) (ii).
Finance Act, 1949, Section 24 (3).
(as amended by Finance Act, 1951 and Finance Act, 1954).

I/We certify that the transaction hereby effected does not form part of a larger transaction or of a series of transactions.

Finance (No. 2) Act, 1947, Section 13 (6) (*b*).
(as amended by Finance Act, 1952, Section 20)
Finance Act, 1952, Section 21.

I/We certify that the person (each of the persons) becoming entitled to the entire beneficial interest in the property is related to the person or each of the persons immediately theretofore entitled to the entire beneficial interest in the property as a (1) lineal descendant, (2) parent, (3) grand-parent, (4) step-parent, (5) husband or wife, (6) brother or sister of a parent, or, (7) brother or (8) sister, or (9) lineal descendant of a parent, husband or wife or brother or sister. (NOTE: delete inappropriate words).

Finance (No. 2) Act, 1947, Section 13 (4).
Finance Act, 1949, Section 24 (4).
(both as amended by Finance Act, 1952, Sections 18 and 22).

I/We certify that the person who becomes entitled to the entire beneficial interest
(in the property
(in the lessee's interest under the lease

I/We certify that each of the persons entitled to a beneficial interest

(in the property

(in the lessee's interest under the lease

is

(*a*) an Irish citizen,

or

(*b*) a person who is for the time being ordinarily resident in the State and who was ordinarily resident in the State continuously during the three years immediately preceding the 15th day of October, 1947,

or

(*c*) a body corporate incorporated in the State on or before the 15th day of October, 1947;

or

(*d*) a body corporate incorporated outside the State which on or before the 15th day of October, 1947, has filed with the Registrar of Companies the documents and particulars mentioned in sub-section (1) of Section 274 of the Companies (Consolidation) Act, 1908,

or

(*e*) a person lawfully carrying on a business which comes within the provisions of any paragraph of sub-section (1) of Section 9 of the Control of Manufactures Act, 1934 (No. 36 of 1934),

or

(*f*) a body corporate incorporated in the State after the 15th day of October, 1947, where the issued shares of each class are, to an extent exceeding one-half (in nominal value) thereof, in the beneficial ownership of persons each of whom is within one of paragraphs (*a*) to (*e*) above.

or

(*g*) a body corporate not having a share capital incorporated in the State after the 15th day of October, 1947, where—

(i) a majority (or, in the case of such a body corporate incorporated by Act of the Oireachtas, at least one-half) of the members of the body corporate is composed of persons each of whom is within one of paragraphs (*a*) to (*f*) above, and

(ii) a majority (or, in the case of such a body corporate incorporated by Act of the Oireachtas, at least one-half) of the persons exercising control and management of the body corporate is composed as aforesaid,

or

(*h*) a body corporate incorporated in the State after the 15th day of October, 1947, where the issued shares of each class are, to an extent exceeding one-half (in nominal value) thereof, in the beneficial ownership of persons each of whom is within one of paragraphs (*a*) to (*g*) above.

SECTION 30, FINANCE ACT, 1956.

I/We certify that the property being conveyed or transferred is property which is being acquired for private residential purposes and does not include land exceeding five acres in extent.

I/We certify that the property being conveyed or transferred is property which is being acquired exclusively for the purposes of an industry other than agriculture.

SECTION 31, FINANCE ACT, 1956.

I/We certify that the lessee's interest under the lease is being acquired for private residential purposes and does not include an interest in land exceeding five acres in extent.

I/We certify that the lessee's interest under the lease is being acquired exclusively for the purposes of an industry other than agriculture.

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No. 5

NOVEMBER,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
DERMOT P. SHAW

Vice-Presidents
RALPH J. WALKER
GEORGE G. OVEREND

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL.

OCTOBER 3RD: The President in the Chair. Also present Messrs. Ralph J. Walker and George G. Overend, Vice-Presidents, James J. O'Connor, Desmond J. Mayne, William J. Norman, Joseph Barrett, John B. Jermyn, Peter E. O'Connell, Joseph P. Tyrrell, Sean O'hUadhaigh, John R. Halpin, Reginald J. Nolan, Derrick M. Martin, Thomas A. O'Reilly, Robert McD. Taylor, John J. Sheil, Arthur Cox, James R. Quirke, Terence De Vere White.

A special meeting of the Council was held to consider orders published by the Minister for Justice increasing the Court fees payable in respect of proceedings in the High Court and the Circuit and District Courts. It was resolved that a letter should be sent immediately to the daily newspapers drawing public attention to the amount of the increases and the manner in which they were imposed. The orders were referred to a Committee of the Council for further examination with a view to making representations to the Minister for Justice to have them amended or modified.

OCTOBER 11TH: The President in the Chair. Also present Messrs. Robert McD. Taylor, Reginald J. Nolan, Thomas A. O'Reilly, George A. Nolan, John R. Halpin, George G. Overend, James J. O'Connor, Niall S. Gaffney, Arthur Cox, Francis J. Lanigan, James R. Quirke, Christopher E. Callan, Sean O'hUadhaigh, Ralph J. Walker, John Carrigan, Terence de Vere White, John J. Sheil, Patrick F. O'Reilly, Charles J. Downing, John J. Nash, Joseph P. Tyrrell, Desmond J. Mayne.

The following was among the business transacted:

Taxing Officer under the Labourers Acts.
IT was decided to send a letter to the Department of Local Government requesting that the vacant position of taxing officer should be filled without delay.

Applications to take apprentices.
THREE applications by solicitors under Section 36 to the Act for leave to have more than one apprentice at the same time were considered. One application was refused. Two applications, both in respect of children of the applicants were granted.

University law lectures.
THE Council decided that credit will be given under

Regulation 21 of the Apprenticeship and Education Regulations and Paragraph 4 of the Second Schedule to the Solicitors' Act, 1954, for University law lectures attended before entering into indentures, provided that the Society are satisfied that there has been no undue delay in entering into indentures after completion of the lectures. Such lectures may also be taken during the period of apprenticeship.

It was also decided that a new regulation will be made to enable apprentices to obtain the remission of one year in the term of apprenticeship under paragraph 4 of the Second Schedule to the Act by attending any lectures in legal subjects for two collegiate years at the named Universities. The new regulation is necessary to enable apprentices who have attended lectures other than those mentioned in regulation 21 before 1st September, 1956, the date when the regulations came into operation.

Legal Accountants Costs Association.

A Committe reported that a conference had been held with members of the Association on the subject of cost drawers' charges. The propriety of charging commission on disbursements as well as profit costs had been discussed. The representatives of the Association were arranging to submit a draft scale of charges to the Society for consideration.

Irish Land Commission.

It was decided that representations should be made to the Secretary of the Irish Land Commission asking that a recent practice of refusing to permit solicitors to inspect the appearance book kept in the Registrar's office for the purpose of preparing their costs should be changed.

Delays in Government Offices and Departments.

It was decided that the Secretary should write a letter to the head of each Department asking for information as to the normal time taken to complete specified classes of business where the papers are lodged by the solicitor in order. The information received in reply to the letters will be considered by the Council in due course.

Land Reclamation Act, 1949.

Section 2 of the Land Reclamation Act, 1949, enables the Minister to carry out reclamation work to a holding at the request of the occupier. On acceptance of the proposal the Minister notifies the Land Commission of the cost of the work and the Land Commission transmit the notification to the Land Registry, or in the case of unregistered land to the Registry of Deeds. The cost of the work is repaid on completion by means of an annuity. By Section 3 if the occupier decides to pay his contribution by an annuity or if he makes default in the payment of the capital under Section 2 (4) (*b*) the occupier's contribution is to be charged by the Land Commission on the holding and shall be discharged by means of an annuity at 4 per cent. The charge takes priority over all charges and incumbrances except certain State charges and will be consolidated with the land purchase annuity under Section 3 (4). A member of the Society acted for the purchaser of a farm who raised a loan from a bank. Member gave an undertaking to the bank to hand over the land certificate in due course free of incumbrances and with equities discharged. Member duly lodged the documents in the Land Registry with the application to discharge equities and received no further communication until the land certificate was returned with the change of ownership registered and equities discharged and bearing the following entry :— " The owner having accepted the proposal of the Minister for Agriculture pursuant to Section 2 (3) of the Land Reclamation Act, 1949, all dealings for value by the registered owner with the lands comprised in the folio are inhibited except with the consent of the Minister." Member is now in difficult position with the Bank as he is not in a position to carry out his undertaking.

The Council read a letter of July 17th from the Registrar of Titles, suggesting that solicitors acting for a purchaser could get over the difficulty by raising a requisition on title as to whether any charge under Section 3 (2) of the Act is in evidence or contemplation. The reply to the requisition would disclose whether or not purchaser's solicitor can safely give an undertaking on behalf of the client.

(*a*) The Council were of opinion that the solution suggested does not meet the case. In the matter submitted to the Society the charge was created by the purchaser himself without the solicitor's knowledge after the latter had given an undertaking to the Bank.

(*b*) It was decided that an enquiry should be sent to the Land Commission as to whether the Minister's consent to a sale is necessary where a charge is being created and if it is necessary the appropriate procedure.

(*c*) The Minister will be asked to state whether the lodgment of the Land Certificate with the Bank as security for a loan is a dealing within the meaning of the Act. A further statement will be published in the Gazette in due course.

Circuit Court Rules Committee.

Mr. Sean O'hUadhaigh was re-appointed as one of the Society's representatives on the Committee.

Conflicting Interests.

MEMBERS submitted for the decision of the Council a query as to the propriety of acting for the plaintiff in civil proceedings arising out of a motor accident against a defendant for whom the members firm have already appeared in criminal proceedings. The facts were that member with the consent of an insurance company defended proceedings under the Road Traffic Act against the owner-driver of one of the cars involved. A passenger in the car of the driver subsequently decided to institute proceedings against him jointly with the driver of the other car involved. She instructed members to act for her. The driver of the first mentioned car was insured and raised no objection, but the insurance company did object. Members satisfied the Council that they had obtained no information from the proposed defendant driver for whom they had already acted in the District Court which will prejudice the defence of the latter in the civil proceedings. The law as stated in the text-book is that a Court will not grant an injunction to restrain a solicitor from acting for an adverse interest to that of a former client of his in the same proceedings unless satisfied that there is a likelihood of an abuse of confidence in respect of information obtained from the former client. The Council however are not concerned with the legal position as much as with the question of professional etiquette and propriety. They viewed the matter from the aspect of professional conduct and practice and the interests of the profession. The Council expressed the view on the facts before them that the solicitors who had already acted for one of the defendants in the District Court should not continue to act for the plaintiff in the subsequent civil proceedings against that defendant.

INCREASE OF COURT FEES.

THE following letter of the President and Secretary of the Society was published in the Daily Press on October 4th :—

3rd October, 1956.

Dear Sir,

The Council of the Incorporated Law Society of Ireland held a special meeting to-day and considered the orders made by the Minister of Justice with the concurrence of the Minister of Finance, increasing the court fees in the Supreme Court, High Court, Circuit Court and District Court, which were issued without previous notice on Saturday last.

These fees are payable to the State in connection with legal proceedings in the courts and are borne by the public who have to resort thereto. The extent of the increase has shocked the legal profession and we have been directed to bring to the notice of the public, who are directly concerned, the importance of the matter.

The increases so imposed appear to the Council to be exorbitant. In many cases fees have been trebled and this shows only a small corner of the picture. For example, fees on the issue of an originating summons have been increased by approximately 500 per cent. The fees for an *ex parte* motion have been increased from 5s. to £1 17s. 6d. These items taken together form a very large slice of the business of the High Court and it is obvious that they have been singled out for special treatment. The intention behind the orders was clearly to produce revenue with little regard for other considerations or consequences. These extravagant increases are not confined to the High Court. The stamp on a Circuit Court Civil Process has been raised by 700 per cent. and the fee on an ordinary District Court process has been raised from 1s. 6d. to 5s.

In Probate matters the *ad valorem fees* calculated on the gross assets have been doubled. Heretofore these fees have been assessed only on the gross personal estate. Under the new order Probate fees will be assessed on real estate, including freehold registered land.

In bankruptcy matters the State, through the Official Assignee, will now levy 2s. in the pound off the gross assets as expenses of realisation before the creditors receive anything.

The Council deplore that increases of such magnitude should have been made without consultation or even notice to the Superior Court, the Circuit Court and the District Court Rules Committees, the Bar Council and this Society.

As a result of the haste with which the orders have been issued, no provision has been made to enable plaintiffs to recover the additional fees and until such time as the various Committees have met and made new rules, plaintiffs must pay such fees out of their own pockets. The Council have to-day applied to the respective Committees to hold immediate meetings.

The Courts of Justice are part of the machinery of the State maintained as a paramount obligation for the well being of the community out of current taxation. The nett costs of the Courts for the last year were £473 3s. 0d. which represents a very small proportion of the total expenditure of the State.

The effect of the new orders is to impose a form—and a most unfortunate form of additional concealed taxation to the extent of approximately £150,000 in a full year. This is a tax which will have to be paid directly by members of the public who have of necessity to resort to the Courts and will operate with particular hardship on defeated litigants who have to pay the costs of proceedings or on debtors who will now bear the additional burden of greatly increased Court fees.

Yours faithfully,
DERMOT P. SHAW, President.
ERIC A. PLUNKETT, Secretary.

PROCEEDINGS AGAINST SOLICITORS.

ON 19th October, 1956, the Disciplinary Committee made an order directing that the name of Donal J. Hughes, who formerly practised at 85, Upper George's Street, Dun Laoghaire, Dublin, should be struck off the roll of solicitors.

On 5th October, 1956, the High Court made an order under Paragraph 17 of the fifth schedule to the Solicitors' Act, 1954, directing that no payment shall be made by any of the banks specified in the order out of a banking account in the name of Thomas K. Fitzgibbon, Solicitor, who practises

under the name Dunne & Co., at 18, Summer Street, North Circular Road, Dublin.

EXAMINATION RESULTS.

At examinations held on the 7th, 8th and 26th days of September under the Solicitors' Act, 1954, the following passed the examinations :—

First Examination in Irish.

Michael J. Browne, Ian Q. Crivon, Maurice R. Curran, James J. Dennison, John B. M. Doyle, John Patrick Gaffney, Dermot Bouchier Hayes, Garrett P. Lombard, Oliver McArdle, Roderick D. O'Donnell, Sean O'Donnell, Thomas J. M. O'Donoghue, Richard Robert Pierse, Robert D. E. Prole, David J. Saunders, James Ian Sexton.

18 candidates attended; 16 passed.

Second Examination in Irish.

Michael P. Keane, John B. Lawson, James K. Martin, James L. F. MacCarthy, Michael B. O'Cleirigh, Fergus P. Taaffe.

8 candidates attended; 6 passed.

Preliminary Examination

At the Preliminary Examination for intending apprentices to Solicitors held on the 4th and 5th days of September, the following passed the examination :—

Passed with Merit

Michael J. Browne.

Passed

Lochland Butler, Vincent S. Carroll, Michael N. Dolan, Laurence A. Farrell, Declan J. Howley, William J. McGuire, Thomas G. Neiland, Roderick D. O'Donnell, Cyril M. Osborne.

10 candidates entered; 10 passed.

The Council has awarded a Special Certificate to Michael J. Browne.

Scholarships 1956

The Findlater Scholarship was awarded to Martin S. Keaveny who served his apprenticeship with Thomas J. Fitzpatrick, Farnham Street, Cavan.

The Overend Final Examination Scholarship (Real Property and Conveyancing) was awarded to Albert C. O'Dwyer, who served his apprenticeship with Nicholas J. O'Donnell, Tipperary.

The Overend Preliminary Examination Scholarship was not awarded.

Intermediate Examination

At the Intermediate Examination for apprentices to solicitors held on the 3rd, 4th and 5th days of September, 1956, the following passed the examination :—

Passed with Merit

1. William A. Young; 2. Michael J. Bowman, and Thomas F. Cusack; 4. Patrick M. A. McNamee; 5. Anthony J. O'Reilly.

Passed

Kenneth L. Armstrong, Laurence F. Branigan, Timothy H. Crowley, Finnuala Duane, Margaret M. Foley, Thomas J. N. Gannon, James C. Glynn, Gordon A. Holmes, Thomas J. Macken, Noelle M. M. Maguire, Kevin C. McGilligan, Liam MacHale, Gertrude Louise O'Connell, James P. G. O'Connor, Fergus P. Taaffe, Gerrard A. Walsh, Edward J. W. Warren.

38 candidates attended; 22 passed.

The Centenary prize was not awarded.

Final Examination

At the Final Examination for apprentices to Solicitors held on the 3rd, 4th and 5th days of September the following passed the examination :—

Passed with Merit

1. Dermot J. Moloney, 2. John P. C. Goff, 3. Dermot J. Devine, B.A., 4. Albert C. O'Dwyer.

Passed

Maureen P. Bourke, B.A., Peter J. C. Coyle, Ann M. B. Derham, Francis A. Fitzpatrick, John M. A. Foley, John F. Garavan, B.A., William A. Irwin, B.A., Brendan J. Jones, Humphrey P. Kelleher, James J. Kelly, B.A., Kenneth Kenny, B.A., Joseph J. Kiernan, Edward A. G. Lane, John R. Macken, Austin V. Maher, Denis A. McArdle, Edmond J. K. McGrath, B.A., Michael A. O'Carroll, Carmel O'Connell, B.A., Dip.Soc., Sc.H.Dip. in Ed., Nicholas O'Keeffe, James V. C. Phillips, B.A., Michael P. O. Purcell, M.A., Thomas E. Tighe, Patrick P. Ward.

42 candidates attended; 28 passed.

The Council has awarded Silver Medals to Dermot J. Moloney, John P. C. Goff, Dermot J. Devine and a Special Certificate to Albert C. O'Dwyer.

Final Examination

The following passed in Part I or Part II Final Examination :—

Part I.—Ann M. A. Burke, B.A., William J. B. Fallon, John B. Lawson, B.A., LL.B., Desmond J. Mackey, Brian W. Russell, Terence M. Williams, B.A., Desmond P. Windle, B.A.

Part II.—Alphonsus Grogan, William D. J. Hodgins, Iseult C. Kennedy, Donal M. Kin, Michael Reynolds, Sean Cormac Rynne, Andrew F. Smyth.

THE REGISTRY.

REGISTER A

THE proprietor of a long established business—predominantly commercial—would be interested in contacting others with a view to an amalgamation. Box A165.

REGISTER B.

SOLICITOR, 9 years' experience—probate, conveyancing, desires assistantship with prospects, partnership considered. Box B206.

REGISTER C.

FOR SALE: Halsbury and British Empire Set. Further particulars. Box C149.

FOR SALE: English and Empire Digest, complete 48 volumes and supplement, thin paper. Two sets (thick and thin) Halsbury's Laws of England (1st Edition), complete with supplement. Encyclopaedia of Forms and Precedents with Irish Volume. Irish Statutes (except 1923) also varied text-books. Complete contents of offices also available. H. Tarlo, 19 Eustace Street, Dublin.

LEGAL NOTICE.

CAMPBELL ESTATE

Lands of the Burrow of Portmarnock containing 9 acres formerly in the possession of David McCarthy, Esq., and now in the occupation of Dublin County Council.

Will any person having information as to the whereabouts of the undermentioned original Deeds, believed to have been in the possession of Charles Denroche, Solicitor, late of 32, Nassau Street, Dublin, who died about 1952, please communicate with the undersigned Solicitor to Dublin County Council:

1. Original Conveyance dated 8th February, 1806, Sir John Lees & others to the Reverend George Vesey.
2. Original Assignment dated 6th March, 1813, Revd. George Vesey to Revd. Henry Murray.
3. Original Grant of Probate of the Will of Rev. Henry Murray deceased.
4. Original Disentailing Deed dated 10th August, 1906, Colin Frederick Murray Campbell to John Martin Ross Todd.
5. Original Probate of Colin Frederick Murray deceased dated 1st July, 1932.
6. Original Probate of Charles C. I. Campbell deceased dated 16th June, 1949.

Dated this 27th day of September, 1956.
Signed: MATTHEW PURCELL,
County Solicitor, 31, North Frederick Street, Dublin.

REGISTRATION OF TITLE ACTS, 1891 and 1942

ISSUE OF DUPLICATE LAND CERTIFICATE

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of November, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

SCHEDULE.

1. Registered Owner Thomas Russell, Folio Number 3285. County Clare. Lands of Affick in the Barony of Tulla Upper containing 3a. 3r. 18p.
2. Registered Owners Piercy Flynn and Hannah Flynn, Folio number 1004. County Waterford. Lands of Carrigcastle in the Barony of Decies without Drum containing 36a. or. 33p.

3. Registered Owner Richard Norton, Folio number 391. County Kilkenny. Lands of Parks in the Barony of Crannagh containing 83a. 1r. 24p.

4. Registered Owner Patrick Dowling, Folio number 6245. County Kildare. Lands of Staplestown in the Barony of Clane containing 11a. 1r. 24p.

5. Registered Owner John A. Donnellan, Folio number 43809. County Galway. Lands of Glenamaddy in the Barony of Ballymoe containing 0a. 0r. 25p.

6. Registered Owner William O'Sullivan, Folio number 139. County Kerry. Lands of Barrow in the Barony of Trughanacmy containing 30a. 2r. 2p.

7. Registered Owner James Gleeson, Folio number 8363. County Tipperary. Lands of Knockshearoon in the Barony of Kilnamanagh Upper containing 12a. 1r. 24p.

8. Registered Owner Patrick Brennan (Thady), Folio number 96. County Sligo. Lands of Coolrawer in the Barony of Leyny containing 26a. 1r. 0p.

OBITUARY.

MR. JAMES G. O'CONNOR, Solicitor, died on the 8th September, 1956, at a private nursing home.

Mr. O'Connor served his apprenticeship with the late Mr. Henry F. Brenan, Tullamore, Co. Offaly, was admitted in Michaelmas Sittings 1918 and practised as senior partner in the firms Messrs. James G. O'Connor and Co., and Messrs. J. C. O'Meagher & Son, 9, Clare Street, Dublin.

MR. CHARLES K. MURPHY, M.A., Solicitor, died on the 9th September, 1956, at the Mercy Home, Cork.

Mr. Murphy served his apprenticeship with the late Mr. Michael Murphy, 41, South Mall, Cork, was admitted in Hilary Sittings, 1918, and practised at 53, South Mall, Cork. He had also been Professor of Jurisprudence in University College, Cork.

MR. JOHN CUSACK, Solicitor, died on the 9th October, 1956, at 3, Herbert Road, Ballsbridge, Dublin.

Mr. Cusack served his apprenticeship with the late Mr. John J. McDonald, 116, Grafton Street, Dublin, was admitted in Trinity Sittings 1920 and practised as senior partner in the firm of Messrs. Crowley, Bolger & Cusack, 3-4, Lower O'Connell Street, up to his retirement in 1953.

MR. PATRICK J. MASTERSON, Solicitor, died on the 11th October, 1956, at St. Vincents Hospital, Dublin.

Mr. Masterson served his apprenticeship with the late Mr. Patrick U. Murphy, 52, Dame Street, Dublin, was admitted in Hilary Sittings 1901 and practised at 42-43, St. Stephen's Green, Dublin, up to his retirement in 1953.

MR. JOHN J. WALSH, Solicitor, died on 3rd November, 1956, at the Mount Carmel, Hospital Dublin.

Mr. Walsh served his apprenticeship with the late Mr. Ignatius J. Rice, City Hall, Dublin, was admitted in Easter Sittings 1921 and practised at City Hall, Dublin as Assistant Law Agent, Dublin Corporation, up to his retirement in April, 1956.

SOLICITORS GOLFING SOCIETY.

ONE of the most successful meetings of recent years was held at Mullingar on Saturday 29th September when the competition for the Prize presented by the President of the Incorporated Law Society, Mr. Dermot P. Shaw, as President of this Society attracted a very large entry. The results of the various competitions were as follows: The Incorporated Law Society Challenge Cup, with Prize, presented by the President: E. J. Dillon (18) 35 pts., runner-up E. F. English (8) 34 pts.; Ryan Cup (for handicaps 13 and over) M. J. Garvey (18) 35 pts., runner-up P. J. Shaw, 34 pts. Best 1st Nine C. J. Gore Grimes (18) 20 pts. Best 2nd Nine P. Noonan (8) 18 pts. Special Prizes: M. T. Neary (7) 34 pts., J. B. Farrell, 32 pts.

There was a very large attendance at the Dinner in the club-house at the conclusion of the competition. The Toast of the President was proposed by Mr. T. F. McKeever, Captain of the Society and supported by Mr. John C. Griffin who succeeds Mr. McKeever as Captain for 1956-57. The Toast of the Guests was proposed by Mr. T. F. O'Reilly and replied to by the Rev. Fr. Fehan, Captain of Mullingar Golf Club.

At the election of Officers and Committee the following were elected: John C. Griffin, Captain, J. J. O'Dwyer, re-elected Honorary Treasurer, Gerard M. Doyle, Honorary Secretary to succeed Mr. L. K. Branigan who has retired. Committee:—T. F. McKeever, (ex-officio), L. K. Branigan (ex-officio), J. J. O'Connor, Eugene Gillan, W. Menton, L. E. Kearon, J. Maher.

COURT FEES ORDERS.

The following orders, which have the effect of substantially increasing the fees payable in the different offices of the Supreme Court and High Court, Circuit Court and District Court, came into force on 1st October, 1956, and can be obtained from the Government Publication Sale Office, G.P.O. Arcade, Dublin, at the stated prices:—

(1) Supreme Court and High Court (Fees) Order 1956—S.I. No. 251 of 1956—1s. 6d.

(2) Circuit Court (Fees) Order 1956—S.I. No. 249 of 1956—1s.

(3) District Court (Fees) Order 1956—S.I. No. 250 of 1956—9d.

(4) Court Fees (Temporary Variation) Order 1956—S.I. No. 258 of 1956—4d.

The effect of this last order is to authorise up to the 30th November, 1956, the use of adhesive stamps in the collection of Court fees in cases where, but for the provision of this Order, impressed stamps would be required.

CRIMINAL APPEAL RULES 1956

The Criminal Appeal Rules, 1956, which replace the Criminal Appeal Rules, 1924, came into force on 1st October, 1956, and deal with the procedure relating to criminal appeals in the Court of Criminal Appeal.

The Criminal Appeal Rules, 1956—S.I. No. 252 of 1956 may be purchased from the Government Publications Sale Office for 2/-d. each.

DIPLOMATIC AND CONSULAR FEES REGULATIONS 1956.

The Diplomatic and Consular Fees Regulations, 1956—S.I. No. 263 of 1956—come into force on 1st November, 1956, and may be obtained from the Government Publications Sale Office for 1s.

These Regulations repeal all former Regulations relating to diplomatic and consular fees, and prescribe increased fees in lieu thereof. For instance the fee for noting a bill of exchange or for administering an oath is 15s. and for each diplomatic signature attached to an exhibit referred to in an affidavit, the fee will henceforth be 7s. 6d., and for initialling every alteration or interlineation, a fee of 5s. will become payable. The fee for each execution of a power of attorney attested by such officer is £1, while the fee for a certificate of a person's identity and for each attested signature of such an officer is £1. The fee for directing a search in a public record office, apart from the expenses involved, is £1. The fee for verifying a translation of a document per 100 words is also £1. The fee for the issue of an Irish passport, or a full visa is now £1 10s. 0d. The fee for acting on behalf of an Irish claimant either to property situate abroad or to the estate of a deceased person situate abroad is 2½ per cent. of the net value of any bequest or distributive share recovered, if legal assistance is engaged, or 5 per cent. of such bequest or share otherwise. Finally the fee for taking evidence on commission is £2 per hour.

MEDICO-LEGAL SOCIETY.

The Medico-Legal Society of Ireland which was recently formed, held its first meeting on the 29th October, 1956, at the Dolphin Hotel, Dublin, when Judge A. McCarthy, S.C., delivered a paper on "The Mind and Crime." There was a representative attendance present including many members of the solicitors' profession (fuller details will be given next month).

The object of the Society is to promote Medico-Legal knowledge "which as the President of the Society, Dr. J. P. Brennan, said, "is coming more and more into our daily lives and into the public eye." Membership of the Society is open to members of the medical and legal professions in Ireland and to such others as are specially interested.

Meetings will be held regularly from October to April. Solicitors and solicitors' apprentices (who may join as associate members) are invited to become members of the Society which has the full approval of the Law Society. Full particulars may be obtained from Mr. M. J. Leech, Hon. Secretary, c/o Solicitors' Buildings, Dublin.

THE DUBLIN SOLICITORS' BAR ASSOCIATION.

The Council and Officers of the Association for the year 1956–57 are: President, Frank Connolly; Vice-President, J. B. McGarry; Honorary Treasurer, R. O'Connor; Honorary Secretary, C. Hyland; Honorary Auditors, P. Glynn and E. Crowley; Council, Messrs. E. McCarron; E. Byrne, J. A. G. Cullen; Leslie Kearon; James M. Farrelly; K. Burke; S. Millington; F. Gibney; and V. Wolfe.

The outgoing Honorary Secretary's Report for the Association's work in the year 1955–56 dealt with the activities in endeavouring to secure the improvement of setting up of a special Committee to consider Workmen's Compensation; the furnishing of a report to the Department of Justice for the reorganisation of the Dublin Metropolitan and County District Courts; the activities of the Association's Social Sub-Committee during the year; the further revision of the Association's standard form of contract for sale by private treaty; the drafting of a precedent form of tenancy agreement for private dwellings and other general matters.

At the Annual General Meeting of the Association on the 15th October, the following Sub-Committees were set up:—(*a*) Court Areas; (*b*) Circuit and District Courts; (*c*) Emergency; (*d*) Workmen's Compensation; (*e*) Social and Lectures; (*f*) Letting Agreement; (*g*) Annual Dinner.

Any member of the Association who wishes to put forward any matter for consideration by one of these Sub-Committees is requested to write to the Honorary Secretary of the Association.

The annual dinner has been fixed for the 15th of December, 1956, at the Solicitors' Buildings.

Mr. Fitzpatrick, District Justice, will be assigned for the next four months to assist Mr. Hannon, Senior District Justice, with Dublin metropolitan civil work. The Association have protested to the Department of Justice about the present position of the Lists at Kilmainham (County Dublin) District Court.

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DECEMBER,
1956

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT.

PRACTISING CERTIFICATES, 1957–58. (1) Members are reminded that practising certificates for the year to end 5th January, 1958 should be taken out on or after 6th January, 1957 and not later than Tuesday, 5th February, 1957, in order to take effect as a qualification to practise from 6th January. (2) Under the provisions of the Solicitors' Act, 1954, the declaration to be lodged with the Society on applying for a practising certificate shall be completed and signed by the applicant personally unless the Registrar on the ground of illness or some other sufficient ground dispenses with personal signature of the declaration. Dublin agents of country solicitors should therefore take up the declarations in good time and forward them for signature to their correspondents.

THE PRESIDENT AND VICE-PRESIDENTS.

MR. NIALL S. GAFFNEY of Limerick has been elected President of the Society for the coming year, and Mr. Desmond J. Collins of Dublin and Mr. Charles J. Downing of Tralee have been elected Vice-Presidents.

ORDINARY GENERAL MEETING.

AN Ordinary General Meeting of the Society was held in the Library, Solicitors' Buildings, Four Courts, Dublin on Thursday, 22nd November, 1956. The President, Mr. Dermot P. Shaw, took the Chair.

The notice convening the meeting was taken as read.

The minutes of the Ordinary General Meeting of the Society held on 10th May, 1956, were read, confirmed and signed.

Mr. C. Gore-Grimes moved and Mr. P. C. Moore seconded the adoption of the audited accounts and balance sheet. The motion was adopted and the President signed the balance sheet.

Messrs. Kevans & Sons were re-appointed as the Society's auditors.

The Secretary read the report of the scrutineers of the ballot for the election of the Council and provincial delegates for the year 1956–57. The report stated that for the office of provincial delegate the following had been returned unopposed:— Ulster: Derrick M. Martin; Munster: John J. Dundon; Leinster: Reginald J. Nolan; Connaught: Christopher E. Callan.

The foregoing were declared duly elected.

The result of the ballot for the 31 ordinary members of the Council and the supplemental list was as follows :—

Dermot P. Shaw, 512 ; Arthur Cox, 462 ; Thomas A. O'Reilly, 459 ; Joseph Barrett, 455 ; Henry St. J. Blake, 442 ; John Carrigan, 430 ; Patrick R. Boyd, 420 ; Cornelius J. Daly, 417 ; Desmond J. Collins, 415 ; John R. Halpin, 409 ; Niall S. Gaffney, 408 ; Charles J. Downing, 403 ; John J. Nash, 399 ; Joseph P. Tyrrell, 393 ; Patrick F. O'Reilly, 392 ; James J. O'Connor, 390 ; Sean O'hUadhaigh, 389 ; Desmond J. Mayne, 379 ; Francis J. Lanigan, 375 ; Terence de Vere White, 374 ; Peter E. O'Connell, 374 ; George G. Overend, 372 ; F. J. Gearty, 365 ; W. J. V. Comerford, 363 ; Ralph J. Walker, 357 ; James R. Quirke, 356 ; R. McD. Taylor, 352 ; John J. Sheil, 351 ; George A. Nolan, 343 ; Francis X. Burke, 327 ; Louis Walsh, 313. *Supplemental List* : John Maher, 284 ; C. J. Gore-Grimes, 272 ; J. J. O'Dwyer, 256.

The President declared the foregoing members of the Society duly elected to the Council and the supplemental list in accordance with the Scrutineers' report.

The following candidates received the number of votes placed after their names :—

Gerard M. Doyle, 176 ; James A. Kelly, 159.

The President moving the adoption of the report of the Council said :—

Ladies and Gentlemen : Since our last meeting, death has taken its usual toll, and we have with regret to record the names of those members of our Society who are no longer with us : John Lombard (Gorey) ; Robert C. Graham (Belfast) ; Joseph H. Dixon (Dublin) ; Brendan C. Russell (Dundalk) ; Richard O'Brien (Tipperary) ; Dermot Murtagh (Athlone) ; James G. O'Connor (Dublin) ; Charles K. Murphy (Cork) ; John Cusack (Dublin) ; Patrick J. Masterson (Dublin) ; John J. Walsh (Dublin).

These were all members of the Society, our colleagues and our friends, and to-day on your behalf I express to their relatives our sincere sympathy. May I ask you, gentlemen, to rise with me for one moment in a silent tribute to their memory.

You have had before you the Annual Report of the Council, which has been circulated, and having read it, you will have noted that for the Council it has been a busy year. There were thirteen full Council Meetings, ninety Committee Meetings, and twenty-eight Meetings of the Disciplinary Committee. The Report only shows the bare bone of the activities of the Council and does not reflect the enormous zeal and industry and to a large degree the unrequited anonymity which lies behind this account of the work of the Council and its Committees. To a President it has been an inspiration to observe and support them.

The work of the Council and in particular its Committees has increased in recent years and seems likely to increase yet further. The time is now coming when it may be necessary to review the Constitution and Bye-laws of the Society, and to consider whether it is necessary or desirable to make changes in the form of our organisation to secure the more effective performance of our work.

In the first instance I want to refer to the need for organisation within the profession. There are 1,363 solicitors holding practising certificates, and the membership of the Society is 1,130. Allowing for the number of solicitors employed by the State and private concerns, the membership is satisfactory and represents over 80 per cent. of the solicitors in practice.

But membership of the Society is not enough. Every solicitor should be a member and an active member of his local Bar Association. I have no doubt that if the occasion should arise, every member of the Society would act together as one man in defence of their essential interests ; but we want all solicitors to take a greater interest in the day to day work. If the Society is to wield the influence and power to which it is entitled, it is necessary that every practising solicitor should be an active member of his local Association, and through that Association exercising his full influence and help in the working of the Society.

At the last meeting I told you that there were only two counties in Ireland where there were no Bar Associations. Since then I have been in touch with solicitors in these areas. In one case I met the local solicitors and found a general realisation that an association would be of benefit. I hope that when my successor next addresses you, he will be able to tell you that there is an effective functioning Bar Association in every county in Ireland.

I have been impressed too by the regional meetings which have been held this year. All who were present at these meetings have felt the benefit. May I suggest that from time to time there should be a regional meeting of solicitors in each province, which would be attended by the principal officers of the Society. I believe that such meetings would prove an effective link and would bring home to those solicitors who have a complete misconception of the functions of the Council, that it is not a body apart, but is composed of practising solicitors elected in each year by the solicitors throughout the country and working in their interest.

As I am referring to the question of organisation, may I also add a word upon the subject of co-operation between the professions. In this year we have co-operated with the accountants in preparing the case for retirement benefits, to which I will allude later. In the present time, more than ever before, there is the need for all professional bodies to work together in harmony and in co-operation. So far as the Law Society is concerned, we are ready and willing at all times to co-operate with all other professional bodies, to join with them and support them on matters of common and mutual interest.

The principal event during the past six months, as far as we have been concerned, has been the increased Court fees, which were brought into operation with startling suddenness one Monday last October. It is no exaggeration to say that the solicitors of Ireland were severely shocked; and for the first time in history the Council felt compelled to make a public protest by way of a letter to the newspapers, not only against the amount of the new fees, but also of the manner in which they were imposed. It is now more than ever clear that the purpose of the increase was to provide additional revenue. We as solicitors and as loyal citizens are quite prepared and willing to accept taxation if imposed as taxation. We would not have objected to reasonable increases, but we feel we must object, and we must let the public know when taxation is imposed on them in a concealed form and without regard to the problems and difficulties which arise from a hasty application.

For instance, until new Rules were made by the High Court and District Court Rules Committee, plaintiffs were unable to recover the new increases and had to bear the loss themselves. Again the new scale operates with particular hardship in cases where accounts are taken in the Examiner's Office. The previous scale of fees provided for a maximum of £10. The new scale does not contain the former provision for a maximum fee and in some cases the fees payable might be quite fantastic. Undoubtedly, in this instance there is a mistake, but it is typical of the difficulties which arise from lack of consultation and undue haste. We deplore too the increase in the fees in Bankruptcy and in minor matters. There is the danger that the effect of such increases may be to leave it uneconomic to utilise the services of the Courts and that the result may be to cause a denial of justice. A Committee of the Society has been detailed to study the incidence of the increases, and we hope, to make representations in due course to remedy the more serious anomalies.

Meanwhile solicitors are called upon to act as the great unpaid tax collectors, and additional court fees follow in the wake of increased charges in the Land Registry, increased stamp duties and estate duties, all of which are paid to the State through the services of the profession.

There is another side to the problem. Solicitors cannot be expected to finance their clients in the payment of outlay, as heretofore, and the time is now coming when solicitors will have to change their established practice and ask their clients to provide the outlay as the occasion arises.

I have just now spoken of the work, which we performed for the Department of Finance as unpaid tax collectors. May I express the hope that the Minister will recognise the very special position of the solicitors' profession, and in his next Budget make the concession which we have been seeking in conjunction with the accountants who perform similar services for the revenue in the matter of retirement benefits. After a struggle of 8 years, the Law Society in England have been successful in inducing the Chancellor of the Exchequer to allow the remission in contributions for retirement benefits by self-employed persons, and the provisions have been incorporated in the English Finance Act of 1956. A Joint Committee of the Society and Accountants have been working on this problem during the past year; and we are sure that the Minister for Finance will give the fullest consideration to the proposal, which we are putting to him, to allow relief from Income Tax in respect of premiums paid by solicitors and accountants to make provision for their retirement and old age. May I express the hope that in his next Budget the Minister will be able to make provision for this long overdue relief.

As always at the Annual Meetings a President has to refer to the perennial problem of delays in government offices. During the past 12 months we have made a new approach to this problem. In the first instance at a conference with the Commissioner of Valuation, we have asked him to indicate the time within which they would expect cases coming to their office to be dealt with and would regard complaints in excess of such time as legitimate. The Commissioner in the frankest possible way told us of his difficulties and in the end we have agreed upon a time-table within which cases referred to the Valuation Office may reasonably be dealt with. This time-table so far as the cities are concerned, viz., six weeks, is reasonable, but the delay in country districts viz., six months, is rather more than we would like. However, it does represent a very considerable improvement, and we are grateful to the Commissioner of Valuation for his assistance and co-operation in the matter.

In like manner we approached the Irish Land Commission and were met in the most helpful and

co-operative way by the Secretary and they have now furnished us with a time-table within which solicitors may expect to have their business with the Land Commission to be dealt with. This time-table will be published in the GAZETTE. It is pleasant indeed on this occasion to offer praise instead of criticism, and we do appreciate the realistic efforts which have been made by the Land Commission to expedite the work and solicitors all over the country will note with gratitude that applications for consent to sub-division, which sometimes took up to 4 or 5 months, are now dealt with within a fortnight. In like manner we have made similar requests to the Land Registry, the Adjudication Office, the Probate Office, the Estate Duty Office and the Accountant General. We have agreed, or are agreeing with the majority of these Offices, times within which, when papers are lodged in proper order, they can expect cases to be completed. I emphasise that it is of the essence, if delay is to be avoided, that papers should be lodged in proper form. If not, the delay is due to the solicitor's own fault; but in cases, where papers are lodged in the correct form and where the delay exceeds the time stipulated by the respective office, I suggest that solicitors should in such case write a letter of complaint to the head of the particular department and draw his attention to the delay; and in the event of failure to obtain satisfaction should put the facts before the Society.

...We are gratified to record that during the past two years, Sittings of the High Court have been held in Cork for the trial of High Court actions, and during the past year a Sitting also took place in Galway. Solicitors generally may not perhaps be aware that it is open to them to apply to have High Court actions heard in their local Assize centres. The machinery, it has been agreed, exists for the purpose, and it is only necessary, if good reason can be shown why a case should be heard outside of Dublin, to make the necessary application to the Court.

During the past year Mr. Plunkett and I were privileged to represent the Society officially at the Conference of the International Bar Association in Oslo. The International Bar Association is an organisation of the organised Law Societies throughout the world, formed for the express purpose of promoting friendly relationships between members of the legal profession in different countries, for the exchange of information, and in particular, to try and establish, where possible, uniform systems of practice and procedure. At Oslo there were representatives of the Law Societies of 41 countries from 6 Continents—in fact from every civilised country in the world outside the Iron Curtain. It was the first occasion upon which our Society was officially represented at an International Bar Association Conference and for us it was a memorable experience. During that week we met delegates from every country and, both officially and unofficially, received a most cordial welcome. We found, on all sides, the greatest interest in our Society and its work and, not only in the Society, but also in our country. Very many delegates expressed their wish to visit the country, in particular our American friends, and I am glad to say that arrangements are now on foot to receive a representative delegation of the American Bar Association next year. I have no doubt but that solicitors everywhere will extend them a truly Irish welcome.

We also obtained a fund of information on practice and procedure throughout the world and the functions, activities and developments with which other Law Societies are concerned.

Over and over again in Oslo it was emphasised that the primary function of a Law Society is to regulate its activities in the public interest and co-extensive therewith is the role of the lawyer in the modern world.

I can understand that a member of any great profession without full consideration might regard it as the prime duty of his own professional body to look after the interests of its members and might consider that all its other functions were of secondary importance. Such a view, however, ignores the fundamental concept of a profession, and the fact that members of a profession dedicate themselves in effect to the public service and are only secondarily concerned with their own financial advancement and would therefore overlook the basic truth that nothing can be done to improve the lot of a profession unless at the same time it be in the public interest.

Various Societies have adopted specific programmes to this end. For instance, the American Bar Association in the year 1951 adopted 6 long range objectives as a programme for the legal profession. These were as follows :—

1. The preservation of representative government through a programme of public education and understanding of the privileges and responsibilities of citizenship.
2. The promotion and establishment within the legal profession of organised facilities for the furnishing of legal services to all citizens at a cost within their means.
3. The improvement of the administration of justice through adherence to effective standards of judicial administration and administrative procedure.

4. The maintenance of high standards of legal education and professional conduct to the end that only those properly qualified so to do shall undertake to perform legal service.
5. The promotion of peace through the development of a system of international law consistent with the rights and liberties of American citizens under the Constitution of the United States.
6. The co-ordination and correlation of the activities of the entire organised bar of the United States.

I pause now for a moment to meditate and to examine the extent to which we are in line with current Law Society policy, and to consider in what directions we can extend our activities. The result is not unsatisfactory.

It was only in 1954 that the Solicitors' Act became law enabling us as a body to guide and control the profession. Since then we have brought into operation a new and improved system of education designed to ensure that well-trained, learned, practical and competent lawyers will be available in the future. We have brought into operation too the professional practice and conduct regulations designed to eliminate the malpractices and unworthy conduct which have from time to time in the past brought discredit to the profession and we have framed Accounts Rules and Regulations designed to ensure that the members of the public in their financial dealings with solicitors are fully and effectually safeguarded. But that is not enough. We must always be applying our minds to ways and means of giving even better service. The first direction in which one's thoughts turn is that, in contrast to the majority of other countries, there is no legal aid system, either with the assistance of the State or on a voluntary basis. I am proud to say that in practice it has not made much difference in that any person with a good and valid claim has never had to fear that he would be unable to have it presented on the ground of lack of means only, but a citizen in such a case has to depend upon the favour of the legal profession. Perhaps for this reason there has been no public demand, but expressing my own personal opinion might I say that the time is now ripe when the State should fall in line with other countries and among its services offer, in deserving cases, a contribution towards the cost of maintaining and prosecuting claims for essential rights. And if we are to ask the State to help should we not ourselves consider, perhaps through the Bar Associations, the provision of some scheme, either of consultation or on a lawyer referral basis, whereby a panel of solicitors would be made available to help persons seeking and requiring legal advice.

There is also the need for the Law Society to adopt a new approach in its system of Public Relations. In the past, the Society has hidden its head under a bushel and in consequence there has been in existence in some quarters a wholly mistaken conception of solicitors and their work and their remuneration. I suggest, and I am expressing my personal opinion, that the time is now ripe to undertake a vigorous good-will programme so that the public will understand solicitors and the solicitors' profession. This could well take the form of articles contributed to the Press and periodicals, of lectures, perhaps broadcasts, talks with the basic object of providing information to the public and of the need for legal advice in situations where lawyers are not normally consulted and of acquainting them with their rights, privileges and liabilities.

It follows, too, that another direction in which the Society can help the public is by the scrutiny of impending legislation, and by the publication of constructive criticism designed to draw the attention of Deputies and the public to provisions which, though innocuous in appearance, may well affect citizens in their public and property rights. Above all, we should always be on guard to object to provisions giving Ministers and their officers power to decide questions affecting individual rights without the safeguard of review by a judicial tribunal.

The complicated machinery of a modern State tends to require the regulation of its functions by Statute, Ministerial Order or administrative direction, and the result has been to make the legal system a jungle which is impenetrable to those who have no safe guide.

It is here that the task of the legal profession has become increasingly important and necessary; so that the public need representatives in whom they can repose confidence and who can guide them.

We are now living in one of the periods of profound revolution. Challenged are the institutions which we have believed to be the fruit of man's long struggle towards freedom. Impugned are the religious faiths that for us are the core of conscience. The world has gasped in horror at the recent events in Hungary. The hearts of the freedom loving world have gone out in sympathy to the gallant fighters of Hungary; and their appeals for help have been answered and will be answered in the most generous and practical way.

The lesson is obvious. The peace of the world depends on the general observance of the rule of law—a rule based on principles of Christian charity

and justice, for the dignity and freedom of the individual.

In the fight for freedom lawyers are in the front line. We have to deal with people at their worst and know the necessity of a legal order; we also see people at their best and so retain our faith. In this country happily we are not concerned with major issues, but we must be forever vigilant to safeguard the foundations and to object at all times to any effort to substitute for the rule of law, a rule of administrative direction.

It is only right that I should commend on this occasion one of our colleagues who at his own expense has successfully contended before the Supreme Court, that a solicitor employed in the service of the State is not a civil servant, and that the status of a solicitor of the Supreme Court has its origins in the ideals and traditions of the legal profession.

Before I close, I want on behalf of the solicitors of Ireland, to convey a message of thanks and appreciation to our good friend and colleague, Mr. William Norman, who, to our everlasting regret, has found that the ties of advancing age have precluded him from continuing as a member of the Council. For over 20 years he has been a most active and enthusiastic member. He has been a most distinguished President and on this occasion I thank him on your behalf for an unequalled record of devotion and service to the profession.

Finally, if I may be permitted to end on a personal note. It has been a pride and privilege for me to be your President. My task has been made easy in that I had two Vice-Presidents, who have gone out of their way on every occasion to help me. Both already distinguished solicitors in their own right, will I know in years to come ornament the profession and enhance their already high reputation. I have had the help of a Council who have been generous to me in every way and who have worked during the year in complete co-operation and harmony. I have had the sympathy and help of numerous colleagues and friends in all parts of the country. And above all I have had at my side, my guide, philosopher and friend, Eric Plunkett, and the unstinted help and assistance of his most efficient and ever willing staff.

Senator Cox seconded the motion proposed by the President for the adoption of the report. Messrs. Frank Connolly, T. D. McLoughlin, Donough O'Donovan, Desmond Moran and F. R. Tully also spoke.

It was decided that the next Annual General Meeting of the Society would be held on 21st November, 1957.

On the motion of Mr. Sean O 'hUadhaigh, Mr. Walker, Vice-President, took the Chair.

Mr. O 'hUadhaigh then moved a vote of thanks to the President for his distinguished services to the Society during his year of office. Mr. D. B. Gilmore seconded the motion which was passed with acclamation. The President replied and the proceedings terminated.

MEETINGS OF THE COUNCIL.

NOVEMBER 1ST: The President in the Chair. Also present Messrs. Desmond J. Collins, James R. Quirke, John R. Halpin, A. Cox, John J. Nash, George A. Nolan, Niall S. Gaffney, John Carrigan, Dermot P. Shaw, D. J. Mayne, James J. O'Connor, Ralph J. Walker, Reginald J. Nolan, Derrick M. Martin, F. X. Burke, John J. Sheil, P. R. Boyd, Cornelius J. Daly, R. McD. Taylor, Peter E. O'Connell, F. J. Gearty, Thomas A. O'Reilly, Francis J. Lanigan, Joseph P. Tyrrell, Charles J. Downing, Patrick F. O'Reilly, Sean O'hUadhaigh.

The following was among the business transacted:

Solicitors to local authorities.

THE Secretary informed the Council that at an interview with officials of the Department the Society's representatives were informed that sanction would be issued immediately to local authorities who had requested permission to place whole-time salaried solicitors in the local government service on the same salary scales as county medical officers and county engineers.

Legal Costs Accountants Association.

THE Council considered on a report from a Committee a draft scales of charges submitted by the Association, providing for a commission on gross costs drawn and taxed including both professional fees and disbursements. It was decided that the Society should not discuss any scale which proposes to charge fees on disbursements as distinct from professional charges.

Solicitors and Auctioneers.

IT was decided to approach the Auctioneers' Association on representations received from a Bar Association pointing out the difficulties from the solicitor's point of view under the Professional Practice Regulations from any practice of auctioneers of directing clients towards particular solicitors and suggesting that the Association and the Society should consider the matter jointly.

Local Authority. Sales to tenant purchasers.

MEMBERS who act for Town Commissioners were asked by the Commissioners to state the amount

(*a*) of the Commissioners' costs, (*b*) of the tenants' costs in each case, (*c*) of the combined costs if members act for all parties to the transaction. The Council referred to the resolution passed at the ordinary general meeting of the Society in June, 1955, authorising a reduced scale of costs in such cases. On a request for guidance from the members concerned the Council stated that if the tenant-purchaser asks the solicitor for the Commissioners to act for him he should pay fees appropriate to vendor and purchaser on the reduced scale provided that all the work required is substantially performed by the solicitor for both parties. If separate solicitors are employed each will pay his own solicitor on the reduced scale.

Client's privilege.

MEMBER acted for both parties on a sale of land and prepared the contract. The vendor subsequently sought to rescind and members received instructions from the purchaser to institute proceedings for specific performance. Counsel has advised that member's evidence will be necessary in the proceedings. Member asked the Council for guidance as to whether (*a*) having acted jointly for the parties on the contemplated sale of the purchase he may now act for either of them in the circumstances which have arisen, (*b*) on the question of privilege as to giving evidence. On the facts stated the Council were of the opinion that as member has acted jointly for the parties on the contemplated sale and purchase he should not now act for either of them in the circumstances and that he must plead privilege if summoned to give evidence and abide by the ruling of the court.

Legal Appointment. Canvassing.

THE Council expressed the opinion that it would be contrary to the Professional Practice Regulations for a solicitor to seek votes for a taxed costs position as solicitor to a local authority or similar body or otherwise solicit professional business. The Council were also of the opinion that it would be unprofessional to seek votes for a whole time salaried appointment unless the terms of the competition so permit and the Society had approved of the conditions of appointment.

NOVEMBER 22ND: The President in the Chair. Also present Messrs. George A. Nolan, Derrick M. Martin, John R. Halpin, Francis J. Lanigan, J. R. Quirke, A. Cox, D. J. Mayne, D. J. Collins, R. F. O'Reilly, Charles Downing, Niall Gaffney, John Carrigan, George G. Overend, F. X. Burke, W. J. Comerford, Cornelius J. Daly, John J. Dundon, John J. Nash, Thomas A. O'Reilly, John B. Jermyn, Joseph P. Tyrrell, Sean O'hUadhaigh, Peter E. O'Connell, C. E. Callan, R. Mc.D. Taylor, Reginald J. Nolan, Patrick F. O'Reilly, Terence de Vere White, P. R. Boyd, Louis Walsh, Ralph J. Walker.

The following was among the business transacted:

Lease at a rack rent.

A LEASE of a mill with other works and land was granted for a term of 500 years from 1st January, 1956 at the yearly rent of £3,500 per annum for the first five years and £4,500 per annum for the second five years and £5,600 per annum thereafter, lessees paying rates and taxes. The area of the land is 6 acres 39 perches and the rateable valuation: buildings £220, lands £3 10s. There are no unusual covenants and conditions but the lease contains an option to the lessees to purchase for £90,000 plus any sums expended on the property by the lessors or mortgagees. The fee simple value was estimated by the lessors at £90,000 to £100,000 and by the lessees at £71,000 and the lessees' valuers estimated the fair letting value at £5,700 per annum tenant paying rates and executing repairs. The lessors submitted that if the term of the lease were short the rent would be higher to off-set possible losses due to vacancy. The parties asked for the ruling of the Council as to the proper scale of the lessors' charges. The Council decided that the rent is a rack rent and that the costs should be charged on the lower scale.

Negotiation fee.

IN reply to questions from members, the Council expressed the following opinion: (1) If a solicitor prepares a contract for sale, the vendor and purchaser having already agreed on the amount of the purchase money, is the contract negotiated with the aid of the solicitor, (*a*) the same solicitor acting for both parties; (*b*) different solicitors acting for the parties?

Opinion: (1) (*a*) If the solicitor draws the contract on behalf of the vendor the contract is negotiated on the vendor's behalf with the aid of the solicitor but the negotiation fee should not be charged against the purchaser; (*b*) in this case where the parties are separately represented each party negotiates with the aid of a solicitor as regards the terms of the contract even although the price has been agreed.

(2) If a solicitor acting for an intending purchaser who has already agreed with the vendor on the amount of the purchase money peruses and approves of (without making any alterations) a contract prepared by the vendor's solicitor and gets the contract signed by the purchaser, is that a contract

negotiated with the aid of the purchaser's solicitor.

Opinion : In this case where the solicitor examines the contract and approves of it on the purchaser's behalf it is negotiated with the aid of the solicitor even although the price has been agreed between the parties and no changes are made in the draft as submitted.

Delays in Government Departments.

THE Secretary submitted replies received to the Society's letter to the heads of various Departments asking for the time taken to deal with various kinds of business when the papers are submitted by a solicitor in order. It was decided to publish the information received in the Society's GAZETTE. A reply from the Estate Duty Office is awaited.

THE INCORPORATED LAW SOCIETY OF NORTHERN IRELAND.

THE President of the Society for the year 1956–57 is Mr. Leonard I. G. Fox of Belfast. The Vice-Presidents are Mr. Thomas Q. King, of Belfast, and Mr. James Napier, of Belfast. The five extraordinary members of the Council of this Society are: Messrs. Thomas Q. King, James J. Napier, Charles MacLaughlin, James C. Taylor, with the President.

SOUTHERN LAW ASSOCIATION.

THE Annual General Meeting of the above Association took place in Cork on 16th November, 1956. The following officers were elected for the year 1956–57 :—

President: Mr. John B. Jermyn; Vice-President: Mr. James W. O'Donovan; Hon. Treasurer: Mr. Bryan J. Murphy; Hon. Secretary: Mr. James D. Donegan; Council: Messrs. T. A. Buckley, J. K. Coakley, C. J. Daly, J. F. Foley, E. Hayes, J. J. Horgan, P. J. Kavanagh, G. J. Moloney, B. M. O'Meara, D. J. Quinlan, M. Boland.

The following members were appointed to represent the Association as Extraordinary members of the Council of the Incorporated Law Society: Messrs. John B. Jermyn, Edmund Hayes, Patrick J. Kavanagh, John F. Foley, James W. O'Donovan.

SOCIETY'S DINNER-DANCE.

A DINNER-DANCE was held on the 22nd November, 1956, in the Ballroom of the Shelbourne Hotel, Dublin. There was an attendance of approximately 350 members and friends.

PRESENTATION OF CERTIFICATES OF ADMISSION.

ON 6th December, the President at a ceremony in the Society's Library presented certificates of admission to the following solicitors :

Miss Maureen Bourke, B.A., 5 Bushy Park Gardens, Terenure, Dublin; Peter J. C. Coyle, York Street, Castleblayney, Co. Monaghan; Dermot J. Devine, B.A., Ardagh Court, Athlone, Co. Westmeath (3rd Place, October Final Exam. Silver Medal); William J. B. Fallon, Abbey Street, Wicklow; Noel M. Gleeson, 41 William Street, Limerick; Michael C. Halpenny, 96 Upr. George's Street, Dun Laoghaire; William Anthony Irwin, B.A., "Ellesmere," College Road, Cork; Humphrey P. Kelleher, Hazleton, Western Road, Cork; James J. Kelly, B.A., Woodville, Templemore, Co. Tipperary; Miss Iseult C. Kennedy, 1 Appian Way, Dublin; Kenneth M. S. Kenny, B.A.; Ardshanbally, Adare, Co. Limerick; Joseph J. Kiernan, 23 Mount Eden Road, Donnybrook, Dublin; Edward A. G. Lane, 1 Warwick Terrace, Leeson Park, Dublin; Anthony F. McCormack, Strokestown, Co. Roscommon; Timothy B. McEniry, Lower Cork Street, Mitchelstown, Co. Cork; Dermot John Moloney, Munster & Leinster Bank House, Midleton, Co. Cork (1st Place, October Final Exam. Silver Medal); Michael A. O'Carroll, Ballinasloe, Co. Galway; Miss Carmel O'Connell, B.A., Dip. Soc. Sc., H.Dip in Ed., 15 Iona Drive, Dublin; Albert C. O'Dwyer, B.A., Loc Fedora House, Cashel, Co. Tipperary (Special Cert. October Final Exam. Overend Scholarship); Patrick R. O'Gorman, Hacketstown, Co. Carlow; Nicholas O'Keeffe, 1 Harbour Row, Cobh, Co. Cork; James V. C. Phillips, West End, Millstreet, Co. Cork; Michael A. Regan, Rathmolyon, Enfield, Co. Meath; Terence M. Williams, B.A., 24 Palmerston Gardens, Rathmines, Dublin.

ELECTION OF THE COUNCIL FOR 1957-58.

AT a meeting of the Council on November 22nd the 14th October, 1957, was appointed as the final date for receipt of nominations for the election of the Council for the year 1957-58 and 14th November, 1957, was appointed as the date of the ballot.

OBITUARY.

DISTRICT JUSTICE THADDEUS G. O'SULLIVAN died on 26th November, 1956, at his residence, "Glendower," 24 Castle Park Road, Sandycove, Co. Dublin.

District Justice O'Sullivan served his apprenticeship with the late Mr. Eugene J. Downing, Killarney, was admitted in Hilary Sittings 1923 and practised at Killarney up to his appointment as District Justice in 1929.

MR. EDWIN N. EDWARDS died on 27th November, 1956 at his residence 12 Wellington Road, Dublin.

Mr. Edwards served his apprenticeship with the late Mr. W. Grove White, 13 Upper Ormond Quay, Dublin, was admitted in Trinity Sittings 1896 and practised as partner in the firm of Messrs. Bennett Thompson and Edwards, 12 Molesworth Street, Dublin, up to his retirement in 1947.

REGISTRATION OF TITLE ACTS, 1891 and 1942.

NOTICE.

FOLIO 3974 — CO. KERRY
Registered Owner: MAURICE J. CARROLL

The Personal Representative of the Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the personal representative of the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of December, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Maurice J. Carroll to 4a. 1r. 2p. of lands of Listowel situate in the Barony of Iraghticonnor and County of Kerry being the lands comprised in said Folio.

NOTICE.

FOLIO 2226 — COUNTY LIMERICK
Registered Owner — TIMOTHY MOLONEY

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule, hereto which is stated to have been lost or inadvertently destroyed.

A Certificate for all the lands in Folio 16755 County Limerick (in which the lands in Folio 2226 County Limerick are now comprised) will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the Certificate of Title in said Folio 2226 County Limerick is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of December, 1956.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Timothy Moloney to 18a. 1r. 2p. being the lands of Clyduff East situate in the Barony of Clanwilliam and County of Limerick being the lands comprised in said Folio 2226 County Limerick.

HIGH COURT RULES (NO. 2) 1956 (S.I. NO. 282 OF 1956).

THE effect of this Rule is that in a High Court action before a judge and jury for damages caused by the negligent driving of a mechanically propelled vehicle, the judge shall henceforth direct the jury to apportion the damages awarded between the injury to the person and the injury to the property.

CIRCUIT COURT RULES 1956 (S.I. NO. 270 OF 1956).

THESE Rules came into operation on 1st November, 1956, and replace Rule 7 of Order 5 of the Circuit Court Rules 1950. The following amounts can henceforth be claimed as costs in cases of a debt or a liquidated sum which are settled before entry.

If the demand does not exceed £5—£1 12s.

If the demand exceeds—

	£	s.	d.
£5 but does not exceed £25 ...	2	12	0
£25 ,, ,, ,, ,, £50 ...	3	2	0
£50 ,, ,, ,, ,, £300 ...	4	2	0
£300	5	5	0

Additional fees may be charged where there is more than one defendant or service.

DISTRICT COURT RULES 1956 (S.I. NO. 277 OF 1956).

THE Rules came into operation on 9th November, 1956 and briefly provide as follows :—

1. The amount to be charged in the costs for the stamp on an original civil process, an ejectment civil process, a decree or on a dismiss is raised from 1/6d. to 5/-d.

2. The table of solicitor's costs in cases of special default civil process is modified—to the extent that

(*a*) an additional 3/–d. is to be added to the first column., i.e., if the debt is paid within 10 days of the service of the process, (*b*) an additional 6/6d. is to be added to the third column, i.e., if no notice is served (*see* District Court Rules, 1955 (No. 2), S.I. No. 84 of 1955—page 18).

3. The table of solicitor's costs in cases of rate summonses is increased in every case, whether before or after entry, by an additional 3/–d. (*see* District Court Rules, 1955 (No. 2), S.I. No. 84 of 1955—page 21).

LAND REGISTRATION RULES 1956 (S.I. NO. 271 OF 1956).

These Rules came into operation on 1st November, 1956, and provided for the amendment of the Land Registration Rules, 1937 and deal with the registration of title and cancellation of the note as to equities in certain cases.

REPORT ON OSLO CONFERENCE OF INTERNATIONAL BAR ASSOCIATION.

1. Since our last meeting we have attended the Conference of the International Bar Association held in Oslo from the 23rd to the 28th July. The Society was represented by Dermot P. Shaw, President, and Eric A. Plunkett, Secretary, as Deputies, and the party also consisted of the Vice-Presidents, Mr. Ralph Walker and Mr. George G. Overend, and Mr. George A. Nolan and Mr. Dinnen B. Gilmore. We were a very happy party and all of us enjoyed a very pleasant and interesting week.

2. The International Bar Association is an organisation of the organised Law Societies throughout the world. While individual lawyers, who are patrons of the Association, were free to attend, the greater number of the delegates represented their Societies. There were over 500 delegates from six continents and 41 countries, the actual representation being as follows:—Austria 4, Australia 10, Canada 7, Colombia 1, Cuba 1, Cyprus 1, Denmark 10, England 25, Egypt 7, France 16, Germany 32, Dutch-Guiana 1, Haiti 1, India 1, Indonesia 2, Iran 8, Iraq 4, Ireland 6, Israel 12, Italy 1, Japan 3, Korea 1, Lebanon 3, Mexico 2, Netherlands 20, New Zealand 4, Norway 112; Pakistan 7, Peru 1, Philippines 2, Scotland 5, Spain 4, Sweden 10, Switzerland 7, Syria 5, Turkey 14, South Africa 1, U.S.A. 155, Venezuela 4, Madagascar 1, Puerto-Rico 1. About 70 per cent. of the delegates were accompanied by their wives and guests who were invited to all the social functions and were also free to attend the meetings and symposia other than the Meeting of the House of Deputies. It is interesting to note that the majority of the delegates were entitled to deduct their expenses of attending the Conference from their taxable income.

3. Everyone agreed that the Conference was a tremendous success. It was superbly organised in every way; and everything possible was provided for our comfort and convenience. The highest credit is due to the Norwegian Bar Association and the Secretariat; and perhaps the best tribute we could pay, is that none of us or any delegate whom we met, had any cause for complaint. The excellence of the arrangements created a happy atmosphere; and perhaps the most marked feature of the Conference was the spirit of goodwill and friendship which was displayed on all sides.

4. As it was our first experience of such a conference and without knowledge of the practice and procedure, our objective was not so much as to participate in the work of the Conference, but rather to make contact and establish friendly relations with the representatives of the other societies. We all met representatives from every country and had both in and out of the Conference many opportunities to discuss with them problems of common concern and to exchange information upon our activities and work. On every side, we received the most cordial welcome and found the greatest interest taken in our Society and a general desire to visit Ireland.

5. The Conference was opened in the presence of H.R.H. the Crown Prince of Norway in the new hall of the University of Oslo at 11 o'clock on Monday, July the 23rd. After speeches of welcome from the President of the Norwegian Association and the Speaker of the House of Deputies a representative from each continent gave a short address in appropriate terms. The proceedings were varied by selections from the works of Norwegian composers performed by members of the Oslo Symphony Orchestra. The ceremony was a fitting opening to the Conference, conducted in the impressive surroundings of the new hall of the University of Oslo which is decorated by large scale murals of original character and design executed by leading Norwegian artists.

6. The most important work of the Conference was the Meeting of the House of Deputies. This is really the General Meeting of the Association and on this occasion they had before them the consideration of the Report of the Committee on organisation and procedure, and the consequential amendments to the Constitution. The Report of this Committee is in itself well worth studying as an excellent

example of analysing and surveying the work of an organisation. The amendments suggested were complicated and controversial, but it is a great tribute to the way in which the Committee had carried out their work and to the capacity of the Speaker of the House of Deputies that the Committee's Report and the consequential amendments were discussed and dealt with in a comparatively short time. The House of Deputies also adopted for recommendation to Member Organisations the International Code of Ethics. The Code will come before the Council of our Society for detailed consideration in due course; but the fact that it has been adopted and recommended to Member Organisations throughout the world is an excellent example of the work which the Association can carry out.

7. The remaining work of the Conference consisted of symposia and committee meetings on selected subjects. Broadly speaking, the method adopted is that certain subjects are selected for discussion; that members from different countries contribute papers setting out their particular aspects of the problems arising or the procedure concerned; that the papers are collated and summarised by a Rapporteur; that the authors of the papers are free to add to their papers, and the subject is then thrown open to general discussion.

8. The subjects so dealt with were as follows :—

Monday	Legal problems in connection with finance and security in International Shipbuilding Contracts.
Tuesday	The Legal Profession–the work of the organised Bar in furthering the legal profession and its public services.
	Human Rights.
	Administration of Foreign Estates
	Problems of Executors and possible Solutions.
Wednesday	International economic co-operation.
	Emigration and Naturalisation.
	Suggestions for improvement of International Treaties to avoid double taxation.
Thursday	Suggestions for alleviating hardships arising from sovereign immunity in Tort and Contract.
	Ways and Means of improving facilities for legal aid for foreign nationals.
Friday	International Judicial Co-Operation in relation to difficulties arising in taking evidence abroad and serving judicial documents abroad.
	Foreign Divorce Problems arising and possible solutions.
	The handling of property of enemy nationals and residents in enemy occupied territory.

9. While most of the subjects were of not immediate practical interest to us in this country, none the less the meetings were of absorbing, technical interest, and the standard both of the papers and of the discussions was exceedingly high.

10. The outstanding subject, as far as we were concerned, was the discussion of the work of the organised Bar in furthering the legal profession and its public services. On this subject papers were submitted by Canada, Denmark, England, France, Norway, Switzerland and the U.S.A. The papers, which were contributed by the representatives of the Societies in each of these countries, contained a full description of the work and activities of the Societies in their respective countries and were impressive and illuminating, and afforded us very considerable material for thought.

11. In addition to the actual work of the Conference a very full social programme had been arranged, viz. :

Monday	Lunch with Sir Edwin Herbert, President of the Incorporated Law Society of England.
	Reception at the Town Hall, Oslo, given by the Mayor of Oslo.
Tuesday	Cocktail party given by the Norwegian Bar Association.
Wednesday	Cocktail party given by the General Council of the Bar of England.
	Soirée Dansante given by the Minister of Justice of the Royal Norwegian Yacht Club.
Thursday	Our Cocktail Party.
Friday	Official Banquet at the Bristol Hotel.

12. Apart from the official functions various sight-seeing trips were organised for conferees and their guests and during the week there was a considerable amount of private hospitality.

13. We have in this report only been able to give a very brief outline of the work and activities of the Conference. We all felt that the International Bar Association is a most alive and vital organisation with an immense capacity to be of benefit to the legal profession throughout the world, and that lawyers cannot fail to benefit from examining the law procedures and practices of other countries. The International Bar Association provides a forum for the exchange of views. It is yet a young Association but the scope and possibilities exist and in time will bring very beneficial results.

14. We feel that we have been very privileged to attend the Conference and to enjoy a unique

experience and we feel that we have gained thereby in the following respects :—

1. The opportunity of observing at close hand the organisation and arrangements of an International Conference.
2. The opportunity of observing the excellent technique of highly skilled Authors, Chairman and Speakers both in the conduct of the meetings and in the expression of their opinions.
3. The opportunity of meeting representatives of organised Law Societies of the world and of establishing friendly relations with them and of future contacts hereafter.
4. The acquisition of a fund of information and knowledge as to the work and activities of the legal profession throughout the world and the opportunity of collating and relating it to our own work and requirements.

15. A summary of the papers and discussions at the meetings attended by the Society's representatives has been prepared and copies have been placed in this Society's Library for members who are interested. In addition to this summary the papers themselves are available.

THE REGISTRY

Section B.

SOLICITOR, experienced conveyancing and probate, desires situation as Assistant, city or country, or would consider partnership. Capital available if necessary. Box. No. B.207.

Section C.

FOR SALE. O'Connor, Justice of the Peace, 2 Vols. (perfect condition): Criminal Digest (Gavan Duffy); Archbold Criminal Law (1922 Ed.); Sandes Criminal Law (2nd Ed.); Dail Statutes, 1933, 1936, 1948-1954 (inclusive); Statutory Instruments (1948-1951 inclusive). Box No. C.150.

FIRST AND SECOND IRISH EXAMINATIONS

Examinations will be held on 1st and 2nd February. Last day for notice 11th January.

MEDICO-LEGAL SOCIETY.

AT the General Meeting of the Medico-Legal Society of Ireland held on the 29th October last the following Officers and Council were elected for the Session, 1956-57.

Patron: The Chief Justice, The Hon. Conor A. Maguire; Prsident: Dr. J. P. Brennan, Coroner for Co. Dublin; Hon. Secretary: M. J. Leech, 4 Chancery Place, Dublin ('phone 76831); Hon. Treasurer: Captain James A. Kelly, Ulster Bank Chambers, 3/4 Lower O'Connell Street, Dublin ('phone 79129).

Council: Edward Fahy, M.A., B.L.; Dr. Maurice Hickey, M.D., State Pathologist; Sean Hooper, S.C.; Liam Trant McCarthy, Solicitor; Dr. D. A. MacErlean, M.D., Coroner for City of Dublin; Dr. F. MacLoughlin, M.D.; and Dr. P. N. Meenan, M.D. Editor of Debates: Dr. John Fleetwood, M.D.

Judges, Members of the Oireachtas, the medical and legal professions were amongst the large and representative attendance present at the meeting at which Mr. Liam Trant McCarthy, solicitor, Chairman of the Organising Committee at first presided. A paper was delivered afterwards by former Judge J. A. McCarthy, S.C., on the subject of "The Mind and Crime." The Chief Justice presided. This was followed by a lively and interesting discussion.

The Council of the Society has arranged the following Ordinary Meetings for the remainder of the 1956–7 Session in the Dolphin Hotel, Dublin, at 8 p.m. on the dates stated: *Friday, 7th December*, 1956—Paper—"The Privilege of Professional Communications"—by Dr. MacErlean, Dublin City Coroner; *Thursday, 31st January*, 1957—Symposium on "The Medico-Legal Aspect of Road Traffic Problems." Speakers: Edward Fahy, M.A., B.L.; Dr. P. N. Meenan, M.D., Pathologist, St. Vincent's Hospital, Dublin; Frederick J. Mangan, M.A., LL.B., Principal Justice, Dublin Metropolitan District Court; *Thursday, 28th March*, 1957—Paper "Hypnotism and the Law," by Eric C. Cuddon, M.A., B.C.L., Barrister at Law. Member of the English Medico-Legal Society and author of "Hypnosis, its Meaning and Practice."

Membership is open to members of the Medical and Legal Professions in Ireland and to others interested in Medico-Legal matters. The annual subscription is £1 1s. Full particulars as to membership, etc., may be obtained from the Hon. Secretary at 4 Chancery Place, Dublin.

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JANUARY,
1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT.

THE latest date for taking out practising certificates in time will be Tuesday, February 5th. Attention is drawn to the provisions of Part V of the Solicitors Act, 1954, with regard to the issuing of practising certificates and to Sections 54 to 57 with regard to the qualifications for acting as solicitor and the consequences of practising without a certificate. The form of declaration which must be made in order to obtain a practising certificate may be obtained by Dublin solicitors, or by country solicitors through their Dublin agents, on application to the Society's office. Neither the declaration nor the certificate when issued can be sent by post.

MEETING OF THE COUNCIL.

DECEMBER 6TH: Mr. Shaw and afterwards Mr. Gaffney in the Chair. Also present Messrs. James R. Quirke, George A. Nolan, John Carrigan, R. McD. Taylor, Joseph P. Tyrrell, George G. Overend, W. J. Comerford, Francis J. Lanigan, John J. Sheil, Sean O'hUadhaigh, John B. Jermyn, Joseph Barrett, Cornelius J. Daly, Arthur Cox, John R. Halpin, Charles J. Downing, Patrick R. Boyd, Peter E. O'Connell, Edmund Hayes, Niall S. Gaffney, Henry St. J. Blake, Desmond J. Collins, Thomas A. O'Reilly, F. X. Burke, Desmond Mayne, Ralph J. Walker, J. F. Foley, Terence de Vere White, John J. Nash, Patrick F. O'Reilly, C. E. Callan.

The following was among the business transacted.

Joint Committee with the Bar Council.

MESSRS. Thomas A. O'Reilly, Desmond J. Collins and G. G. Overend were reappointed as the Society's representatives.

Solicitors' Remuneration. Item charges under schedule 2.

THE Council having considered a detailed report from a committee decided that an application should be made to the statutory costs fixing committee under the Solicitors' Remuneration Act, 1881, for a general Order prescribing a new method of charging for business falling under Schedule 2 S.R.G.O. 1884 and the General Order in Chancery of 1859. It is proposed to submit that the present system of detailed charges should be replaced by a single gross sum bill based on the following factors:

(*a*) the complexity, importance, difficulty, rarity or urgency of the questions raised.

(*b*) where money or property is involved its amount or value.

(*c*) the importance of the matter to the client.

(*d*) the skill, labour, specialised knowledge and responsibility involved therein on the part of the solicitor.

(*e*) the number and importance of the documents perused.

(*f*) the place where and the circumstances in which the business or any part thereof is transacted.

(*g*) the time expended by the solicitor and his staff and the expenses incidental thereto.

It was decided that the necessary memorandum in support of the application should be drawn up for submission to the statutory committee appointed under the Act.

Solicitor's fee for attending on High Court proceedings either as solicitor or as witness.

MR. WALKER, one of the Society's representatives on the Superior Courts Rules Committee, reported that a solicitor's fee per diem for attending at trial of an action in the High Court will be £7 7s., instead of the amount of £5 5s., heretofore allowed. The Committee have made a rule providing that where a solicitor attends court in a professional capacity to give evidence a fee of £7 7s. per diem should be allowed both in bankruptcy and in other divisions of the High Court but that in bankruptcy the fee must be in the discretion of the judge having regard to the amount of the assets. The rule has been submitted for the concurrence of the Minister for Justice.

Letting Agreements drawn by unqualified persons.

A BAR ASSOCIATION wrote referring to the practice of certain auctioneers of using printed forms of letting agreement, stated to be inadequate and not affording proper protection to the parties concerned. The auctioneers in question receive no special fee for drawing the agreements but get commission in letting the property. Members wish to know whether any action could be taken. On a report from a Committee the Council decided to refer the Association to the decided cases Plunkett *v.* O'Dwyer (Society's *Gazette*, July 1951), and Plunkett *v.* Walshe (Society's *Gazette*, April 1953), in which it was held that the preparation of such documents by unqualified persons is illegal where there is an expectation of direct or indirect remuneration, e.g., commission on letting property. The Association were informed that the facts of any particular cases submitted would be investigated by the Society.

OVEREND AND FINDLATER SCHOLARSHIPS.

THE Council propose to make new regulations for the award of the Scholarships having regard to the new system of examinations prescribed by the Solicitors Act 1954 (Apprenticeship and Education) Regulations, 1955 and 1956. A scheme has been drawn up for submission to the Commissioners of Charitable Donations and Bequests.

The Overend Scholarship is divided into two parts, one for the preliminary and the other for the final examination. The preliminary scholarship is awarded in Michaelmas Sittings each year to the candidate at the two examinations in each year who shows the best performance. The final examination scholarship is paid in each year to the apprentice who shows the greatest proficiency in Real Property and Conveyancing at the Society's Final Examinations in each year. It is proposed to amalgamate the preliminary and final scholarships to form one scholarship which will be awarded to the best candidate at the first law examinations in each year. It is proposed that the first award of the new scholarship will be made in Autumn, 1958.

The Findlater Scholarship is at present awarded in each Autumn to the candidate who shows the greatest proficiency in law and practice at the Society's final examinations for the year ending in the previous Trinity Sittings. One scholarship is awarded each year and the winner receives a moiety of the income from the trust fund for a period of two years. It is proposed to alter the scheme by providing that the Scholarship shall be awarded to the apprentice who shows the greatest proficiency in law practice and book-keeping at all the Society's examinations (excluding term examinations) throughout his entire course. Under the proposed new scheme the winners of the scholarship will be those who show the best average performance throughout their entire apprenticeship. The competition for the scholarship will be confined to winners of gold or silver medals at the Society's final examination.

The date when the new scheme for the Findlater Scholarship will come into operation has not been decided but will be announced in due course.

The details of both schemes for the Overend

and the Findlater Scholarships await the final approval of the Council and will then be submitted to the Commissioners of Charitable Donations and Bequests.

SOLICITORS ACCOUNTS REGULATIONS, 1956.

By the Solicitors Accounts Regulations, 1956, made by the Council with the concurrence of the Chief Justice it was provided that the Solicitors' Accounts Regulations, 1955 (S.I. No. 218 of 1955) shall come into operation on the 1st day of January, 1958, or on such later date as may be appointed by the Council with the concurrence of the Chief Justice.

APPRENTICESHIP AND EDUCATION.

The Council have made regulations which came into operation on December 6th, whereby Regulation 21 of the Solicitors Act, 1954 (Apprenticeship and Education) Regulations, 1955 (S.I. No. 217 of 1955) was revoked and following regulation substituted therefor :—

21.—(1) Before attending the first law examination an apprentice shall produce to the Society a certificate of having attended a year's course of lectures approved by the Society at Dublin University or one of the constituent colleges of the National University of Ireland in the law of real and personal property the law of contract and the law of tort and that he has obtained credit for attendance at such lectures and passed the university examinations.

(2) Before attending the second law examination an apprentice shall produce to the Society a certificate of having attended a year's course of lectures approved by the Society in the subject of equity at Dublin University or one of the constituent colleges of the National University of Ireland and that he has obtained credit for attendance at such lectures and passed the university examinations.

(3) An apprentice who is entitled pursuant to regulation 33 of these regulations to attend the final examination held under the provisions of the regulations of the Council dated 10th June, 1948, as amended shall on entering for the said examination produce to the Society a certificate of having attended and obtained credit for the lectures and examinations mentioned in paragraphs (1) and (2) of this regulation.

(4) For the purpose of paragraph 3 of the second Schedule to the Solicitors Act, 1954, an apprentice shall produce to the Society certificates of having attended and obtained credit for lectures in any legal subjects at Dublin University or one of the constituent colleges of the National University of Ireland for two separate collegiate years and of having passed the university examinations and such lectures and examinations are hereby prescribed.

(5) Paragraph (4) of this regulation shall not apply so as to exempt any apprentice from the provisions of paragraphs (1) and (2) of this regulation.

COUNTY KERRY LAW SOCIETY.

At the Annual General Meeting of the Society, the following officers and Committee were elected for the year 1957: President, Gerald Baily; Vice-President, Thomas O'Neill; Chairman, C. J. Downing; Secretary and Treasurer, J. J. Grace; Committee: J. C. Guihan, M. L. O'Connell, D. E. Browne, J. S. O'Reilly, D. F. O'Shea, H. J. Downing and W. A. Crowley.

MAYO SOLICITORS BAR ASSOCIATION.

The following are the President and Officers for the year 1956–57. President, Patrick J. Mulligan; Vice-President, Edmund A. Corr; Hon. Treasurer, Bridget M. Hynes; Hon. Secretary, William Dillon-Leetch; Council: Patrick J. Brennan, Laurence Gill, Thomas D. Kelly, Michael Moran and Patrick U. Murphy.

COUNTY ROSCOMMON BAR ASSOCIATION.

At the Annual Meeting of the Association the following officers and Committee were elected: President, P. J. Neilan; Chairman, J. Kelly; Vice-Chairman, F. X. Burke; Secretary, Oliver Macklin; Treasurer, J. J. Sheerin; Committee: D. Carlos, T. O'Keeffe, T. Callan and M. D. O'Connor.

COUNTY AND CITY OF LIMERICK SESSIONAL BAR ASSOCIATION.

Mr. Brian Geary of Bedford Row, Limerick, has been appointed Hon. Secretary.

COUNTY KILDARE BAR ASSOCIATION.

Mr. John J. Dunne of Kildare has been elected President for the year and Mr. Brian Price of Naas has been elected Hon. Secretary.

DUBLIN SOLICITORS BAR ASSOCIATION.

A Meeting of the Council of the Association was held on Wednesday, the 9th of January, 1957. All members who have not yet done so are urged to join the Solicitors Benevolent Association. A draft scale of costs for proceedings under the

Enforcement of Court Orders Acts is being prepared by a sub-committee for approval and submission to the Law Society. The Minister for Justice has found unacceptable proposals put forward by the Association for the reorganisation of Dublin Metropolitan and County District Courts. The matter is being further studied by the relevant sub-committee. The Minister has made arrangements for additional sittings at Kilmainham District Court and the Association will continue to watch developments there in the hope that arrears of work will be overtaken and current work currently disposed of. Further suggestions were received from members for inclusion in the Draft Letting Agreement and it is hoped to establish a final Draft during the present month. A Special Sub-Committee with the assistance of two ordinary members, Messrs. P. C. Moore and C. J. Gore Grimes, who had appeared before the Commission gave special consideration to the Landlord and Tenant (Reversionary Leases) Bill, 1956, and submitted certain suggestions for its improvement to the Minister for Justice and the Parliamentary Select Committee. The method of taking depositions in the District Court is being considered by a Sub-Committee of experienced practitioners with the favour of the Minister for Justice and it is hoped to submit detailed suggestions for improvement and modernisation.

The next meeting of the Council was fixed for the 6th of February, 1957.

STAMP DUTY. FINANCE ACT, 1956. SECTION 30.

Members of the Society have reported a case of considerable importance on the question of stamp duty. Their client who was not an Irish citizen bought a large farm with a substantial residence in circumstances under which the 25 per cent. stamp duty would be attracted. They took two conveyances of property, one comprising the residence and less than five acres of land surrounding it, the second being a transfer of the remainder of the land. The first transfer was stamped with 3 per cent. duty and the other at 25 per cent. The full facts were laid before the Revenue Commissioners who agreed to this procedure. The facts were also laid before the Land Registry who stated they did not anticipate any technical difficulties. Separate auctioneer's valuations were lodged with the adjudication branch for the purpose of stamp duty.

COSTS DRAWING CHARGES.

The Legal Costs Accountants Association, a body recently formed in Dublin, submitted a proposed scale of charges to the Council. The suggested scale provides for a commission charge running from 6¼% to 7½% on the gross amount of a bill of costs as certified or agreed, including disbursements. The Council informed the Association that they could not accept or discuss this or any scale of charges which includes commission on disbursements in a bill of costs.

A typical bill of costs in a High Court action would contain professional charges £200 and disbursements £200, totalling £400. The costs-drawer's commission on the suggested scale would amount to £25. Additional charges are made for scrivenery and taxation. It is well known that a solicitor's overhead expenses (rent, rates, wages, etc.), absorb about 50% of profit costs, so that in this typical case the net profit to the solicitor would be £100. Costs drawing commission at 6¼% on the *gross* amount of the bill would therefore absorb 25% of the solicitor's net profit as assessable for income tax.

It is or should be the normal practice to supply the costs drawer with a list of disbursements taken from the ledger and a list of the fees paid to or claimed by counsel and witnesses. The fixing or agreement of these fees is a matter for the solicitor, but he has no pecuniary or other interest in the amounts allowed by the taxing master. There can be no justification for the principle now sought to be established of charging fees to the solicitor on other persons' remuneration.

INSTRUCTIONS FOR STATEMENT OF CLAIM.

Fees of Experts.

In an action which arose out of a building contract, the plaintiff sued for damages for breach of the contract. The plaintiff engaged the services of an architect, a quantity surveyor, an engineer and a valuer, the total of whose fees came to £109 9s. 3d. The architect made an inspection of and report on the premises the subject matter of the contract prior to the issuance of the writ and the statement of claim was based largely upon the report of the architect and the reports of the other experts mentioned.

The defendant lodged a sum of money with the defence and filed a counter-claim which is not material to the costs question ultimately involved. The plaintiff took up the sum of money so lodged in satisfaction of his claim and lodged for taxation in the usual way his bill of costs against the defendant.

On the bill coming before him for taxation the Taxing Master disallowed the experts, fees on the grounds that these fees were special damages and might not be recovered by the plaintiff against the defendant as costs of the action.

The plaintiff being dissatisfied with this ruling, lodged a notice of objection on the 4th February, 1956, to the disallowance of the experts' fees on the grounds that it was essential that the plaintiff should obtain estimates and so forth from these expert witnesses to enable him to formulate his claim and that the statement of claim could not have been completed without these reports and estimates.

By his report of the 21st February, 1956, the Taxing Master on this objection reported: "In my view these items of outlay incurred in preparing the plaintiff's claim are special damages and may not be recovered as costs of action and I so report to this honourable Court." The plaintiff moved by notice of motion to review the taxation and to allow the objection of the plaintiff to the finding and ruling of the Taxing Master in his report of the 25th February, 1956, and the matter coming before Mr. Justice Murnaghan on the 15th June, 1956, the learned judge ordered that the costs be referred back to the Taxing Master to review his taxation of the experts' fees, "the Court holding that the said items are not special damages but rather items of costs and should be dealt with as such by the Taxing Master such items being items which the Taxing Master might properly allow in full or in part."

An important point for the profession was also involved in regard to the fee claimed for instructions for statement of claim £31 10s. The practice of the Taxing Masters has been to allow a maximum fee of £15 15s., on the basis that a solicitor does no substantial work in an action until he has prepared the case to advise proofs. It was strongly urged that such a general principle would be incorrect as in many cases a solicitor in duty to his client must undertake a considerable amount of work before filing the statement of claim for which a fee of £15 15s. would be completely inadequate and that the Taxing Masters should not be bound by any particular figure. The Taxing Masters reduced the instructions fee from £31 10s. to £15 15s. The plaintiff lodged objections and the Taxing Masters having increased the fee to £21 the matter was not taken any further. While the matter is still open the Council feel that the result of this case is authority for the proposition that the fee for instructions for statement of claim should not be subject to a fixed maximum but must be decided with reference to the facts of the particular case.

BUSINESS WITH GOVERNMENT AND COURT OFFICES.

THE Secretary recently wrote to the heads of the various offices asking for particulars of the times normally taken to deal with various classes of business *when the papers are submitted in order* by a solicitor. The following information was received in reply.

Land Registry.

(Official reference D.R. 27/9/56)

In the case of transfers on sale, voluntary transfers (not including transfers of part requiring Land Commission consent to sub-division) release of registered charges or transmissions on death, registration would be completed in seven days from the date of the application.

In cases of applications to discharge equities, assuming the case is free from complexity and that prompt replies to examiners' rulings are received completion of the case should be effected within four weeks.

Rulings on title in applications to discharge equities are normally issued within seven days from date of lodgment of the application.

Certified copy folios can be issued in four days and copy maps in seven days from the date of application. Some delay will occur in issuing copy maps if the Ordnance Survey are not in a position to supply the necessary Ordnance Sheet promptly.

The periods given will not apply in the case of an application or dealing which is in any way defective. In such cases requisitions will issue to the solicitor on record.

Arrears of work sometimes occur in branches of the Registry owing to increases in the numbers of dealings and applications and at such times the normal periods for dealing with business may be longer.

Land Commission.

(Official reference S.R. 83/56 29/9/56).

Certificates of redemption value are issued within four working days of receipt of the application in order, i.e., specifying the correct collection number and payer's name.

Sub-division applications not involving the creation of uneconomic units or the disposal of Land Commission allotments are dealt with within a fortnight from receipt of the application in order. About 70 per cent. of applications are in this category. Other cases involve local enquiries and take longer. The average time in such cases is about one month from the date of application in order.

Copies of documents other than maps will be supplied within two weeks from the date of the payment of the fee specified in Appendix II Land Purchase Acts Rules 1951 (S.I. No. 50 of 1951). In the case of maps the fee is assessed and quoted within one week of receipt of the application in

order. The copy map issued within a week of receipt of the fee.

The times given for supplying copies of documents and maps are those taken if the document is readily available for copying and is not exceptionally lengthy or abstruse. In some cases the document may be in a provincial office or the Land Registry and cannot be copied until it has been returned. The Land Commission point out that it is of the utmost importance that the up-to-date payer's name and the Land Commission Collection No. (*not the Land Registry Folio No.*), should be correctly stated in the application where relevant. Solicitors should verify the particulars by inspection of the latest Receivable Order.

Registry of Deeds.

(Official reference Land Registry 27/9/56).

The time taken to complete a search varies widely in accordance with the number and frequency of the names, the number of denominations of land in parishes, baronies and counties and the length of the periods of search. The holiday June to September, the expediting of searches and the discharging of queries all conspire to increase the normal time taken to complete searches. Taking the whole year however the average time taken to complete a negative search is about four weeks from date of lodgment and a common search about three weeks.

Probate Office.

A grant of Probate or Administration will be issued approximately 14 days after lodgment of the papers in order. Owing to rather unusual staffing, difficulties which it is hoped to overcome in the near future, there may be cases of greater delay in the issue of grants.

A certified copy of a Will and Grant of Probate will normally be supplied within 10 to 14 days from the date of the application to the Probate Office.

Accountant's Office.

Drafts for payment are usually ready for issue within a week or ten days from the date of lodgment of the schedule in the Accountant's Office, unless there is delay in production of supplemental documents required by the Order. When a sale of securities is necessary payment cannot be made until lodgment of the proceeds is made by the court broker.

Revenue Commissioners Stamp Duty branch.

(Official reference I.R. 10402/1427/56, 15/11/56).

Instruments submitted for adjudication are examined and the results notified to the applicants within one week of receipt. Where all the information necessary for assessment is supplied with application the assessment is made forthwith. In other cases queries are raised and on receipt of replies the cases are re-examined within one week. In difficult or unusual cases the periods will be somewhat longer. Where cases are referred to the Valuation Office a delay of about six weeks may be expected. In cases concerning important properties, where there is no recent available information in the official records the necessity for inspection may cause a delay of some months.

Estate Duty Office.

(Official reference 13376/38, 21/11/56).

Owing to the fact that the time and labour involved in the examination of an affidavit or account varies within wide limits it is impossible to state the normal period between date of delivery and raising of queries. Every effort is made to ensure that the administration of estates is not held up unduly by delays in the office.

Instructions have been issued that all queries on an affidavit or account should be raised in the first instance and that new questions should not normally be raised on re-examination of the case on replies to the initial queries.

In cases in which official business is not transacted within the times stated above members should take the matter up with the Department concerned, and, if necessary, communicate with the Society (having first satisfied themselves that the delay is not due to any defect in the application or omission on the part of the solicitors).

VALUATION OF PROPERTY FOR DEATH DUTIES AND STAMP DUTIES.

In cases where questions of value of chattels, real property and real estate are referred to the Commissioner of Valuation by the Estate Duty Office the solicitors on record are notified by letter in Form 87 P. or 87 S.

The Council made representations to the Revenue Commissioners that a similar practice should be adopted in the case of stamp duty assessments. The Revenue Commissioners have agreed that where questions of value in this connection are referred to the Commissioners of Valuation the solicitor will be notified and may communicate directly with the Valuation Office with a view to saving time. The adjudication number will be accepted as the reference in the Valuation Office.

REGISTRY OF DEEDS (FEES) ORDER 1956—(S.I. No. 287 of 1956).

The Registry of Deeds (Fees) Order 1956 came into force on 1st January, 1957 and increases substantially the fees payable in the Registry of Deeds. Hence-

forth the minimum fee payable upon every memorial registered, if not exceeding 7 folios, is 28/- instead of 15/- as formerly. The fee payable for a common search for each different name is 7/- for the first 10 years, and 5/- for every additional 10 years. The fee payable upon a Negative Search for each name on the Index of Names or for each denomination on the Index of Lands is 12/- per period of 10 years. The fee for a public general search without limitation per day is 10/-, while 5/- is chargeable if such general search does not exceed a period of 10 years. The fee for a copy of a memorial is 1/- per folio, with a minimum of 3/-.

This Order can be obtained from the Government Publications Sales Office, G.P.O. Arcade, Dublin—*price 9d.*

STATUTES OF THE OIREACHTAS, 1956.

No.		*Signed by President*
1.	Control of Exports (Temporary Provisions) Act, 1956	9th February, 1956
2.	Gaming and Lotteries Act, 1956	14th February, 1956
3.	Fatal Injuries Act, 1956	14th February, 1956
4.	Wireless Telegraphy Act, 1956	21st February, 1956
5.	Agricultural Produce (Cereals) (Amendment) Act, 1956	21st February, 1956
6.	Forestry Act, 1956	27th February, 1956
7.	Customs Act, 1956	21st March, 1956
8.	Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956	21st March, 1956
9.	Prisons Act, 1956	21st March, 1956
10.	Local Government (Superannuation) Act, 1956	27th March, 1956
11.	Supplies and Services (Temporary Provisions) Act, 1946 (Continuation) Act, 1956	27th March, 1956
12.	Central Fund Act, 1956	28th March, 1956.
13.	Road Transport Act, 1956	26th April, 1956
14.	Imposition of Duties (Confirmation of Orders) Act, 1956	26th April, 1956
15.	Restrictive Trade Practices (Radios) (Confirmation of Order) Act, 1956	26th April, 1956
16.	Restrictive Trade Practices (Building Materials) (Confirmation of Order No. 2) Act, 1956	26th April, 1956
17.	Opticians Act, 1956	9th May, 1956
18.	Rates on Agricultural Land (Relief) Act, 1956	22nd May, 1956
19.	Seeds and Fertilisers Supply Act, 1956	22nd May, 1956
20.	Tea (Importation and Distribution) Act, 1956	29th May, 1956
21.	Ministers and Secretaries (Amendment) Act, 1956	5th June, 1956
22.	Finance Act, 1956	10th July, 1956
23.	Telephone Capital Act, 1956	11th July, 1956
24.	Social Welfare (Amendment) Act, 1956	11th July, 1956
25.	Oil Pollution of the Sea Act, 1956	17th July, 1956
26.	Irish Nationality and Citizenship Act, 1956	17th July, 1956
27.	Prisoners of War and Enemy Aliens Act, 1956	17th July, 1956
28.	Fisheries (Statute Law Revision) Act, 1956	18th July, 1956
29.	Local Loans Fund (Amendment) Act, 1956	24th July, 1956
30.	Sea Fisheries (Amendment) Act, 1956	24th July, 1956
31.	Housing (Amendment) Act, 1956	25th July, 1956
32.	Appropriation Act, 1956	3rd August, 1956
33.	Restrictive Trade Practices (Motor Cars) (Confirmation of Order No. 3) Act, 1956	8th August, 1956
34.	Imposition of Duties (Confirmation of Order) (No. 2) Act, 1956	8th August, 1956
35.	Local Government (Temporary Reduction of Valuation) Act, 1956	14th November, 1956
36.	Imposition of Duties (Confirmation of Orders) (No. 3) Act, 1956	14th November, 1956
37.	Pigs and Bacon (Amendment) Act, 1956	14th November, 1956
38.	Superannuation Act, 1956	27th November, 1956
39.	Dairy Produce (Price Stabilisation) (Amendment) Act, 1956	27th November, 1956
40.	Flour and Wheatenmeal Act, 1956	4th December, 1956
41.	Animal Remedies Act, 1956	12th December, 1956
42.	Milk and Dairies (Amendment) Act, 1956	12th December, 1956
43.	Rent Restrictions (Continuance and Amendment) Act, 1956	18th December, 1956
44.	Pensions (Increase) Act, 1956	18th December, 1956
45.	Civil Service Commissioners Act, 1956	19th December, 1956
46.	Civil Service Regulation Act, 1956	19th December, 1956
47.	Finance (Miscellaneous Provisions) Act, 1956	27th December, 1956
48.	Industrial Grants Act, 1956	27th December, 1956

PUBLIC RECORD OFFICE.

SIR,

Last Summer an appeal was published in this JOURNAL asking solicitors to deposit in this office any documents not currently needed, which might serve as substitutes for material destroyed in the catastrophe of 1922, in particular original probates and official copies of testamentary documents. I now wish to thank, through the medium of your columns, those solicitors who have since then added to our collections by making presentations of this kind, or by lending documents for copying. In particular I wish to thank Mr. T. Maguire, of Messrs. Michael Larkin & Co., for an extensive collection of probates and other testamentary material numbering over three hundred items and Messrs. McKeever & Son, Mr. A. McMorrow, Messrs. E. F. Collins and Son, Messrs. Collis & Ward and Messrs. T. W. Hardman & Sons, for other presentations of testamentary material. I wish also to acknowledge loans of documents for copying

from Messrs. D. & T. Fitzgerald, Mr. J. C. Callan, and Mr. M. McNamara. I am extremely grateful to all the above, and to all others who have thus helped the Public Record Office in its efforts to make good so far as possible the losses which were suffered in 1922.

Yours faithfully,
M. C. GRIFFITH,
Deputy Keeper.

THE REGISTRY.

Register B.

LADY SOLICITOR, recently qualified, seeks position as Assistant. Preferably Dublin City or adjacent town. Box No. B.208.

SOLICITOR, B.A., N.U.I., admitted 1956, seeks Assistantship, Dublin. Box No. B.209.

Register C.

WANTED URGENTLY: (1) *Irish Reports*, 1918 to 1929—£20 offered for complete bound set or *pro rata*. Also duplicate copies of 1921, 1922, 1923 and 1928—£2 per year, bound or *pro rata*. (2) *Irish Law Times* (Journal and Reports)—Vols. 67 (1933) to 90 (1956) inclusive—£30 offered for complete bound volumes or *pro rata*. Also duplicate copies of Vols. 73 (1939) to 78 (1944) and 83 (1949) to 90 (1956) at 25/- per bound annual volume. (3) *Irish Common Law Reports*—Vols. 13 (1863), 14 (1864), 16 (1866) and 17 (1867); also duplicates of Vols. 16 and 17. (4) *Irish Chancery Reports*—duplicate copies of Vols. 16 (1866) and 17 (1867). Good prices paid. (5) *New Irish Jurist*—Vol. 1 (1900)—£1 10s. if bound. Box No. C151.

OBITUARY.

MR. CHRISTOPHER T. F. RUSSELL, County Registrar, died on the 30th December, 1956, at his residence, Gweebarra, Westland Road, Cork.

Mr. Russell served his apprenticeship with the late Mr. E. Fitzgerald, Mallow, was admitted in Hilary Sittings, 1922, and practised in Cork up to his appointment as County Registrar in 1938.

REGISTRATION OF TITLE ACTS 1891 and 1942.

NOTICE.

FOLIO 770 AND 781 COUNTY GALWAY
Registered Owners: MICHAEL TURNER and CATHERINE TURNER

The Registered Owners have applied for a Duplicate of the Certificate of Title specified in the Schedule hereto, which is stated to have been lost or inadvertently destroyed.

A Certificate for all the lands in Folio 30654 County Galway (in which the lands in Folios 770 & 781 County Galway are now comprised) will issue unless notification is received in this Registry within 28 days from the date of this notice that the Certificate is in the custody of a person not the registered owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of January, 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Michael Turner and Catherine Turner to 8a. 1r. 9p. and 6a. 0r. 13p. of the lands of Illaun situate in the Barony of Dunmore and County of Galway formerly comprised in said Folios 770 and 781 respectively and now comprised in Folio 30654 County Galway.

APPOINTMENTS.

MR. PATRICK G. SMYTH, B.A., LL.B., Solicitor, has been appointed an Examiner of Titles in the Land Registry.

Prior to this appointment he was Senior Legal Assistant in that office.

Mr. DERMOT D. FANNING, Solicitor, has been appointed Senior Legal Assistant in the Land Registry.

He had been a Legal Assistant in that office prior to his recent appointment.

MR. JOHN J. SHEIL has been appointed Chairman of the Visiting Board for Mountjoy Prison.

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FEBRUARY,
1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

SEANAD ELECTION

THE COUNCIL have nominated Mr. Arthur Cox as the Society's candidate for election on the Cultural and Educational Panel. Mr Cox is a member of the outgoing Seanad on which he has served with distinction. The electorate will consist of the new Dail, the outgoing Seanad and the members of County Councils and Corporations throughout the country. The election will be conducted on the proportional representation system and *every preference down to the lowest* will be vital.

It is unnecessary to stress the importance to the profession of having a member in the Seanad who will express not alone the viewpoint of the professions as a whole but the particular interests of the legal profession on legislative matters.

The Council confidently appeal to all members to use their influence in having him elected.

MEETINGS OF THE COUNCIL.

JANUARY 17TH: The President in the Chair. Also present Messrs. Desmond J. Mayne, John R. Halpin, Francis X. Burke, Louis Walsh, Patrick R. Boyd, Desmond J. Collins, John Carrigan, Ralph J. Walker, Cornelius J. Daly, John J. Sheil, Robert McD. Taylor, Joseph P. Tyrrell, John J. Nash, William J. V. Comerford, Charles J. Downing, George A. Nolan, Terence De Vere White, James R. Quirke, Reginald J. Nolan, Thomas A. O'Reilly, Patrick F. O'Reilly, Dermot P. Shaw.

The following was among the business transacted.

Long Lease not at rack rent.

A LESSOR made a lease of a dwelling house and garden in a provincial town for a term of 21 years from 1958 at a yearly rent of £45 over and above rates and taxes. There are no unusual covenants or conditions. The lessee held under a lease subject to the same rent which was due to expire in 1958, and purchased the lessee's interest in 1953 for £450. The rateable value of the premises is £19 10s. 0d. The parties stated that the lease was made pursuant to a personal agreement and not under the Landlord & Tenant Act, 1931 as amended, and wished to know whether the lessor's costs should be charged under the higher or lower scale. The lessee at no time asserted any right to renewal under the Land-

lord & Tenant Acts. The Council adopted a report from the Committee which stated that the lease is a long lease not at a rack rent.

Rectification of title. Scale fee.

A MEMBER acted for both parties on a sale and purchase in which the consideration was small and did not serve any notice of election to charge under Schedule 2. During the investigation of the title it was found that the vendor's title which was passed by another solicitor some years ago was defective, and there was considerable work in having the title rectified. Member asked whether in the opinion of the Council, he will be entitled to charge for the work under Schedule 2 apart from and in addition to the commission scale fee for the sale and purchase. Section 2 of the Solicitors Remuneration Act, 1881 authorised the Statutory Committee mentioned in the section to make general orders prescribing solicitors' remuneration in respect of business *connected with* sales, purchases, leases etc. Clause 2 of S.R.G.O. 1884 prescribes that the remuneration of a solicitor in respect of a business connected with completed sales, purchases etc., should be a commission scale fee. The question therefore was whether the work of rectifying the title is connected with the sale within the meaning of the rule, or whether it can be regarded as a separate matter. In Re Baylis (1907, 2 Ch. 54) the question was whether the commission scale fee included the work of the lessor's solicitor in investigating the title of the lessee to renew a lease. The Judge said that the cases went to show that the scale fee covers everything in the way of business connected with the lease, but that the investigation of title in that case although connected with the lease was not connected within the meaning of the Act. Clause 4 S.R.G.O. 1884, provides that the commission scale fee is exclusive of stamps, Counsels' fees and other items including other work occasioned by changes in the course of any business. The Council adopted a report from the Committee stating that in their opinion, on the facts stated, the work of rectifying the title is covered by the commission scale fee.

Reciprocity of judgments between Ireland and Great Britain.

IT was decided to make representations to the Department of Justice in favour of legislation providing for reciprocity between Ireland and Great Britain as regards money judgments. It was pointed out that reciprocity already exists with respect to the execution of awards under the Arbitration Act, 1954.

Contractors' bonds with local authorities.

COUNSEL'S opinion was taken on the question whether it is illegal for a local authority or an employee of the authority to draw up contractors' bonds. Counsel advised that such a bond is a document relating to personal estate within the meaning of Section 58 of the Solicitors Act, 1954, and that an employee of a local authority is not a public officer within the meaning of the exception in the section. An employee of a local authority commits an offence against the section if he prepares such a document as part of his paid duties. The local authority would also be liable if there was evidence of the receipt of any fee or reward by the authority. As regards the employee, the expectation of fee or reward in the form of his salary would be sufficient to bring him within the prohibition of the Act.

Reversionary Leases Bill, 1956.

THE Committee considered a report drawn up by Mr. Overend. The report was adopted with certain amendments for submission to the Department of Justice.

"Off the record" conversation with defendant.

THE solicitor for a plaintiff was approached by the defendant who at that time had no solicitor, and a conversation followed, expressed to be off the record in which the defendant made certain admissions. Member enquired whether (*a*) he should continue to act for the plaintiff and (*b*) whether he may use the admissions. The Council expressed the opinion, that as member consented to receive "off the record" communications from the defendant, he should not act further in the matter. If another solicitor is instructed, he should not attend Court as a witness for the plaintiff unless summoned and if summoned should ask for and follow the directions of the Court.

Costs of debt collections.

A MEMBER acting for a debt collecting agency asked for a waiver which will enable him to charge direct outlay only with a sum to cover scrivenery and overhead expenses where proceedings have been instituted but the debt is irrecoverable. The matter was considered by the Committee which referred the matter to the Council. The Council decided that no waiver should be issued to enable a solicitor to act for a debt collecting or other agency and to charge less than the statutory Court costs in any case, whether the debt is irrecoverable

or not. The Council referred to a Committee the consideration of a fair scale of charges for correspondence before or after termination of Court proceedings.

Circuit Court Rules Committee.

MR. JOSEPH P. TYRRELL was reappointed as one of the Society's representatives on the Committee.

Workmen's Compensation Commission.

A DRAFT memorandum settled by a Committee of the Council was approved.

FEBRUARY 7TH: The President in the Chair. Also present Messrs. Thomas A. O'Reilly, Desmond J. Mayne, James R. Quirke, Reginald J. Nolan, Cornelius J. Daly, Francis J. Lannigan, John R. Halpin, Derrick M. Martin, Arthur Cox, John Carrigan, P. R. Boyd, Henry St. J. Blake, Desmond J. Collins, Peter E. O'Connell, Francis J. Gearty, C. E. Callan, Charles J. Downing, Sean O'hUadhaigh, Joseph P. Tyrrell, Terence De Vere White, George G. Overend, R. McD. Taylor, John J. Sheil. Louis Walsh.

The following was among the business transacted.

Solicitors' Remuneration General Orders, 1884–1951.

A DRAFT submission to the statutory committee appointed under Section 4 of the Solicitors' Remuneration Act 1881 was settled. The submission asks the Committee to make a new general order providing for the new schedule 2 system outlined in the January issue of the Society's Gazette.

Overend and Findlater Scholarships.

DRAFT Schemes prepared by counsel for submission to the Commissioners of Charitable Donations and Bequests were approved. The general nature of the proposed new schemes was stated in the January issue of the Society's Gazette.

The Border.

THE Council considered a report from a Committee and the correspondence received from Bar Associations and individual members in reply to the statement published in the Society's Gazette for August 1956. In that statement the Council asked for the views of members and Bar Associations on a suggestion that mutual practice regulations should be made by the Society and the Incorporated Law Society of Northern Ireland which would prevent solicitors practising in either jurisdiction from engaging in conveyancing or other business with respect to property in the other jurisdiction, unless covered by a practising certificate therefor. Having considered the replies received and all relevant considerations, the Council decided to make no regulation.

SALE AND PURCHASE—ACTING FOR BOTH PARTIES—COSTS—CONFLICT OF INTERESTS.

THE Council have considered the position of a solicitor who acts for both vendor and purchaser and publish the following statement for the guidance of the profession:—

1. In general it is undesirable that a solicitor should act for both vendor and purchaser. Special circumstances may require exceptions to the general rule. To act for both parties in any case where there is a conflict of interest is clearly improper.

2. A solicitor who acts for both parties on a sale is legally entitled to charge two commission scale fees if all the work both for vendor and purchaser contemplated by Schedule 1, Part 1, S.R.G.O. 1884 is substantially performed. (Wilson to Best and Best—1915 1 I.R. 58. White *v.* Boggs—1951 I.L.T.R.I.)

3. If a solicitor acts for both parties and does not perform substantially all the work described in the schedule to the General Order he will lose one and possibly both commission scale fees and in such circumstances will have to charge under Schedule 2 instead of the commission scale fee lost.

4. There is no authority for agreeing to charge less than two separate commission scale fees or more than one, e.g., one and a half times the single fee divided between both parties. An agreement by a solicitor to act for both parties and to charge one and a half times the scale fee divided between both might be an offence against regulation 6 of the Solicitors Act 1954 (Professional Practice Conduct and Discipline) Regulations 1955 (S.I. No. 151 of 1955). A solicitor who acts for both parties and substantially performs for each the work described in the schedule to the General Order is entitled to charge the full commission scale fee to each but should allow to the purchaser the amount of the negotiation fee which is included in the commission scale fee as he could hardly negotiate the sale for each party.

5. Attention is drawn to regulation 5 of the Professional Practice Regulations cited above. The regulation provides that a solicitor shall not permit to be done on his behalf in connection with his practice or by a client for whom he proposes to act

anything which if done by the solicitor himself would be calculated unfairly to attract business. It is the duty of a solicitor to make reasonable enquiries before accepting instructions for the purpose of ascertaining whether the acceptance of such instructions would involve a breach of the regulations. The key word is "reasonable" and while it is obvious that normally a solicitor will not be concerned to enquire why a particular client consults him there may be special circumstances which put him on notice particularly where he acts for several parties to a sale. A solicitor who agrees to act for both parties to a sale might be held to have contravened the regulation if there were anything to put him on notice or inquiry that the object of the arrangement between the vendor and the purchaser is to have work done at less than the proper scale charges or that either party had insisted that the other would not be separately represented.

6. The Council repeat their view as to the danger and general undesirability of acting in a dual capacity and point out that the onus of justifying his position will rest on the solicitor if a conflict of interest arises. The following statement of Danckwerts L. J. in Goody *v.* Baring (1956 I.W.L.R. 448)—an action for negligence against a solicitor who had acted for both vendor and purchaser—is of interest. "It seems to me practically impossible for a solicitor to do his duty to each client properly when he tries to act for both vendor and purchaser." Reference was made to Moody *v.* Cox. (1917 2 Ch. 71) in which Scrutton L. J. said, "It may be that a solicitor who tries to act for both parties puts himself in such a position that he must be liable to one or the other whatever he does. The case has been put of a solicitor acting for vendor and purchaser who knows of a flaw in the title by reason of his acting for the vendor and who, if he discloses that flaw in the title which he knows as acting for the vendor, may be liable to an action by his vendor, and who, if he does not disclose the flaw in the title, may be liable to an action by the purchaser for not doing his duty as a solicitor for him. It will be his fault for mixing himself up with a transaction in which he has two entirely inconsistent interests and solicitors who try to act for both vendors and purchasers must appreciate that they run a very serious risk of liability to one or the other owing to the duties and obligations which such a curious relation puts upon them."

LAND BOND ORDER 1956—S.I. No. 306/1956.

THIS Order creates a series of Land Bonds to a total amount of £550,000 to be known as "5¾% Land Bonds," issued in denominations of £1, £10 and £100, for the purpose of making advances and paying purchase moneys for the period from 1st December 1955 to 31st December 1957. These Land Bonds shall be inscribed in the books of the National City Bank, and after allocation by the Land Commission Court, shall be transferred to and registered in the names of the persons for the time being entitled to such Land Bonds. Detailed provisions are made for the redemption of these Bonds.

HIGH COURT RULES 1957—S.I. No. 12/1957.

THESE Rules are deemed to be incorporated with the existing Rules of the High Court and Supreme Court.

1. These rules amend a provision of the High Court Rules 1954 (S.I. No. 131/1954) under Order 16, Rule 3 of the High Court Rules 1926 by providing that "an application by any party for an order that the trial of any proceedings elsewhere than in Dublin may be made to a judge at any time either (*a*) by motion on notice to the other party or parties, or if all parties consent thereto, by motion ex parte."

2. Under Rule 3 of Order 4 of the High Court Rules 1926, the amount to be claimed for costs on foot of a summary summons Form 11 on foot of liquidated amount shall be the following, after 4th February, 1957:

If the demand does not exceed £5 ...	£1	12	0
If the demand exceeds £5 but does not exceed £25	2	12	0
If the demand exceeds £25 but does not exceed £50	3	2	0
If the demand exceeds £50 but does not exceed £300	4	2	0
If the demand exceeds £300 but does not exceed £600	5	5	0
If the demand exceeds £600 ...	6	10	0

An additional 15/- for each additional service after the first will be allowed, as well as the costs of the order (if any) for service of summons or notice in lieu thereof out of the jurisdiction, or for substituted or other service, or for the substitution of notice of service, or for declaring service affected sufficient, or any notice by advertisement of the issue of the summons.

3. The costs prescribed in Appendix II Part I of the High Court Rules 1926 were fixed for each

day of hearing at a trial at £1 by item 193. Item 193A amends this by adding the following words :— "and such further reasonable sum as the Taxing Master may allow having regard to the nature and importance of the case, not to exceed with Item 193—£7 7s. 0d."

This order may be obtained from the Government Publications Sales Office, G.P.O. Arcade, Dublin—Price 4d.

DISTRICT COURT (NEW AREAS) ORDER 1957 (VARIATION No.172) 8/1957

The effect of this Order is to fix the dates for sittings of some of the District Courts in County Dublin in each month for civil and summary jurisdiction after 1st Feruary as follows :—

1. Kilmainham Civil
   Second and Third Tuesday and Second and Fourth Wednesday ... ... 11 a.m.
2. Swords—Civil and Summary
   First and Third Tuesday ... ... 11 a.m.
3. Drumcondra—Summary (held in Kilmainham)
   First and Third Thursday and Fourth Tuesday ... ... 11 a.m.
4. Howth Summary
   First and Third Monday ... ... 11 a.m.
5. Kilmainham—Summary
   First Tuesday ... ... 11 a.m.
6. Lucan—Summary
   Second and Fourth Monday ... 11 a.m.
7. Kilcock, Co. Kildare—Civil and Summary
   Third Thursday ... ... 11 a.m.
8. Dunshaughlin, Co. Meath—Civil and Summary
   Third Wednesday ... ... 11 a.m.

SOLICITORS' BENEVOLENT ASSOCIATION.

THE 93rd Annual General Meeting was held on 25th January 1957 in Solicitors' Buildings. The Chairman, Mr. R. A. O'Brien in moving the adoption of the Report having referred to the number of supplementary grants made on account of the high cost of living totalling £945 and to the annuities totalling £793 10s. 6d. paid during the year, stated these figures justified the existence of the Association. He appealed to members of the profession —both North and South—to become members of the Association in order that adequate relief be given. The Chairman also referred to the overcrowding of the profession which must lead to a lowering of professional standards. The President seconded the adoption of the Report which was passed unanimously.

It was mentioned that the former Secretary, Mr. Patrick Glynn, had resigned in the course of the year and had been co-opted to the Board. He had been succeeded as Secretary by Mr. Eunan McCarron.

DUBLIN SOLICITORS' BAR ASSOCIATION

A MEETING of the Council of the Association was held on Wednesday, the 6th of February, 1957. The Council expressed wholehearted support for the Law Society's attitude towards costs drawers' fees, and also drew attention to the unfairness of costs in Land Commission cases being paid in Land Bonds, in particular as regards outlays which the solicitor has to bear in cash. A draft scale of costs for proceedings under the Enforcement of Court Orders Acts has been prepared, and has been submitted to the Law Society, and to the Chief Clerk of the Dublin Metropolitan District Court. The rearrangements which the Minister for Justice has made in respect of the Dublin County District Courts will it is hoped lead to a marked improvement in the position there, and are attributed by the Association to its representations to the Minister. Thanks are due to an able and hardworking Sub-Committee on this matter. Arrangements have also been made as far as possible to assimilate the practice of the Dublin County District Courts in enforcement matters with the Metropolitan Court.

A final Draft Letting Agreement has been prepared, and will shortly be circulated to members of the association for their assistance.

Suggestions have been made to the Minister for Justice for the improvement of the system of taking depositions in the District Court with a view to preserving the essentials of the present system, and effecting a considerable saving of time.

Subscriptions for the current year are due, and any member who has not yet paid is requested to do so, and so simplify the work of the Honorary Treasurer.

The next meeting of the Council of the association was fixed for the 6th of March, 1957.

CO. GALWAY SOLICITORS' BAR ASSOCIATION.

Officers and Council for 1957

President : JAMES P. GLYNN
Vice-Pres. : WILLIAM B. GALVIN
Hon. Treasurer : WILLIAM B. ALLEN
Hon. Secretary : SEAN F. MACGIOLLARNATH

COUNCIL

Henry St. J. Blake	Christopher P. Crowley
Thos. A. O'Donoghue	Edward C. Cooke
Dominick H. Kearns	Daniel G. Shields

EXAMINATIONS, 1957

THE Final Examination will be held on the 15th, 16th and 17th days of April and the last date for entering will be 25th March.

The Preliminary Examination will be held on the 15th and 16th days of April and the last date for entering will be 25th March.

OBITUARY.

MR. PATRICK G. COLLINS, Solicitor died at his residence Stella Maris, North Circular Road, Limerick, on the 5th February, 1957.

Mr. Collins served his apprenticeship with the late Mr. Patrick E. O'Donnell, 8 Glentworth Street, Limerick, was admitted in Easter Sittings, 1930 and practised at Limerick.

MR. TIMOTHY O'SHEA, solicitor died at his residence Mount Sion, Kilkenny, on the 12th January, 1957.

Mr. O'Shea served his apprenticeship with the late Mr. Maurice McCartie, Killarney, Co. Kerry, was admitted in Hilary Sittings 1916 and was District Justice up to his retirement in 1956 when he recommenced practice at Kilkenny.

LONG SERVICE.

THE death of Mr. Thomas Doyle, which took place on February 6th brought to a close a life that was probably unique amongst law clerks in Ireland.

In the year 1899 he joined the staff of Messrs. D. & T. FitzGerald, and remained with them until his death, a period of nearly 57 years. For the last half century while serving four generations of the FitzGerald family Thomas Doyle was a familiar figure in the Law Courts, where he was well known to judges, barristers and solicitors. His wide knowledge of procedure was at all times at the disposal of his colleagues, and few who met him, even recently, could guess from his youthful appearance that he was a man in the middle seventies.

APPOINTMENTS.

MR. JOHN C. BARRY, Solicitor, Donegal, has been appointed District Justice of District No. 9—Headquarters—Ballaghaderreen, Co. Roscommon.

MR. JAMES P. MCGEOUGH, Solicitor, Carrickmacross, Co. Monaghan, has been appointed County Registrar for Co. Monaghan.

MR. JOSEPH F. ST. JOHN O'NEILL, Solicitor, Midleton, Co. Cork, has been appointed County Registrar for Co. Cork.

STANDARD FORM OF PERSONAL UNDERTAKING.

IN view of complaints which have been received by the Council about difficulty in having personal undertakings fulfilled, it has been decided to publish for members' use the standard form of personal undertaking printed below. It will also be printed yearly in the Society's *Calendar and Law Directory*.

It is suggested that members of the Society should adopt this form both when giving undertakings or accepting them from others. Although consideration for an undertaking may support a civil action on it, consideration is not in the view of the Council necessary to bind a solicitor professionally to his obligations in the undertaking. A solicitor is always bound by a personal undertaking whether given in the undermentioned or any other form. A solicitor to whom an undertaking is offered may ask that it should be in this form which has been approved by the Council.

THE CALENDAR

and

LAW DIRECTORY 1957

IS NOW ON SALE

Price 10/- *Post Free 11/2d.*

Solicitors wishing to use the Society's standard form of personal undertaking may incorporate it by reference and a letter from a solicitor undertaking to do certain things "in accordance with the conditions in the Law Society's standard personal undertaking printed in the current edition of the Society's *Calendar and Law Directory* will be deemed to incorporate the following terms.

Personal Undertaking.

Title of Matter.....

We/I of
Solicitor(s) hereby personally undertake with.....
..... of.....
solicitor(s) as follows:

1.
2.
3.

The parties understand that:—

(*a*) it is advisable to obtain the client's written authority before giving an undertaking but the solicitor giving the undertaking will be personally bound whether or not the client's authority has been obtained, in the absence of an express written limitation in the undertaking.

(*b*) a solicitor should satisfy himself of his ability to fulfil an undertaking before giving it.

(*c*) an undertaking given by a solicitor binds the firm in the absence of a stipulation to the contrary.

(*d*) if no time limit is specified promise of performance within a reasonable time having regard to the ordinary custom and practice of the profession and the circumstances is implied.

(*e*) there is a strict professional obligation on a solicitor to fulfil a personal undertaking at his own expense if necessary.

Dated this day of 195 .

Signed.....

Address .....

THE REGISTRY.

Register B.

LADY SOLICITOR, recently qualified seeks position as Assistant. Preferably Dublin City or adjacent town. Box. No. B.208.

LADY SOLICITOR, qualified September 1956, Graduate in Modern Languages and Social Science, seeks post Dublin area. Box B. 211.

Register C.

FOR SALE—Archbold's Criminal Pleading Evidence and Practice (24th edition). What offers? Box. No. C.152.

OFFERED: O'Connor's Justice of the Peace 2 vols; Davidson's Concise Conveyancing 1922 Edn.; Robb's Bankruptcy in Ireland; Kisbey's Bankruptcy Law and Practices; Encyclopaedia Britannica 1938; and other legal books. Box C 153.

INDEX OF STATUTORY INSTRUMENTS.

published since August, 1956.

AGRICULTURE, LANDS AND FISHERIES

SUBJECT MATTER AND REFERENCE NUMBERS.

Agricultural Production Council—261/1956.
Beet Eelworm Eradication—313/1956.
Exported Live Stock (Insurance) Act, 1940—Levy Payable in respect of exported Live Stock fixed at 9/- per £100—232/1956.
Flour and Wheatenmeal (Importation) Order 1947 revoked—239/1956.
Foot and Mouth Disease Order, 1956—324/1956.
Pigs and Bacon (Amendment) Act, 1956 in force from 17th December, 1956—311/1956.
Pigs (Unsuitable Types) Order 1951 revoked from 17th December. 1956—312/1956.
Swine Fever—Dublin and Dunlaoire declared Infected Areas and Movement of Swine prohibited therein—223/1956.
Swine Fever (Dublin and Dunlaoire)—242/1956.
Thomond Weir, Limerick—Fishing Weir Operation—1/1957.
Wheat Milling Orders Revocation—237/1956.

COMMODITIES, GOODS AND SERVICES

SUBJECT MATTER AND REFERENCE NUMBERS.

Bicycles—Maximum Period of Deferred Payments increased to 18 months—4/1957.
Drogheda Gas charges—275/1956.
Flour and Wheatenmill—Increased prices ex Mill—240/1956.
Hiring, Hire-Purchase and Credit Sale Order, 1956 Amendment—4/1957.
Hydrocarbon Oils Rationing—330/1956.
Jams and Marmalades—Maximum Prices revoked after 3rd August, 1956—219/1956.
Metalliferous Mines—General Safety Regulations—273/1956.
Patents, Designs and Trade Marks (Commonwealth of Australia)—256/1956.
Petrol Rationing—331/1956.
Priority Rights in the Protection of Inventions, Designs and Trade Marks to be accorded to Australia—256/1956.
Quarries—General Safety Regulations—274/1956.
Restrictive Trade Practices (Groceries)—332/1956.
Waterford Gas Co.—Issue of New Capital—320/1956.

CONTROL OF IMPORTS AND EXPORTS.

SUBJECT MATTER AND REFERENCE NUMBERS.

Agricultural Products (Restriction of Export) Order, 1956 Amendments—2/1957, 7/1957.
Boots and Shoes—Imports limited to 80,000 pairs—299/1956.
Completely Assembled Motor car chassis with Bodies attached —Imports limited to 54 articles—294/1956.

Completely Assembled Road Vehicle Bodies—Imports limited to 50 articles—296/1956.
Completely Assembled Mechanically Propelled Vehicles—Imports limited to 25 articles—298/1956.
Electric Filament Lamps—Imports limited to 100,000 articles—269/1956.
Felt Hats, Caps, Hoods and Shapes—Imports limited to 30,000 articles—300/1956.
Live Pigeons—Export prohibited save under licence after 1st September, 1956—222/1956.
Live Pigeons (Prohibition of Export) Order, 1950 Revocation—221/1956.
Motor Car Body Balloons—Imports limited to 10 articles—297/1956.
Motor Vehicle Chassis—Imports limited to 50 articles—295/1956.
Pneumatic Tyres for Bicycles—Imports limited to 105,000 articles—326/1956.
Pneumatic Tyres for Motor Vehicles—Imports limited to 60,000 articles—325/1956.
Rubber Boots and Shoes—Imports limited to 55,000 pairs—317/1956.
Rubber-Proofed Clothing—Imports limited to 1,000 articles—301/1956.
Sparking Plugs—Imports limited to 7,500 articles—247/1956.
Silk or Artificial Silk Hose—Imports limited to 570,000 pairs—9/1957.
Sugar sold for Use in the Manufacture of Goods for Export excluded from Price Control—3/1957.
Sugar, Molasses, Sweets and Chocolates—Existing Control on Export imposed by 56/1956 extended to all goods containing sugar, other than Condensed Milk and Export by Parcel Post—7/1957.
Sugar—Import prohibited save by Sugar Co.—319/1956.
Sugar—Import allowed if Minister certifies it is required for the Manufacture of Goods abroad—262/1956.
Woven Woollen and Synthetic and Artificial Fabrics—Imports limited to 1 million square yards—10/1957.
Woven Cotton Piece Goods—Imports limited to 5,100,000 square yards—268/1956.
Woven Woollen or Worsted Fabrics—Imports limited to 1 million square yards—217/1956.

COUNTY AND TOWN MANAGEMENT.

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City and County Management (Amendment) Act, 1955 (Commencement of Section 73)—303/1956.
Dublin Assistant City Manager and Dublin Assistant County Manager may henceforth hold Permanent Appointments—303/1956.
Factories Act, 1955—Birth Certificates obtainable for 1/- for purposes of Act—248/1956.
Local Offices (Irish Language) (Amendment) Regulations, 1957—13/1957.
Local Offices (Gaeltacht) (Amendment)—14/1957.
Officials in Gaeltacht exempted from competent knowledge of Irish until 31st January, 1958—14/1957, 14—/1957.
Town and Regional Planning Regulations, 1956—321/1956.

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Card Clothing set with Wire Teeth—50% Customs Duty (33⅓% Preferential) imposed after 2nd December, 1956—266/1956.
Leatherboard for Boots and Shoes—50% Customs Duty (33⅓% Preferential) imposed after 31st August, 1956—235/1956.
Locks, Padlocks and Keys—75% Customs Duty (50% Preferential) imposed after 24th August, 1956—229/1956.
Mosaic mounted on Paper or Textile Fabric—60% Customs Duty (40% Preferential) imposed after 13th November, 1956—279/1956.
Power-Drawn Ploughs, Harrows and Mowers—37½% Customs Duty (25% Preferential) imposed after 20th August, 1956—227/1956.
Preparations of Mixtures containing Malt Extract—37½% Customs Duty (25% Preferential) imposed after 14th September, 1956—241/1956.
Superphosphates—Customs Duty suspended after 13th November, 1956—283/1956.
Television Sets—75% Duty (50% Preferential) or £22 10s. 0d. (£15 Preferential) imposed after 28th September, 1956—246/1956.
Wooden Clothes Pegs—50% Customs Duty (33⅓% Preferential) imposed after 21st September, 1956—243/1956.

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School Attendance Committee (Qualifications of Officers)—329/1956.
Superannuation (Reckoning of Teaching Service) Regulations, 1956—218/1956.
Vocational Education—Additional Grant made—159/1956.
Vocational Education Act, 1930 (Grants under Section 53) Regulations, 1956—159/1956.

EMPLOYMENT REGULATIONS AND CONDITIONS OF EMPLOYMENT

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Aerated Waters and Wholesale Bottling. Joint Labour Committee—322/1956.
Creameries Joint Labour Committee—260/1956.
Hairdressing Trade (Dublin)—Rules made by the Apprenticeship Committee on 5th September, 1956 to fix Minimum Rates of Wages confirmed—238/1956.

FINANCE AND CENTRAL GOVERNMENT

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Civil Service (Commissioners) Act, 1956 to come into operation on 18th February, 1957—17/1957.
Currency (Amendment) Act, 1930 (Section 3)—230/1956.
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Gaeltacht (Transfer of Departmental Administration and Ministerial Functions)—257/1956, 304/1956.
Land Bond Interests fixed at 5¼% for purchases after 1st December, 1956—306/1956.
Land Finance (No. 2) Rules 1956—335/1956.
United States Currency and Securities added to List of Forms of Assets in which Legal Tender Note Fund may be held—230/1956.

HARBOURS AND HYDRO-ELECTRIC WORKS.

SUBJECT MATTER AND REFERENCE NUMBERS.

Buncrana, Co. Donegal—Harbour Rates increased after 16th August, 1956—220/1956.

Wicklow Harbour Works to be reconstructed—255/1956.
Westport, Co. Mayo—Harbour Rates increased after 14th December, 1956—305/1956.

HEALTH.

SUBJECT MATTER AND REFERENCE NUMBERS.

Acute Lymphocytic Meningitis a Scheduled Infectious Disease —244/1956.
Assistant Medical Officers in Mental Hospitals may henceforth acquire recognized Degree in Mental Disease within 3 years of Appointment—314/1956.
Carlow Resident Medical Superintendent of Mental Hospital need not retire at 65 years of age—11/1957.
Factories (Fees of Certifying Doctors) Regulations, 1956—253/1956.
Health (Oficers' Age Limit) (Amendment)—11/1957.
Infectious Diseases (Temporary Provisions) Regulations, 1956 —244/1956.
Mental Hospitals (Assistant Medical Officers) Amendment—314/1956.
Milk and Dairies (Fees for Bacteriological Examination) (Amendment) Regulations, 1956—293/1956.
Opticians Act, 1956—Establishment day fixed at 14th November, 1956—286/1956.
Vital Statistics (Foetal Deaths) Regulations, 1956—302/1956.

JUSTICE, EXTERNAL AFFAIRS AND DEFENCE.

SUBJECT MATTER AND REFERENCE NUMBERS.

Ballyforan, Co. Roscommon, to be District Court Area—310/1956.
Circuit Court Fees increased from 1st October, 1956—249/1956.
Circuit Court Rules, 1956—270/1956.
Counties of Kildare, Leix, Offaly and Westmeath—District Court Sittings fixed—292/1956.
Court Fees—Adhesive Stamps may be used instead of impressed stamps until 30th November, 1956—258/1956.
Criminal Appeal Rules, 1956—252/1956.
Diplomatic and Consular Fees Regulations, 1956—263/1956.
District Court Fees increased from 1st October, 1956—250/1956.
District Court (New Areas) Order 1927 (Variation No. 171)—292/1956.
District Court (New Areas) Order 1927 (Variation No. 169)—310/1956.
District Court (New Areas) Order 1927 (Variation No. 170)—328/1956.
District Court (New Areas) Order 1927 (Variation No. 172)—8/1957.
District Court Rules 1956—277/1956.
Dublin County, Kilcock and Dunshaughlin—District Court Sittings fixed—8/1957.
Fees for typed and photographic office copies of documents in Office of Controller of Industrial Property increased —315/1956.
Foreign Births Regulations, 1956—224/1956.
Garda Siochana (Appointment) Regulations, 1945 (Amendment) Regulations, 1956—259/1956.
Garda Siochana (Increased Allowances)—323/1956.
High Court Rules (No. 2) 1956—282/1956.
High Court Rules, 1957—12/1957.
Industrial Property Rules, 1927 (Amendment) Rules, 1956—315/1956.
Jury may henceforth apportion damages as between Injury to Person and Injury to Property—282/1956.
Labour Court (Appointment of Workers' Members) Regulations, 1956—231/1956.
Land Registration Rules, 1956—271/1956.
Land Transfer (Ireland) Act, 1848 Adaptation—Functions of Treasury transferred to Minister for Justice—28c/1956.
Registry of Deeds (Fees)—287/1956.
Registry of Deeds (Ireland) Act, 1832 Adaptation—Functions of Treasury transferred to Minister for Justice—281/1956.
Sligo County—District Court Sittings fixed—328/1956.
Supreme Court and High Court Fees increased from 1st October, 1956—251/1956.

MISCELLANEOUS.

SUBJECT MATTER AND REFERENCE NUMBERS.

Agricultural and Fishery Products (Regulation of Export) Act, 1947 (Export of Poultry and Rabbits) Order, 1950 (Temporary Amendment) Order, 1956—272/1956.
Henry Street, Dublin, Street Trading Regulations in December, 1956—278/1956.
Pigs may be brought into Dublin or Dunlaoire under licence—276/1956.
Swine Fever Infected Area Order 1956 Amendment—276/1956.
Turkeys need not be killed on licensed Poultry Premises before 1st February, 1957—272/1956.

SOCIAL SERVICES.

SUBJECT MATTER AND REFERENCE NUMBERS.

Insurance (Intermittent Unemployment) Act, 1942 (Amendment of Rates of Weekly Contributions) Regulations, 1956—228/1956.
Social Welfare (Contributions) (Amendment) Regulations, 1957—15/1957.
Social Welfare (Disability, Unemployment and Marriage Benefit) (No. 2) Regulations, 1956—226/1956.
Social Welfare (Modification of Contribution Conditions for Benefit) Regulations, 1956—156/1956.
Social Welfare (Modification of Insurance) Regulations, 1956—236/1956.
Social Welfare (Overlapping Benefits) (Amendment) Regulations, 1956—225/1956.
Social Welfare (Unemployment Benefit) (Additional Condition) Regulations, 1956—291/1956.
Weekly "Wet Time" Contributions increased from 3rd September, 1956—228/1956.

SOLICITORS.

SUBJECT MATTER AND REFERENCE NUMBERS.

Solicitors' Accounts Regulations, 1956—308/1956.
Solicitors Act, 1954 (Apprentices Fees) Regulations, 1956—140/1956.
Solicitors Act, 1954 (Apprenticeship and Education) (Amendment) Regulations, 1956—307/1956.

TRANSPORT AND TRAFFIC

SUBJECT MATTER AND REFERENCE NUMBERS.

Carriage of Wheat (No. 2)—234/1956.
Cork Traffic (Amendment) Bye-Laws 1956—317/1956.
Cork Traffic (Parking and Waiting) (Amendment) Bye-Laws, 1956—318/1956.

Eight Standing Passengers allowed on Omnibuses—5/1957.
General Bye-Laws for the Control of Traffic 1937 (Amendment) Bye-Laws, 1956—316/1956.
Large Public Service Vehicles (Amendment) Regulations, 1957—5/1957.
Licensed Agents of Mills may use their own Vehicles for Transport of Wheat until 31st August, 1957 without Licence—234/1956.
Lighting of Vehicles (Amendment) Regulations, 1956—334/1956.
Motor Fuel (Retail Sale Prohibition)—289/1956.
Motor Trials (Prohibition)—230/1956.
Prohibition of Sale of Motor Fuel at Week-ends—289/1956.
Rear-Lights compulsory on Trailers drawn by Mechanically-propelled Vehicles—334/1956.
Road Vehicles (Additional Index Marks for Tipperary North Riding)—265/1956.
Road Vehicles (Additional Index Marks for Co. Wicklow)—254/1956.
Royal Canal (Longford) (Cesser of Maintenance)—264/1956.
Sale by Motor Fuel Dealer of Motor Spirit or Heavy Oil otherwise than by Direct Delivery from Fuel to Tank prohibited—288/1956.
Traffic Signs Regulations, 1956—284/1956.
Traffic Signs (Temporary Authorisation of Present Signs until 31 December, 1958) Regulations, 1956—285/1956.

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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL.

FEBRUARY 28TH.: The President in the Chair: Also present: Messrs. Desmond J. Mayne, Sean O hUadhaigh, Francis J. Gearty, Cornelius J. Daly, James R. Quirke, Patrick R. Boyd, Reginald J. Nolan, Ralph J. Walker, Robert McD. Taylor, Peter E. O'Connell, Arthur Cox, Francis J. Lanigan, George A. Nolan, John Carrigan, Dermot P. Shaw, Terence de Vere White, Henry St. J. Blake, Louis Walsh, Patrick F. O'Reilly, George G. Overend, W. J. Comerford, John J. Sheil, Joseph P. Tyrrell, John J. Nash, Joseph Barrett, Thomas A. O'Reilly.

The following was among the business transacted:

Letting agreements drawn by auctioneers.

MEMBERS informed the Society that an agreement for the letting of a furnished flat had been drawn up by a firm of auctioneers and estate agents. On a report from a Committee it was decided to write to the auctioneers concerned drawing their attention to the provisions of Section 58 of the Solicitors Act 1954 and asking for an undertaking that such agreements would not be prepared by the firm in future.

Payment of costs in land bonds.

THE Council considered a report from a Committee which had obtained the opinion of senior counsel on the question whether a solicitor acting for an owner whose lands are compulsorily acquired by the Land Commission must accept payment of his costs in land bonds which may stand below market value. Counsel advised that the owner's solicitor may elect either to go on the allocation schedule as a claimant in respect of the solicitor and client costs or to put the name of the owner on the allocation schedule as the claimant. If the solicitor is treated as the claimant he must accept payment of his costs in land bonds for the nominal value of the costs. In this event the land bonds will be transferred to the solicitor direct. If the owner's solicitor stays off the allocation schedule the claimant will be treated as the owner of the bonds which will be transferred to him direct. The disadvantage of the latter course is that the solicitor loses the right of direct access to the land bonds. If the land bonds are transferred to the client the solicitor will be entitled to ask the client for payment in cash.

VISIT OF MEMBERS OF THE AMERICAN BAR ASSOCIATION.

THE American Bar Association will hold part of their annual meeting in London in July next. A number of members of the Association have expressed the wish to visit Dublin and the Society in conjunction with the Society of the King's Inns and the Bar Council have made arrangements to entertain them. It is expected that a party of about 200 will visit Dublin. Arrangements are on foot to hold a reception in the Round Hall of the Four Courts on August 1st, at which the Benchers, the Bar Council and the Society will be hosts to the visitors. Further information, including price of tickets, will be given in due course.

Members who wish to extend private hospitality to the guests are invited to write to the Secretary.

LAND BOND ORDER, 1956.

IT is regretted that through a printer's error it was stated in the February *Gazette* on page 70 that 5¾% Land Bonds would be issued for purchase money in respect of the period from 1st December, 1955 to 31st December 1957. The words "1st December, 1955" should have read "1st December, 1956."

SOLICITORS' GOLFING SOCIETY

THE Captain's (Mr. J. C. Griffin's) Prize; The Golfing Society's Challenge Cup; The Veterans Challenge Cup; the St. Patrick's Plate and other Prizes will be competed for at the Spring Meeting of the above Society to be held after Easter. The date, venue and full details will be circularised to members in due course as usual. New members will be warmly welcomed. Enquiries to: Gerard M. Doyle, Honorary Secretary, 50 Lower O'Connell Street, Dublin.

STANDARD FORM OF PERSONAL UNDERTAKING.

THE standard form of personal undertaking approved by the Council is printed at page 609 of the 1957 edition of the Society's Calendar and Law Directory.

SEANAD ELECTION

SENATOR ARTHUR COX is the Society's nominee for election on the Cultural and Educational Panel.

Other solicitors standing for election are:—

Senator Louis Walsh, Administrative Panel.
Mr. Jarlath O'Connell, ,, ,,
Mr. John N. Ross, Constituency of the University of Dublin.

MR. P. F. O'REILLY

THE Council passed the following resolution:—

> RESOLVED THAT the Council hereby extend their congratulations to Mr. Patrick F. O'Reilly on his appointment as a Taxing Master of the High Court, while accepting with regret his resignation from the Council on which he has rendered distinguished service to the profession since his election in November, 1933.

Mr. O'Reilly served as Vice-President for the year 1937-1938 and President in 1944-1945. At the General Election in August 1951, he was elected as a member of Seanad Eireann on the Society's nomination to the Cultural and Educational Panel.

DECISIONS OF PROFESSIONAL INTEREST.

Conviction of Assault. Conduct Unbefitting a Solicitor

THE Divisional Court (the Lord Chief Justice, Mr. Justice Hilbery, and Mr. Justice Ashworth) allowed an appeal by a solicitor by varying an order

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of the Disciplinary Committee constituted under the Solicitors Acts, 1932 to 1941, ordering that the appellant be struck off the roll of solicitors of the Supreme Court, to an order that he should be suspended for two years.

The solicitor was found Guilty at Quarter Sessions on two charges of assault and was sentenced to three months, imprisonment. He did not appeal against conviction. Before the Disciplinary Committee it was alleged that the solicitor having been convicted and sentenced for certain criminal offences had been guilty of conduct unbefitting a solicitor. The committee found that he was guilty of such conduct and ordered the solicitor to be struck off the roll. The solicitor appealed against the order on the ground that the committee did not give due weight to the mitigating circumstances and that the order was too severe in view of the facts and the mitigating circumstances, and that the penalty should be reduced.

Per Lord Goddard, L.C.J. :—There is no appeal in the present case against the finding of conduct unbefitting a solicitor. The solicitor had been in practice since 1932 and there had been no suggestion until the present proceedings of misconduct either inside or outside the profession.

This Court had always been very loth to interfere with findings of the committee on questions of act or on the penalties which they imposed. If the matter had been one of professional misconduct it would have taken a very strong case for the Court to interfere with the sentence of the committee. There was no suggestion of professional misconduct in the present case: that being so, I think that this Court was bound to consider, as they would have to do in the Court of Criminal Appeal, whether or not the sentence was in proportion or out of proportion with the misconduct proved. Mr. Cumming-Bruce was right no doubt in saying that in the present type of case the committee acted for the honour of the profession and to maintain the confidence of the public.

As lamentable as this lapse was (and it was not suggested that it was more than an isolated occasion) I do not think that the public confidence would be affected. The honour of the profession had still to be protected, but the Court had to consider whether the sentence was one which was in proportion. The Court were quite satisfied that the sentence was too severe for the offence proved. It was a shocking offence, but in one sense it was no worse in a solicitor than in any one else, and no better.

In *re* a Solicitor (1956) 1 W.L.R. 1312.)

Auctioneers who as a result of innocent misrepresentation have a contract for sale rescinded by purchaser are not entitled to commission from vendor.

The vendor appointed the plaintiffs, a firm of house and business transfer agents, her sole agents to sell her garage business. She signed a commission note under which she undertook not to consent to her business being sold except to a person introduced by the plaintiffs and to pay to the plaintiffs commission "upon (their) introducing a person ready, willing and able to enter into a binding contract to purchase" her business. A purchaser signed a contract to purchase the business having been induced to sign by an innocent misrepresentation made to her by a representative of the plaintiffs in the presence of and on the information supplied by the vendor as to the effect of a town and country planning scheme. The purchaser, having subsequently discovered that the scheme might result almost in the abolition of the garage, sought to rescind the contract on the grounds of misrepresentation and by agreement was released from the bargain. The plaintiffs claimed from the vendor commission on the ground that they had introduced a person who had entered into a binding contract to purchase.

Held by the Court of Appeal (Singleton, Morris and Romer, L.JJ. affirming Lord Goddard, L.C.J. that the contract signed by the purchaser was not a "binding contract" within the meaning of the commission note because it was induced by an innocent representation and could not be enforced as against the purchaser; the plaintiffs were, therefore, not entitled to recover commission.

Per Singleton, L.J. :—It seems to me to be highly undesirable that parties should be asked to enter into a contract of this kind without any advice. The impression given is that the sole desire of the agents' representative was to obtain a signature to the document in order to found a claim for commission. When the matter came into the hands of the solicitors, it was ascertained that the true position was that the Berkshire County Council, in their development plan, had a road-widening scheme which, when work commenced on it, would necessitate the compulsory purchase of the bulk of the said property and would render it impossible to continue the said business on what remained. The said work is scheduled for completion by 1972.

"The purchaser is saying that it is not a binding contract. I have to consider whether it was a binding contract. As the parties have agreed that the purchaser was induced to sign the contract by the statement made by Mr. Wade, I am bound to hold that

it was a contract induced by an innocent misrepresentation, and I cannot say that it was not with reference to a substantial matter. The purchaser had been told that the town and country planning scheme which was in existence (which might, of course, have been seen by either party if they had wanted to) would only affect this garage to the extent of two or three feet; but in fact it would almost have wiped it out of existence, if it has not entirely done so. I cannot say that a representation of that sort is not a representation on a substantial matter; and, although it was an innocent misrepresentation, it was a representation of which the purchaser was entitled to take advantage while the contract was still executory and to say that she would not carry out the bargain because it had been induced by the representation."

The case shows how undesirable it is for persons who have something to sell to sign a form put before them by agents without understanding it, and it *emphasises the necessity for taking legal advice before a contract for the sale of property is signed.* I have said nothing on the general duties of agents as to town and country planning matters. I would, however, point out that the claim of the agents in this case is for no less a sum than £387 10s., and I cannot see how they can be justified in placing on the defendant any responsibility for that which she said about what might happen to the frontage of the premises. She at least gave them some information which might have led to their making inquiries if they thought it right to do so.

Per Morris L.J. :—"Mr. Wade, however, proceeded to give a positive answer. He did not even leave it to the defendant to answer. He did not even say that he only knew what the defendant had told him. Once that question was asked, it seems to me that Mr. Wade must have known that no contract would go through if the answer given was incorrect. He ought at least to have warned Mrs. Pritchard that the answer to the question ought to be accurately ascertained. If an answer was being given, then it ought to have been verified before a contract was signed and, if necessary, the advice of solicitors sought. But a contract was signed there and then. If commission was to be earned when a binding contract was made, then I should have thought that solicitors would have been introduced to give their skilled assistance as to the terms and form of any proposed contract. *This case perhaps illustrates how troubles and difficulties may arise if estate agents do work, that is to say, the work of arranging binding contracts, which is more appropriately done by solicitors.*

Per Romer L.J. :—If they knew nothing, what business Mr. Wade had to give a definite and unequivocal answer in reply to Mr. Pritchard's query I am at a loss to understand, and it appears to me that he was a great deal more at fault in doing that without making the slightest attempt to ascertain what the answer was. Not knowing what the position was, as appears from that letter, he should have said to Mr. Pritchard: "I honestly do not know. You had better find out. You had better make the usual search." I do not think there is any ground for founding a cause of action by the plaintiffs against the defendant on those lines.

In conclusion, and in agreement with my brethren, *I think it is highly undesirable that estate agents should hurry people into signing contracts without legal advice and especially when they attach to those contracts conditions of sale which neither the parties nor the agents themselves in the least understand. The agents' function is to find purchasers for property and not to produce contracts and persuade the parties into signing them.*

(Peter Long and Partners *v.* Burns (1956) 3. All E.R. 207).

On taxation between solicitor and own client costs allowed should be those that were proper for attainment of justice or for defending the rights of the party.

Solicitors acted for a company who were defendants in an action in the Queen's Bench Division for the price of toy aircraft manufactured to the company's design and who counterclaimed for damages for faulty manufacture. The proceedings involved complicated technical matters, and the hearing lasted seven days. The company having gone into liquidation the liquidator obtained an order on the solicitors to deliver an itemised bill of costs and for taxation of the bill as between solicitor and own client. The order for taxation did not specify where the taxation should take place, and it in fact took place in the Companies Winding-Up Department. Objections (Nos. 1–4) having been taken to disallowances or reductions of certain items charged in the bill (including certain fees paid) the registrar disallowed the objections for various reasons but did not state in his answers that he had considered the amounts of the items not to be proper and did not distinguish between what might be necessary on the one hand as between party and party and what might be proper on the other hand to be allowed to a solicitor as against his own client. In relation to charges for attending court the

attendances having begun before the sitting of the court and having concluded after 6 p.m. on each day of the hearing, the amounts allowed were the maximum under fee No. 172 in App. N. to the R.S.C. but objection was taken (by objection No. 5) that more should have been allowed in the circumstances. In relation to charges of refresher fees objection was taken (by objection No. 6) that the amounts allowed were computed on the basis of the five-hour rule under R.S.C. Ord 65 r. 27 (48) for a total hearing of twenty-five hours and thirty-seven minutes four fees being allowed and the fee for the hearing on the final day (which only occupied thirty-seven minutes) being reduced by apportionment according to time.

HELD by Roxburgh J:—(i) on taxation of costs as between solicitor and own client the costs allowed (apart from items expressly authorised by the client) should include, by virtue of R.S.C. Ord. 65. r. 27 (29) not only what was "necessary" but also what was "proper for the attainment of justice or for . . . defending the rights of any party" and in the circumstances the disallowances or reductions which were the subject of objections Nos. 1–4 were not maintainable since by excluding consideration of what might be proper as distinct from what might be necessary the registrar had made a wrong approach to the taxation. (ii) although the maximum fee prescribed by App. N. to the R.S.C. had been allowed for attendance at the hearing (objection No. 5) the work for which the charge was made was not limited to the time of the hearing in court and accordingly it was wrong to limit the sum allowed by the maximum amount of the prescribed fee without deciding whether more should not be allowed for the attendances beyond court hours. (iii) a rule of mathematical apportionment of a refresher fee according to the duration of the hearing (where the last part of the hearing lasted less than five hours) should not be applied.

(*Re:* Mercury Model Aircraft Supplies Ltd. (1956) 2 All E.R. 885.

Householder whose home is compulsorily purchased can claim costs for surveyor's fees and travelling expenses, as well as compensation for disturbance.

A HOUSEHOLDER whose home had been compulsorily purchased by a new town development corporation at an agreed price of £4,148, which included the legal costs of that purchase and expenses incurred in moving her furniture and having curtains and carpets adjusted to fit a new house, claimed in addition as "compensation for disturbance" under rule (6) of section 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919, the surveyors' fees, legal costs and travelling expenses totalling £241 incurred by her, first in an abortive proposed purchase of a new home and, secondly, in the purchase of a new home:—

HELD by the Court of Appeal (Denning, Romer and Sellers L.JJ.)

(1) that the costs claimed were not part of the agreed purchase price.

(2) That the householder was entitled to the costs claimed; for under the rules in section 2 and on the authorities any loss sustained by a dispossessed owner-occupier of a house which flowed from the compulsory acquisition could properly be the subject of compensation for disturbance, provided (*a*) that it was not too remote and (*b*) that it was the natural direct and reasonable consequence of the dispossession. Nothing in rule (5) of section 2 (which deals with compensation for reinstatement) excluded from "compensation for disturbance" an item which included an element of reinstatement, for rule (5) was directed only to the assessment for compensation for land which had no general market value. The question whether any particular item of expenditure came within "compensation for disturbance" was in each case a question of fact for the tribunal.

Per Denning L.J. The owner only recovers costs of this kind in a case where a house compulsorily acquired was occupied by him and he is forced out of it and reasonably finds a house elsewhere in which to live. Compensation for disturbance of this nature would not be payable where the house was owned as a form of investment or where no new home was purchased.

(Harvey *v.* Crawley Development Corporation—(1957) 2 W.L.R. 332.

Full junior and senior counsel's fees allowed in a motion to commit for contempt of court.

The applicants moved to commit the respondents, who were the editor and a reporter of a newspaper and a third person, the plaintiff in an action in which the applicants were defendants, for contempt in writing, publishing or procuring to be published an article in the newspaper. On the hearing of the motion the respondents apologised, and no order was made except that the respondents should pay the applicants' costs of the motion as between solicitor and client. The applicants paid the fees of their leading counsel and junior counsel on the motion. The leading and junior counsel had been retained by the applicants in the action in which they were defendants, and in which the motion

had been brought. On taxation of the costs of the motion as between the applicants and the respondents the taxing master disallowed two-thirds of the brief fees of the applicants' leading and junior counsel on the grounds that the order for taxation entitled the applicants to what was in substance a party and party taxation but on more generous lines, and that the fees allowed were adequate having regard to R.S.C., Ord. 65 r. 27 (29).

HELD by Danckwerts, J., the full brief fees of leading and junior counsel would be allowed in the costs of the applicants because the order for costs, being made on a motion to commit for contempt, was of a punitive nature, and the intention of the order was that the applicants should be indemnified for the costs of the motion.

Dictum of Buckley, L.J., in Giles *v.* Randall (1915) 1 K.B. at p. 295) considered and not applied.

(Editorial Note. This case provides a further illustration of the difficulty that results from using the description "as between solicitor and client" to import different measures of generosity on taxation of costs (compare, for a further instance, Re Adelphi Hotel, Ltd., (1953) 2 All E.R. 498). A clear distinction may be drawn between taxation as between a solicitor and his own client on the one hand and taxation between different parties to litigation on the other hand. In the latter instance, however, there are at any rate two possible variants, viz., (i) where a party to litigation is to receive indemnity for his costs and (ii) where the costs are to be borne by a fund (e.g., a trust fund) rather than to be paid by a party. The recommendation made by the Evershed Committee in their final report (July, 1953; Cmd. 8878, paras. 720, 721) was that the term "solicitor and client" costs should be replaced by "full action" costs.)

(Morgan *v.* Carmarthen Corporation—(1957) 1. All E.R. 437.)

If a sale of registered land is rescinded because the purchaser fails to complete, and the property is sold to another purchaser who does not sign a contract nor require an investigation of title, the second purchaser is nevertheless liable to the solicitor for the scale fee.

THE plaintiff and the defendant were entitled absolutely as joint tenants to a freehold dwelling-house which they occupied. They were registered as proprietors with an absolute title. The plaintiff having obtained an order of the court for the sale of the property, the conduct of the sale was given to S., the solicitor for mortgagees, who prepared particulars and conditions of sale. The property was first sold to the defendant, but, after the preparation of a transfer and the obtaining of copies of the entries on the register and the plan, she failed to complete. The sale to the defendant was rescinded, and the property was sold to the plaintiff. S. returned the defendant's deposit to her and collected a deposit from the plaintiff. All the work done by S. up to this point was (quite properly) charged for in detail and allowed in his bill of costs which was later delivered. The plaintiff did not sign a contract, nor require an abstract of title, and there was no deducing or investigation of title. The transfer to the plaintiff was ultimately executed by the defendant by order of the court. S. included in his bill of costs £25 representing the appropriate scale fee by virtue of the Solicitors' Remuneration (Registered Land) Order, 1925, art. 1 (D) (i) and Schedule. The taxing master disallowed the item. On a summons to review taxation,

HELD by Vaisey J. that the scale fee of £25 ought to have been allowed notwithstanding that some of the work which the fee was stated in para. (H) of art. 1 of the Order of 1925 to cover, e.g., the preparation or perusal of a contract or conditions of sale, had not been done for the purpose of the sale to the defendant, since art. 1 (D) (i) of the Order of 1925 contained a clear direction that the remuneration should be the scale fee prescribed.

Per Vaisey J.:—I think that the transfer of registered land stands on a very different footing to the conveyance of land under the old regime where there had to be abstracts and various steps taken which are not necessary in the case of land registered with an absolute title. It seems to me on the particular facts of this case that this scale fee of £25 ought to have been allowed, and I will so declare. (Broughton *v.* Thorne—(1957) 1 All E.R. 87).

An action against underwriters under a "Q.C. Clause" (subsequently defined) that a claim made in an action against accountants that their clerk had converted client's money was covered by this clause was held unsustainable.

THE plaintiffs, a firm of accountants, were insured by the defendant underwriter "against loss for any claim or claims which may be made against them . . . in respect of any act of neglect, default or error on the part of the assured . . . or their partners on their servants in the conduct of their business as accountants." The underwriters (in a clause called for convenience the "Q.C. clause") further agreed "to pay any such claim or claims which may arise without requiring the assured to dispute any claim, unless a King's Counsel . . .

advise that the same could be successfully contested by the assured, and the assured consents to such claim being contested, but such consent not to be unreasonably withheld." The plaintiffs acted as accountants to H. Ltd., and in the course of their duties they received and paid out money on behalf of H. Ltd. At the end of 1952 it appeared that B., a clerk of the plaintiffs, had received from H. Ltd., some £20,000 which could not be accounted for. H. Ltd., brought an action against the plaintiffs, relying on the irregularities of B. and alleging that the plaintiffs were negligent in failing to keep proper books and to supervise the activities of B. The statement of claim disclosed a claim in respect of one loss, but three causes of action were alleged, viz., for (i) damages for negligence or breach of duty as accountants; (ii) money had and received; and (iii) moneys converted by the plaintiffs to their own use.

HEAD (iii) was restricted to the acts of B. as constituting wrongful conversion, but no direct allegation of fraud or dishonesty was made. The plaintiffs now claimed against the underwriters that the claim made in the action by H. Ltd., was covered by the Q.C. clause.

HELD by Devlin J. that the claims were not covered by the Q.C. clause for the following reasons:—

(i) on the true construction of the policy, the word "claim" was limited to an unmixed claim, viz., a claim only in respect of an "act of neglect, default or error", which was a description that did not include a claim based on dishonesty or a claim for money had and received where the claim arose out of dishonest acts, and

(ii) the claims against the plaintiffs were not such an unmixed claim as is described at (i) above, having regard to the facts that they included a claim for money had and received and arose out of dishonesty on B.'s part, although the dishonesty was not alleged in the action by H. Ltd., against the plaintiffs.

Per Curiam: Underwriters were not bound by the way in which a claimant chose to formulate his claim, but could properly invite the court to ascertain the true nature of the claim and to make such inquiry as might be necessary for that purpose.

The Q.C. clause analysed post.

(West Wake Price & Co. *v.* Ching—(1956) 3. All E.R. 821).

If vendor, after entering a contract to sell registered land changes his solicitors, the new solicitors are entitled to the scale fee if they have substantially performed the work.

AFTER entering into a contract to sell land registered with possessory title, a vendor changed his solicitors. The contract contained imperfections and the new solicitors had a good deal of work to do in connection with it. The new solicitors completed the transfer of the land, and in their bill of costs to the vendor charged the scale fee prescribed by the Solicitors' Remuneration (Registered Land) Order, 1925, art. 1 (D) (i) and Schedule, together with item charges for work not within the scale. The taxing master disallowed the scale fee on the ground that not all the work which the fee was described in art. 1 (H) as covering had been done by the new solicitors. On appeal against the taxing master's disallowance of the scale fee.

HELD by the Court of Appeal (Singleton and Jenkins L.JJ.) that the new solicitors were entitled to the scale fee because they did the main part or substantially the whole of the work set out in art. 1 (H).

Per Jenkins, L.J.: the principle stated in Re Lacey & Son ((1883), 25 Ch.D. 301), applies to remuneration in respect of registered land as it does to remuneration with respect to unregistered land.

Editorial Note. This decision should be compared with "Broughton *v.* Thorne" Re No. 10 The Terrace, Hampton Wick (1957) 1 All E.R. 87), which was decided only a few days before the present case.

Jenkins, L.J., in the present case, and Vaisey, J., in the former case, both refer to the same difference in wording in the remuneration orders, viz. that the remuneration by scale for transfer of registered land on sale "covers" certain work and that the scale fee under the Solicitors' Remuneration Order, 1883, on sales is expressed to be "for" certain work. Jenkins, L.J., relies on the words "if any" which are to be found in the comparable passages in both orders, and on the judgment of Fry, L.J., in Re Lacey & Son ((1883), 25 Ch. D. at p. 311) as supporting the view that the scale fee can be charged although not every item of the work mentioned in art. 1 (H) of the Order of 1925 has been done. It should however be borne in mind that the words "if any" do not appear in the corresponding Irish general order.

(*Re* Taxation of Costs: *Re* a solicitor, 1957. 1 A.E.R. 427).

If a tenant, who has been given notice to quit, claims a new tenancy, and an application has to be made to the Court to fix the rent, there should be no costs awarded on either side.

The tenant of a studio and room, who had been given notice to quit, claimed a new tenancy under the Landlord and Tenant Act, 1954. The landlord agreed to grant a new lease, but the parties could not agree on its terms, the landlord putting forward a rent of £350 per annum and the tenant putting forward a rent of £200 per annum and asking that the landlord should enter into a repairing covenant and put in new power points. On an application to the county court under s. 24 (1) of the Act, the court made an order for a new lease at a rent of £300 without the landlord's entering into a repairing covenant or providing new power points. The landlord was ordered to pay one half of the tenant's costs, the judge basing his order as to costs on analogy with the consequence of a defendant's paying into court, in an action, less than was ultimately recovered against him. On appeal by the landlord,

HELD by the Court of Appeal (Denning, Hodson and Morris L.JJ.) that in making the order as to costs the court should consider the reasonableness or unreasonableness of the offers on each side, and there was no true analogy with the position where a defendant paid money into court; in the circumstances the proper order was that there should be no costs on either side.

Per Denning, L.J.:—It seems to me that it is wrong to draw any analogy with a payment into court. It would mean that the landlord, if he wanted to save the costs of the hearing, would have to offer the precise figure of rent which the county court judge afterwards determined to be the right figure, or a lesser sum. That would be quite an unreasonable thing to ask a landlord to do.

In cases of this kind, it seems to me that the court should consider the reasonableness or unreasonableness of the offers on each side.

(Le Witt *v.* Cannon Brookes—(1956) 3. All E.R. 676).

Lands Tribunal must exercise its discretion on appeal to fix costs judicially.

The appellant owned an estate near Epsom Downs and in 1948 he obtained planning consent for its development as a garden city in accordance with a plan which had been prepared for him by an expert. He claimed under section 58 of the Town and Country Planning Act, 1947, the sum of £217,517 for development value. He contended before the Central Land Board that the development value must be ascertained on the basis of his plan of development. The board held that the plan was not a factor which should be taken into account and estimated the development value at so much per foot frontage on the roads, assessing it at £44,500. The appellant, pursuant to the provisions of the Lands Tribunal Act, 1949, appealed to the Lands Tribunal. The tribunal held that the board was wrong on its basis of assessment and that the appellant's contention was right. The tribunal assessed the development value at £102,500, holding that the appellant in framing his claim had not taken into account the delays and risks inherent in putting the plan into operation. The tribunal made no order as to costs. The result of that order was that the appellant had to bear the tribunal's hearing fee of £500 which under paragraph 52 of the Lands Tribunal Rules, 1949, was payable by the appellant as claimant, without prejudice to his right to recover the amount from any other party by virtue of any order as to costs. The appellant appealed from the decision of the tribunal with regard to costs:—

HELD by the Court of Appeal (Lord Evershed M.R., Denning and Romer L.JJ.) (1) that where a claimant disputed the development value fixed by the Central Land Board and took the question of the proper development value to the Lands Tribunal, pursuant to the provisions of the Lands Tribunal Act, 1949, the proceedings before the tribunal were an "appeal."

(2) That section 3 (5) of the Lands Tribunal Act, 1949, showed that the award of costs was in the discretion of the tribunal and that the power of the Court of Appeal to hear an appeal as to costs from an order of the tribunal was not limited by the provisions of the Supreme Court of Judicature (Consolidation) Act, 1925, and might be somewhat more open than an appeal as to costs from the High Court.

(3) That the tribunal failed judicially to exercise the discretion vested in it, since it, in directing itself, omitted to consider: (*a*) that the proceedings were in the nature of an appeal and not an arbitration; (*b*) that the appellant's view of the basis of valuation was right and that of the Central Land Board was wrong.

(4) That, the parties consenting, the just order was to direct the Central Land Board to pay one half of the appellant's costs, including one half of the hearing fee.

Per curiam. While as a matter of administrative convenience it is sensible that one party should be

directed to pay the hearing fee of the Lands Tribunal in the first instance, he should be treated as paying it on behalf of the contestants and the question of the ultimate liability for its payment should rest with, and be specifically dealt with by, the Lands Tribunal in accordance with the language of section 3 (5) of the Lands Tribunal Act, 1949. The tribunal should say by whom and in what proportion it should be paid.

(Wootton *v.* Central Land Board—(1957) 1. W.L.R. 424.)

LIBRARY ACQUISITIONS

as compiled to 1st March, 1957.

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Alpe—*Law of Stamp Duties*, 24th Edn., 1956; Archbold—*Criminal Pleading and Practice*, 33rd Edn,. Cumulative Supplements; Atkin (Lord), Chairman—*Report of Royal Commission on Legal Education*, 1934; Black and O'Leary—*Town Tenants (Ireland) Act*, 1906; Board of Inland Revenue—*Income Taxes outside the Commonwealth*—Pt. I, U.S.A.—Pt. II—Republic of Ireland, 1956; *British Public General Acts of* 1955; *British Catholic Directory*, 1957; Brown (J.)—*Planning Appeals to Minister for Local Government*, 1951; Bryant—*Liberty, Order and Law under Native Irish Rule* 1923; Burton—*How to appeal against Tax Assessments.*

Campion and Lidderdale—*European Parliamentary Procedure*, 1953; *Central Bank Report* to March, 1956; Charlesworth—*Law of Negligence*, 3rd Edn., 1956; Challis—*Law of Real Property* (1911) with Irish Supplement by Sheridan, (1956); Cheshire and Fifoot—*Law of Contracts*, 4th Edn., 1956; Chitty—*Law of Mercantile Contracts*, 1955; Chitty—*Queen's Bench Forms*, 18th Edn., 1956; Coghlan—*Law of Rent Restrictions*, 1950 (Another Copy); *Commonwealth and Empire Law Conference*—London, July 1955, Proceedings, (1956); Conway—*Problems in Canon Law*, 1956; Cowen and Carter—*Essays on the Law of Evidence*, 1956; Cross and Jones—*Introduction to Criminal Law*—3rd Edn., 1954.

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Farrer—*Precedents of Conditions of Sale* (1909); Foote—*Private International Jurisprudence* (1890); Fraser—*Law of Torts* (1904); Friedmann—*Legal Theory* (1949); Graveson—*Conflict of Laws* (1948).

Halsbury—*Laws of England*, 3rd Edn.; Volume 14—*Elections, Electricity and Equity*, 1956; Volume 15—*Estate Duty, Estoppel and Evidence*, 1956; Volume 16—*Execution, Executors and Administrators, Explosives and Extradition* (1956); Volume 17—*Factories and Shops to Fraudulent and Voidable Conveyances* (1956); Hanson on *Death Duties*, 10th Edn. (1956) with Supplement (1957); Hill and Redman—*Law of Landlord and Tenant*, 12th Edn. (1956); Holland—*Elements of Jurisprudence* (1910); Hood and Challis—*Conveyancing, Settled Land and Trustee Acts* (1909); Ireland—*Estimates for Public Services*, 1956–57, and 1957–58; Ireland—*Index to the Statutes from* 1922 *to* 1953 (1956); *Irish Catholic Directory*, 1957; Jethro-Brown—*Austinian Theory of Law* (1926); Jones—*Practical Forms in Solicitor's Offices*, Vol. II (1908).

Keating—*Law of Building Contracts* (1956); Keeton—*Introduction to Equity*, 4th Edn. (1956) with Irish Supplement by Sheridan; Kelly—*Conveyancing Draftsman*, 10th Edn. (1956); Kemp and Kemp—*The Quantum of Damages in Fatal Injury Claims* (1956) with Supplement (1957); *Law List*, 1956; *Law Reports Digest*, 1911, 1913 *to* 1926 (15 Vols.); Lidbetter—*Law of Maintenance and Desertion* (1934); Lisle—*Forms and Precedents for Use of Accountants*, 2 Vols. (1907); McCarthy—*Leading Cases in Land Purchase Law* (1892); MacDonnell and Manson—*Great Jurists of the World from Gaius to Jhering* (1913); McDevitt—*Land Law Act* 1881 *explained* (1881); Megarry—*Law of Real Property*, 2nd Edn. (1955); Milier-Maxwell—*Irish Probate Practice* (1900); Moeller—*Voluntary Covenants in Restraint of Trade* (1925); Monroe—*Law of Stamp Duties*, 2nd Edn. (1956); Morgan-Evans—*Theories and Criticisms of Sir Henry Mayne* (1896); Morris and Barton-Leach—*The Rule against Perpetuities* (1955).

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(1896); "Oyez" *Table of English Legal Costs on a Sale of Land*; "Oyez" *Table of English Legal Costs on a Grant of a Lease*; Palmer—*Company Precedents*, Part I, 17th Edn. (1956); Phillips—*Pension Scheme Precedents* (1957); Plunkett and Hosking—*Retirement and Other Annuities*, 2nd Edn. (1956); Pratt and Mackenzie—*Law of Highways*, 19th Edn., 1956 Supplement; Preston and Newsom—*Restrictive Covenants affecting Freehold Land* (1955).

Ranking, Spicer and Pegler—*Mercantile Law* (1948); Rivington—*Epitome of Shell's Equity*, 4th Edn. (1954); Ryde—*Law of Rating*, 10th Edn. (1956); Salmond and Winfield—*Law of Contracts* (1945); Samuels—*Trade Union Law*—5th Edn. (1956); *Scottish Faculty Digest*—Annual Digests from 1951 to 1954; Scrutton—*Law of Charterparties and Bills of Lading*, 15th Edn. (1955); Schwarzenberger—*International Law as interpreted by International Courts* (1954); Shillman—*Factory Legislation in Ireland*, Vol. I, 1956; Smith (F. E.)—*International Law*, 5th Edn. (1918); Speller—*Law relating to Hospitals*, 3rd Edn. (1956); Stone—*Justice's Manual* (1911); Street—*Law of Torts* (1955); *Supreme Court Rules* (*Ireland*) 1905; Sutton and Shannon—*Law of Contracts*, 5th Edn. (1956).

Two Barristers—*Law without Lawyers* (1904); Treagus and Rainbird—*Butterworth's Costs*, 4th Cumulative Supplement (1956); Trinity College, Dublin—*Charter and Statutes to* 1898; Underhill—*Law Reform* (*Tortfeasors*) *Act*, 1935; Vallis-Bone—*Complete Law Library*; Walker—*Law of Damages* (1956); White and Hanna—*Aids to Sanitary Law*, 3rd Edn. (1939); *Whittaker's Almanack*, 1957; Williams—*History of Private Bill Procedure in the House of Commons*, Vol. II, Annotated Standing Orders; Wilkinson—*Road Traffic Offences*, 2nd Edn. (1956); Wilshere—*Analysis of Williams on Real Property* (1922); Wood-Renton—*People's Dictionary of English Law*; *Words and Phrases*—Pocket Supplement, 5 Vols., 1956.

DONATIONS AND EXCHANGES

M. Lush, London. Benjamin on *Sale* (1920); Cockle on *Evidence*, 4th Edn.; Anson on the *Constitution*, 3rd Edn., 3 Vols.; Council of Legal Education—*A Century of Law Reform* (1901); Carter on *Contracts* (1914); Chalmers on *Sale of Goods Act* 1924; Edwards on *Law of Property* (1904); Knowles—*Evidence in Brief* (1913); Pollock—*Law of Contract* (1911); Roscoe—*Law of Evidence* (1900); Strahan—*Law of Partnership* (1924); Warburton—*Cases in Criminal Law* (1922); Wills on *Evidence* (1907); Chalmers on *Sale of Goods* (1924); Ruddall and Greig—*The Trustee Act* 1893; Stone—*Rent Restriction Acts of* 1920 *and* 1923.

Canadian Embassy, Dublin. *Canada Year Book*, 1951; *Canada Law Reports*, 1948 *to* 1952 *and* 1954; Canada—*Consolidation of Canadian Statutory Rules and Orders*, 5 Vols., 1949; Ontario—*Revised Statutes*, 1937, 4 Vols.; *Canada Labour Gazette*—Index for 1949.

Irish Stationery Office. *Irish Tax Cases*, 2 Vols., 1923–1948 (5 copies); *Statutory Instruments*, 1952 (2 Vols.); *Dollar Exports*—Report of U.S. Consultants pubd. by Coras Trachtala (1956).

Incorporated Law Society of Northern Ireland. Leitch on the *Administration of Estates* (*Northern Ireland*) *Act*, 1955; *Library Catalogue*, 1955.

Denis Greene, Dublin. *Kime's International Law Directory*, 1955; *Empire Law List*, 1955; Martindale-Hubbell—*Law Directory*, 1955, Vols. 1 and 2.

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C. Gavan-Duffy. *Catholic Who's Who*, 1952; Maxwell—*Legal Bibliography of British Commonwealth*, 2nd Edn., Vol. 1—*English Law to* 1800–1956. Vol. 2—*English Law from* 1801 *to* 1954–1956. Farmer—*The Wilson Reader*, 1956; Surrency—*The Marshall Reader*, 1956; Paton—*The Laws of Australia*, 1952; Robson—*The Laws of New Zealand*, 1954; *The Webster Reader*, 1956; Fortescue—*Commendations on the Laws of England*; Pollack—*The Brandeis Reader*, 1956; Polsky—*The Medico-Legal Reader*, 1956.

Miscellaneous—including Exchanges. *Incorporated Law Society Calendar*, 1957; Incorporated Law Society—*Solicitor's Accounts and Professional Practice Regulations*, 1956; Dublin University *Calendar*, 1956–57; *United States Government Organization Manual*, 1955–56; Glasgow University *Calendar*, 1956–57; Manchester University *Calendars*, 1956–57; Edinburgh University *Calendar*, 1956–57; National University of Ireland—*Calendar*, 1956; University College, Galway—*Calendar*, 1955–56 *and* 1956–57; *International Law List*, 1957; *International Bar Association*—Fifth Conference Report—Monte Carlo, 1954; University College, Cork—*Calendar*, 1956–57; Queen's University, Belfast—*Calendar*, 1956–57;

University of Wales—*Calendar*, 1956–57; *Scottish Law List*, 1956.

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Algiers University—Faculty of Law. *Annales Juridiques, Politiques et Sociales*, from Vol. 1, No. 3.

Department of Agriculture, Dublin. *Food and Agricultural Legislation* from Vol. 1 No. 1, 1952.

Association of the Bar of New York. *Report of Special Committee on Federal Loyalty—Security Programme*, 1956; *Yearbook*, 1955.

Supplementary Purchases—Clarke-Hall and Morrison—*Law Relating to Children*, 5th Edn. (1956); Josling—*Adoption of Children*, 4th Edn. (1956); Green and Manders—*Bills of Sale (Amendment) Act (Ireland)* 1883; Lilby and Wallis—*Law affecting Catholics* (1893); Robb—*Law of Bankruptcy* (1907)—(Another Copy); Feely—*Criminal Law and Procedure (Ireland) Act*, 1887.

Supplementary Donations—Messrs. Cusack & Hinton, Dublin—*Stock Exchange Yearbook*, 2 Vols., 1955.

United Nations, New York—Various publications and pamphlets relating to UNO.

EXAMINATION RESULTS.

At examinations held on the 1st day of February, 1957, under the Solicitors' Act, 1954, the following passed the examinations.

First Examination in Irish

Thomas O. Boyle; James J. Devine; Thomas A. Dillon-Leetch; Patrick J. Farrell; William S. Geraghty; Anthony C. Gore-Grimes; Michael A. Lucas; Denis M. McDowell; William J. McGuire; Maire McHale; Martin J. Ruane; Thomas K. Smith.

14 Candidates attended; 12 passed.

Second Examination in Irish

Thomas J. Ballagh; Michael J. Bowman; Ann M. A. Burke; James E. Cahill; Michael P. M. Connellan; Julia M. Conroy; Charles E. Coonan; Laurence B. Cullen; Ann M. B. Derham; Fergus L. Fahy; John M. A. Foley; Margaret M. Foley; Maire N. Gibbons; Gordon A. Holmes; John P. A. Hooper; Gillian M. Hussey; Michael F. S. King; Thomas J. Macken; Peter F. Moylan; Clive Hunter Murphy; Patrick B. MacCann; Kevin P. St. G. McClenaghan; Godfrey F. McDonald; Joseph M. McGowan; Liam MacHale; Maurice A. Neville; John D. Nugent; Patrick O'Brien; James P. G. O'Connor; Thomas P. O'Connor; Michael N. M. O'Donoghue; Franklin J. O'Sullivan; Francis C. Quinn, Mary P. Read; John P. Redmond; James N. Tanham; Rosaleen Walsh; William A. Young.

39 Candidates attended; 38 passed.

THE REGISTRY.

Register A.

For Sale Partnership in excellent practice in Dublin with option to purchase entire at end of two years from date of partnership. Box No. A166.

Register B.

Lady Solicitor, recently qualified seeks position as Assistant. Preferably Dublin City or adjacant town. Box No. B208.

Solicitor, admitted October, 1956 desires assistantship in city or country office. Box 212.

Register C.

For Sale English & Empire Digest and Halsbury Laws of England (Thin paper editions) with Supplements to both to 1930. Best Offers. Box C154.

Missing Will: Will any Solicitor having a will of Miss Elizabeth Ledwidge of Buona Vista, Greystones, formerly of 26 Hatch Street, Dublin, deceased, please communicate with Ryan & O'Brien, Solicitors, 35, St. Stephen's Green, Dublin.

EXAMINATIONS

Examination Date.	*Last day for notice.*
Intermediate, June 11th-13th	May 21st.
Book-keeping, June 13th	May 21st.
First and Second Irish, June 28th and 29th	June 7th.

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APRIL,
1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL.

MARCH 21ST: The President in the Chair. Also present: John R. Halpin, Desmond J. Mayne, John Carrigan, Henry St. J. Blake, P. R. Boyd, F. X. Burke, Ralph J. Walker, G. G. Overend, Reginald J. Nolan, Peter E. O'Connell, Thomas A. O'Reilly, Charles J. Downing, James R. Quirke, Joseph P. Tyrrell, Cornelius J. Daly, Derrick M. Martin, Dermot P. Shaw, George A. Nolan, Arthur Cox, Desmond J. Collins, F. J. Gearty, Seán O hUadhaigh, John J. Nash, John J. Sheil, Joseph Barrett, R. McD. Taylor, Terence de Vere White.

The following was among the business transacted.

District Court Rules Committee.

MR. CECIL G. VANSTON Dublin was appointed as one of the Society's representatives on the District Court Rules Committee in place of Mr. Patrick F. O'Reilly who has resigned from the Council.

Vacancy on the Council.

MR. JOHN MAHER Dublin was co-opted from the supplemental list to fill the vacancy caused by the resignation of Mr. P. F. O'Reilly.

Trustee (Authorised Investments) Bill 1956

THE Council considered a report from a Committee on the text of the draft Bill which was sent to the Society by the Department of Justice for observations. The bill proposed to alter the statutory list of authorised trustee securities, the main effect being to restrict the list in so far as it includes Government stocks to those issued in the State. It is proposed that deposit accounts in banks will no longer rank as authorised trustee investments. The Committee in their report stated that the bill if enacted might expose beneficiaries under settlements to the risk of depreciation of the trust investments by restricting the trustees to a more limited range of investments than the list which is available under the existing law. This consideration is particularly important in regard to funds in Court which under the Bill as drafted would have to be invested in trustee securities. The Committee

were opposed to the provisions of the bill although they pointed out that express powers of investment in settlements wider than the statutory range would not be affected. The Council approved of the report and directed that it should be sent to the Department of Justice.

Garnishee Order against Solicitor. Privilege. A MEMBER acted for the vendors on the sale of property and lodged the proceeds in a certain bank on the clients' instructions. Some days later an order of garnishee was served on member following a judgment obtained by another party against his clients (the vendors). Member did not act for the vendors as defendants in these proceedings. In his affidavit in reply to the garnishee application he stated that he had no funds in hands at the date of the order. The Garnishor proposed to cross examine him on his affidavit to ascertain the bank and the name of the account to which the monies were paid and member claimed privilege. He asked the Council for advice and financial aid. The Council adopted the report of a Committee who stated that member must claim privilege. If the judge disallowed the privilege member might if advised ask the judge to make a formal order which would be appealable to the Supreme Court. He would however as a matter of professional conduct be entitled to act on the judge's ruling without appealing. If the Judge ruled against the privilege and the client wished to appeal the Committee were of the opinion that the client should indemnify member against the costs thereof but that the Society should not contribute.

REPORT OF THE REGISTRAR'S COMMITTEE.
For the year 1956

1. The Committee is constituted under Council Bye-Law 4 (*b*). Under Bye-Law 6 (*b*) the quorum for a meeting of the Committee is three. Pursuant to Section 73 of the Solicitors Act, 1954 the following functions of the Society are delegated to the Committee:

(*a*) The functions of the Society under Sections 28 (3) 29 (5), 31, 33, 34, 35, 48, 49 and 51 of the Solicitors Act 1954 and under regulations made pursuant to Section 40 (*a*) and 40 (5) (*b*) of the said Act. These regulations are contained in the Solicitors Act 1954 (Practising Certificates and Restrictions on Solicitors) Regulations 1955 (S.I. No. 60 of 1955).

(*b*) The consideration of complaints against solicitors other than applications to the Disciplinary Committee by persons (other than the Society) under Section 14 of the Act.

(*c*) The institution of proceedings on behalf of the Society before the Disciplinary Committee.

The Committee's functions under item (*a*) includes all questions connected with registration of indentures of apprenticeship and the issuing of practising certificates. The Committee consider that all matters connected with apprentices, including registration of indentures, would be more conveniently referred to the Court of Examiners, except questions which may involve the consideration of complaints against solicitors. They therefore recommend that the functions of the Society under Section 28 (3) and 29 (5) mentioned in item (*a*) above should be transferred from the Registrar's Committee to the Court of Examiners.

2. The Committee considered applications for practising certificates by solicitors in circumstances in which the Council have a discretion to refuse to issue a certificate under Section 49 (1) of the Act. All the applications received from solicitors were granted.

3. The statutory list of practising solicitors under Section 53 of the Act was published and circulated to the Taxing Masters, County Registrars, District Court Clerks and to the Bar Associations and a circular was issued to all interested persons advising them that solicitors whose names do not appear on the statutory list are not entitled to practise as solicitors.

4. The Committee disposed of fifty two complaints affecting solicitors' conduct. In twenty four of these cases they decided to take no action. In fourteen cases they imposed terms on the solicitors concerned and decided to take no further action. In twelve cases they directed institution of proceedings before the Disciplinary Committee. In two cases notices were issued vesting a discretion in the Society over the issue of practising certificates, in the absence of any or a satisfactory explanation from the solicitors concerned, under Section 49 (1) (*g*) of the Solicitors' Act 1954.

In one case the Committee considered an application by a former solicitor to the Disciplinary Committee for re-admission and directed the Registrar to oppose the application.

5. In three cases the Committee considered allegations that solicitors had practised without certi-

ficates and in one case recommended the institution of proceedings in the District Court under Section 55 of the Act. The defendant admitted the offence and by consent no order was made except an order for payment of the Society's costs. The Committee recommend that the Council Bye-Laws should be amended to provide that the functions of the Society of instituting proceedings against unqualified persons who are solicitors for practising without certificates should be delegated to the Committee as these cases involve questions of solicitors' conduct and in accordance with the policy of the Council and having regard to Section 73 (5) of the Act ought to be referred to a Committee on which members of the Disciplinary Committee will not serve.

6. The following matters in connection with branch offices arose during the year.

(*a*) A solicitor asked for permission to establish a branch office about 15 miles distant from his main office. He proposed to keep the branch office open daily and to attend personally at 5 p.m. For the rest of the time a typist would be in charge and in communication with the main office by telephone. The Committee drew the solicitors' attention to the following statement published in the Society's *Gazette* in June 1951 :—

> "The general principle is that it is not in accordance with proper professional practice that a solicitor's office should be managed by an unqualified assistant without adequate professional supervision of clients' business. While the adequacy of the supervision must depend upon the facts of particular cases the Council are generally of the opinion that a branch office which is opened daily should be managed by a qualified assistant. If there is no permanent qualified assistant in charge of the office it should be opened only on days when the principal attends in person."

The Committee reported that on the facts stated there should be no objection by the Society to the issue of the solicitor's practising certificate in the absence of evidence that there is no adequate personal supervision over each office, but the Committee reserved the right to review this ruling at any time.

(*b*) A solicitor asked for the Society's view as to the opening of a sub-office in a country town. On enquiry the Committee learned that the premises in which the proposed sub-office would be carried on were those of an auctioneer. The Committee decided to inform the solicitor that in the circumstances of the case they would disapprove of the establishment of a sub-office in the same building as the auctioneer's office.

7. It falls within the scope of the Committee's duties to keep under review and to report to the Council on the numbers of apprentices entering into indentures and the number of new solicitors annually admitted. The Committee think that this matter should be kept under review by the Council having regard to the overcrowding of the profession to which, in the Committee's opinion, may be attributed in great measure the number of complaints which come before the Society and the Disciplinary Committee. The statutory obligation of the Society to maintain a Compensation Fund which will be sufficient to provide full indemnity after 1960 gives this matter added importance. The full effect on the number of practising solicitors of an excessive intake of apprentices on any period does not become apparent for at least five years and probably longer as solicitors may not commence to take out practising certificates for some years after admission. It is pointed out that an average annual increase of ten newly admitted solicitors continuing for ten years means an increase of one hundred in the number of solicitors on the roll for a whole practising generation—about forty years.

Chart 1 attached shows the numbers of admissions annually from 1926 to 1956 and the numbers which would have been sufficient for recruitment. Chart 2 shows the number of new apprentices for each year. Chart 3 shows the numbers of practising certificates issued annually during the same period. The number of practitioners in the Irish Free State in 1926 slightly exceeded 1,000. The number of practising solicitors in the Republic is now about 1,350 of whom about 560 are in Dublin. The number of admissions for the year to 28th October, 1956 was 55. It is estimated that from 30 to 35 cease to practise annually. Any admissions permanently exceeding that number mean a net addition to the number of practitioners. The dotted line AB on Chart 1 shows the desirable number of admissions for comparison with the actual number during the period covered.

It is apparent that the great increase in the number of practising solicitors in 1956 over 1926 is directly related to the number of apprentices taken on between 1926 and 1937. The effect of this over-

crowding persists notwithstanding the falling off in the number of indentures of apprenticeship registered after 1939 and during the war. The Committee do not think it necessary at present to express any opinion as to whether steps should be taken to control the intake of apprentices but they recommended that the matter should be kept under review by the Council.

5th February, 1957. (Signed) SEAN O'hUADHAIGH,
Chairman.

Solicitors' Buildings,
Four Courts,
DUBLIN.

DUBLIN SOLICITORS BAR ASSOCIATION.

A MEETING of the Council of the Association was held on Wednesday the 6th of March, 1957, at which it was reported that a presentation on behalf of the Association had been made to Mr. Thomas Bell recently retired Court Clerk of the Metropolitan District Civil Court.

The question of a scale of costs for proceedings under the Enforcement of Court Orders Acts was again discussed, and in view of the steps already taken, it was hoped that the Law Society's representatives on the District Court Rules Committee would press for the introduction of such a scale.

Representations were received about the confusing of adhesive fee stamps which are of a standard colour and design. To obviate confusion it has been suggested to the Revenue Commissioners that different coloured stamps be used for the different departments.

A member raised a question in connection with the costs of successful counterclaims in the Circuit Court. The Council's understanding is that, subject to the trial judge's discretion, where a claim is unsuccessful, and a counter claim is successful, the defendant recovers the costs both of defending the claim, and of winning the counterclaim. Any member whose experience is recently different from this is requested to communicate with the Honorary Secretary.

A meeting of the Council of the Association was held on Wednesday, the 3rd April, 1957.

A special committee has conducted a canvass in favour of Mr. Arthur Cox for election to the Senate.

The Council considered and found itself in general agreement with the Law Society's memorandum on non-Contentious costs, and the proposed revision of Schedule 2 to the Solicitors Remuneration General Order, 1884. The Council also considered the Law Society's memorandum relating to Labourers Acts costs, and agreed with it.

The Council referred to the Law Society questions which had arisen regarding practice in the Circuit Court, as to the allowing of the costs of successful counterclaims.

The desirability in the public interest of the making of District Court Hire Purchase Rules has been brought to the attention of the Minister for Justice. As matters stand, proceedings for the recovery of hire purchase articles, even of small value, must be brought in the Circuit Court with its higher outlays, and consequent hardship on poor defendants.

A deputation has been appointed to wait upon the County Registrar in an endeavour to improve the service of District Court processes. In this connection the Council takes the view that it is unfair for solicitors to be asked to pay to country District Court process Servers fees in excess of the fees prescribed by the rules. Such excess cannot be recovered in the proceedings, and falls either upon the solicitor, or his client. The Council consider that the rules should be amended if necessary to provide for extra service fees in the country, and that until suitable arrangements are made, solicitors should not pay fees in excess of those allowed by the rules.

The next meeting of the Council of the Association was fixed for the 1st May, 1957.

SOLICITORS GOLFING SOCIETY

THE Spring Outing of the above Society at which the Captain's (Mr. J. C. Griffin's) prize and other prizes will be competed for, will be held at Dundalk Golf Club, Dundalk, Co. Louth, on Saturday, the 11th day of May, 1957. Entries at Clubhouse from 10 a.m. Dinner at 7 p.m. New Members and non-playing Solicitors will be warmly welcomed.

Annual Subscription (£1) now payable to Hon. Treasurer, John J. O'Dwyer, 15 D'Olier Street, Dublin.

Further enquiries to Gerard M. Doyle, 50 Lower O'Connell Street, Dublin, Hon. Secretary.

DECISIONS OF PROFESSIONAL INTEREST.

Decision of Administrative Tribunal can be quashed by Certiorari for error on face of record, even if statute states that the decision of such tribunal is final.

In 1936 the applicant lost the sight of his right eye, and in 1955 he lost the sight of his left eye in

an industrial accident and became entitled to disablement benefit under the National Insurance (Industrial Injuries) Act, 1946. Under reg. 2 (5) of the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948, his disablement was to be assessed as if the injury to his right eye was incurred as a result of losing the sight of his left eye; and, under Sch. 1 to the regulations, the disablement for blindness in one remaining eye was to be assessed in such circumstances at a hundred per cent. A medical appeal tribunal, failing to apply reg. 2 (5), assessed the applicant's disablement at twenty per cent. The facts on which the tribunal based their decision did not appear on the face of their written adjudication, but the adjudication contained an extract from the report of a specialist who had examined the applicant and had set out in his report the full facts in regard to the previous injury and to the injury in 1955. Section 36 (3) of the Act of 1946 provides that any decision of a medical appeal tribunal of a question arising under the Act "shall be final." On an application by the applicant for an order of certiorari to remove the decision of the medical appeal tribunal into the High Court to be quashed, it was conceded that the decision was erroneous in point of law.

HELD: the order of certiorari would be granted as the court had jurisdiction for the following reasons—

(i) the tribunal, by giving an extract from the specialist's report, had made the report a part of the record, and, as the tribunal came to a conclusion which could not reasonably have been entertained by them if they had had proper regard to reg. 2 (5) of the Regulations of 1948, they had fallen into error in point of law, which was thus apparent on the face of the record.

(ii) the provision in s. 36 (3) of the Act of 1946 that the tribunal's decision should be "final" merely meant that the decision should be final on the facts and should not be the subject of appeal, and the sub-section did not exclude jurisdiction by certiorari.

Per Denning, L.J.:—On looking again into the old books I find it very well settled that the remedy by certiorari is never to be taken away by any statute except by the most clear and explicit words. The word "final" is not enough. That only means "without appeal." It does not mean "without recourse to certiorari." It makes the decision final on the facts, but not final on the law. Notwithstanding that the decision is by a statute made "final," certiorari can still issue for excess of jurisdiction or for error of law on the face of the record.

I venture, therefore, to use in this case the words which I used recently, in Taylor *v.* National Assistance Board (1957) 1. All E.R. 183) with suitable variations to certiorari:

> "The remedy is not excluded by the fact that the determination of the board is by statute made 'final.' Parliament gives the impress of finality to the decisions of the board only on the condition that they are reached in accordance with the law. . ."

In my opinion, therefore, notwithstanding the fact that the statute says that the decision of the medical appeal tribunal is to be final, it is open to this court to issue a certiorari to quash it for error of law on the face of the record. I am glad to notice that modern statutes never take away in express words the right to certiorari without substituting an analogous remedy. This is probably because the courts no longer use it to quash for technical defects, but only use it in case of a substantial miscarriage of justice. Parliament nowadays more often uses the word "final," or "final and conclusive" or some such words, which leave intact the control of the courts by certiorari.

Romer, L.J.: I agree. In my judgment, it would be deplorable if we were constrained to hold that the decision of a medical appeal tribunal however wrong in law, and however obviously wrong, was immune from review by Her Majesty's courts. I cast no reflection whatever on tribunals such as that in the present case, and they do their work conscientiously and with efficiency. In the nature of things, however, these and similar inferior tribunals (and there are many of them nowadays) are bound to go wrong from time to time in matters of law. Their members consist, in the main, of people who have devoted their lives to activities far removed from the study and practice of the law; and neither by training nor by experience can they be expected to have that knowledge of principles of construction which is so necessary for the proper understanding and application of the various statutes and regulations which often come before them. Injustice may well result, and a sense of injustice is a grievous thing. I, therefore, think (and I have said as much before) that it is not in the public interest that inferior tribunals of any kind should be ultimate arbiters on questions of law. Parliament, of course, can make them so;

but is is clear from the authorities to which my brethren refer in their judgments (which I have had the advantage of reading in advance) that a legislative intention to do so is not sufficiently expressed by the mere provision that the decision of such and such a tribunal shall be "final."

Per Parker, L.J.:—One thing is clear beyond doubt. The ordinary remedy by way of certiorari for lack of jurisdiction is not ousted by a statutory provision that the decision sought to be quashed is final. Indeed, that must be so, since a decision arrived at without jurisdiction is, in effect, a nullity. This, however, is not so where the remedy is invoked for error of law on the face of the decision. In such a case it cannot be said that the decision is a nullity. The error, "however grave, is a wrong exercise of a jurisdiction which he has, and not a usurpation of a jurisdiction which he has not": (*Re* Gilmore's Application—(1957) 1 All E.R. 796).

It is the duty of a professional domestic tribunal investigating a charge of professional misconduct to apply a high standard of proof and not to condemn on a mere balance of probabilities.

The defendant, an advocate practising in Kenya, seeking a declaration that his client was not a prohibited immigrant, had stated that his client's temporary pass was valid, although in fact it had been revoked. He endeavoured to plead a genuine mistake before the puisne Judge, but, on being summoned before the Advocate's Committee of Kenya, it was found that the defendant had intended to deceive and mislead the Court, and that therefore a *prima facie* case of disgraceful and dishonourable conduct had been made out. On consideration of the report, the Supreme Court of Kenya found that professional misconduct had been established in that the appellant had omitted to state to the Court that the suit had previously been dismissed by another Judge until he was forced to do so, and that the intention to mislead the Court was deliberate. The Court of Appeal of East Africa, as well as the Privy Council (Lords, Simonds, Oaksey, and Tucker and Mr. de Silva) dismissed the appeal.

Per Lord Tucker:—Their Lordships are of opinion that, although this case does not come literally within the well-known rule with regard to the functions of an appellate court where there are concurrent findings of fact by subordinate courts, all the reasons for the rule apply with equal, or even greater, force to cases where professional domestic tribunals are established by statute for investigating and finding the facts in cases of alleged misconduct by members of their own profession. The Advocates Committee was such a tribunal, and it had had the great advantage of seeing and hearing the appellant giving evidence at length in a case where, the facts being undisputed, the ultimate decision turned on questions of stupidity, ignorance or deliberate intent.

With regard to the onus of proof, the Court of Appeal said:

> "We agree that in every allegation of professional misconduct involving an element of deceit or moral turpitude a high standard of proof is called for, and we cannot envisage any body of professional men sitting in judgment on a colleague who would be content to condemn on a mere balance of probabilities." This seems to their Lordships an adequate description of the duty of a tribunal such as the Advocates Committee, and there is no reason to think that either the committee or the Supreme Court applied any lower standard of proof.

(Bhandari *v.* Advocates Committee—(1956) 3 All E.R. 742).

Contempt of Court—costs.

Morgan *v.* Carmarthen Corporation—Mr. Justice Danckwerts's decision in this case, noted in the *Gazette* at page 81, has been reversed by the Court of Appeal (Lord Evershed, M.R., and Hodson and Rómer L.JJ.). It will be recalled that the gist of this decision was that, in a motion to commit for contempt of Court the full senior and junior counsel's fees of the person bringing the motion would be payable by the contemnor. The Master of the Rolls allowed the appeal with some regret. He thought that it would be contrary to the public interest if an individual was deterred from bringing a real case of contempt before the court by the fear that he would have to pay out of his own pocket some part of the costs as he was performing what in one respect at least was a public duty and that the Rules Committee should consider this matter. The claim that contempt cases should be dealt with in a class by themselves as regards taxation of costs was founded on an assumption as to the intention of the Court; but it was doubtful whether there should be attributed to the Court a desire to impose a penalty the extent of which could not be computed and would be unknown to the Court imposing it.

Lord Justice Hodson said it was unfortunate that parties should have to bring contempts to the

attention of the Court partly at their own expense. Mr. Justice Danckwerts had gone as far as he could to indemnify the successful party and punish the contemnor in the absence of inflicting a fine by awarding solicitor and client costs. But the order had to be dealt with on the basis of the Chancery Rules as considered and interpreted by the Court of Appeal in Giles *v.* Randall (1915) I.K.B. 290. ((1957) 2. W.L.R. 867).

LEGAL APPOINTMENTS.

Mr. Patrick F. O'Reilly, Solicitor, 8 South Great George's Street, Dublin, has been appointed to succeed Mr. H. B. O'Hanlon, who has retired, as Taxing Master in the High Court.

Mr. John Shee, Solicitor, Clonmel, Co. Tipperary has been appointed State Solicitor for Co. Tipperary —South Riding.

MOTOR INSURERS BUREAU

Copies of the agreement between the Minister for Local Government and the motor insurers Bureau may be obtained from the Government Publications Office. Price 7½d. post free. Under the agreement the Bureau representing the insurance companies undertakes to provide compensation to persons who are injured as the result of negligence by uninsured motorists.

COMPANIES CONSOLIDATION ACTS, 1908–1917.

Messrs. Aubenal Publishers. 14 Lr. Baggot Street, Dublin have re-printed the Companies Acts with side notes. The retail price is 16/– per copy. The publication consists of 144 pages and comprises the Companies Consolidation Act 1908 with six schedules thereto, The Company's Act 1913, the Companies (Foreign Interests) Act, 1917, The Company's (Particulars as to Directors) Act 1917. We understand that there has been a heavy demand for this publication and that further copies will be available at 16/– each by mid-April.

THE REGISTRY.

Register A

Young Solicitor required for provincial town, near city, good prospects. Please give full particulars of experience, education, examinations, to Box A167.

Register C.

William McKeown, late of 25 Penrose St., South Lotts Road, Dublin decd. Any person knowing of the whereabouts of a will of the above deceased, who died on 10th March 1957, or having any information in connection therewith, please communicate with Richard F. Gallagher, Solicitor, 14 Ely Place, Dublin.

REGISTRATION OF TITLE ACTS, 1891 AND 1942

Folio 907 NOTICE County Kerry
Registered Owner: Michael Hanlon (Junior)

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of April, 1957.

Joseph O'Byrne,
Registrar of Titles

Schedule.

Land Certificate of Michael Hanlon (Junior) to 24a. 1r. 26p. of the lands of Ashhill situate in the Barony of Truchanacmy and County of Kerry being the lands comprised in said Folio.

OBITUARY.

Mr. Charles M. Barry, Solicitor died in March 1957.

Mr. Barry was admitted in Hilary Sittings 1889 and practised at Cashel as senior partner in the firm of Messrs. Charles M. Barry & Son.

Mr. John Blood-Smyth, Solicitor died at his residence Lucerne, Castle Avenue, Clontarf, Dublin.

Mr. Blood-Smyth served his apprenticeship with the late Mr. William Smyth, 29 Lr. Gardiner Street, Dublin, was admitted in Hilary Sittings 1904 and practised at 29 Lr. Gardiner Street, Dublin as senior partner in the firm of Messrs. William Smyth & Son.

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MAY,
1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

APRIL 11TH: the President in the Chair. Also present: Henry St. J. Blake, John R. Halpin, James R. Quirke, Desmond J. Mayne, D. J. Collins, Ralph J. Walker, Cornelius J. Daly, Francis J. Lanigan, George G. Overend, Derrick M. Martin, Terence de Vere White, George A. Nolan, John J. Nash, Arthur Cox, Reginald J. Nolan, Joseph P. Tyrrell, John Maher, Peter E. O'Connell, C. E. Callan, W. J. Comerford, John J. Dundon, Seán Ó' hUadhaigh, Charles J. Downing, Thomas A. O'Reilly, John Carrigan, R. McD. Taylor.

The following was among the business transacted.

Outlay omitted in taxed bill of costs.

A MEMBER, who omitted certain outlay from a taxed bill, due to the recent statutory orders increasing Court fees of which he was unaware, enquired whether as a matter of professional conduct he was debarred from charging the amount to the client. The Council, while not expressing any view on the legal position, stated that there would be no professional objection to member's deducting the additional outlay from any monies in his hands as an amount paid for the use of the client and so informing him.

Payment to a solicitor. Power to give a receipt on behalf of client.

AN unsuccessful defendant against whom judgment was given in the High Court for damages and costs maintained that the plaintiff's solicitor has no power to give a receipt for the costs and that the cheque for the amount thereof should be made payable to the client. The ground for this view was that party and party costs are only an indemnity to the client against his solicitor and client liability. The Council referred to the following statement in Cordery on solicitors 4th edition (1935), page 117:

> A plaintiff's solicitor is authorised to receive payment or tender of debt or costs before or after judgment except where the plaintiff is an infant or of unsound mind.

Different considerations may apply where a case is settled before the institution of proceedings as there is then no solicitor on record. The Council

decided to send a case to senior counsel for his opinion.

MAY 9TH: : The President in the Chair. Also present: Dermot P. Shaw, Desmond J. Collins, Henry St. J. Blake, F. X. Burke, John R. Halpin, R. McD. Taylor, James R. Quirke, Louis Walsh, C. E. Callan, Arthur Cox, Derrick M. Martin, F. J. Lanigan, George A. Nolan, Joseph P. Tyrrell, Charles J. Downing, Ralph J. Walker, Terence de Vere White, Francis J. Gearty, John B. Jermyn, Peter E. O'Connell, John Maher, Reginald J. Nolan, George G. Overend, Cornelius J. Daly, John J. Sheil, Seán Ó' hUadhaigh, John J. Nash, Thomas A. O'Reilly.

The following was among the business transacted.

New Schedule II.

IT was decided that the Secretary should write to the Chief Justice's secretary asking his Lordship to convene a meeting of the Statutory Committee under the Solicitors' Remuneration Act 1881 to consider the proposals of the Society for the new Schedule II in substitution for the present item charges.

Affidavits as to Foreign Law.

THE Secretary stated that following correspondence with the Incorporated Law Society of Northern Ireland he had ascertained that the Probate Officer here will accept an affidavit as to the law in Northern Ireland made by a Northern Ireland solicitor not connected with the proceedings in question and that the Northern Ireland Probate Registry will likewise accept affidavits made by solicitors practising in the Republic.

Entries in Directories.

A SOLICITOR who is a member of a Chamber of Commerce asked whether it would be in accordance with professional practice to publish an entry in the trade directory of the Chamber of Commerce including his name, professional address and description and directorships held. On a report from the Committee the Council stated that any entry made by a solicitor in such a directory should conform with the following conditions:

(*a*) Member's, name, professional address and description should be published without any reference to directorships.

(*b*) Alternatively his private address and directorship, should be given without reference to his professional occupation.

Enforcement of Court Orders Acts. Scales of Costs.

THE Council were asked to make an application to the District Court Rules Committee for rules prescribing scales of costs under the above Acts. From enquiries made it was ascertained that the majority of Bar Associations would not favour such rules having regard to the fact that satisfactory although non-statutory scales have been adopted by various District Justices. On a report from a Committee it was decided to take no action.

COMMISSION ON INCOME TAXATION

THE Commission was set up by the Government on 18th February 1957 and its terms of reference are as follows:—

> To enquire generally into the present system of taxation of profits and income, its scope and structure, including the provisions for collection and the prevention of evasion; its effects on the national economy and the equity of its incidence; to recommend such amendments of the law as appear desirable and practicable; and if it is considered that the taxation of profits and income should be terminated or modified in any manner involving loss of revenue to recommend alternative means of raising equivalent revenue.

The Council intend to submit a memorandum of evidence. The views of members are wanted on the following matters:—

(1) Proposals to substitute an alternative system of taxation for the present income tax.

(2) Any respects in which the present method of assessment and collection of the present income tax has an unfair incidence on (*a*) particular classes of taxpayers or (*b*) solicitors.

(3) Suggestions for improving the present method of assessment and collection of income tax.

Suggestions should be sent to the Secretary.

ORDINARY GENERAL MEETING

A GENERAL Meeting of the Society was held in the Society's Library on Thursday 9th May, 1957. The President Mr. Niall S. Gaffney took the Chair. The notice convening the meeting, was, by permission of the meeting, taken as read.

The Minutes of the Ordinary General Meeting held on 22nd November, 1956, were read, confirmed and signed by the Chairman. The Chairman announced that he nominated the following members of the Society to act as Scrutineers of the Ballot for election of the Council to be held

on 14th November, 1957. John R. McC Blakeney, James R. Green, Thomas Jackson, Brendan P. McCormack, Roderick J. Tierney.

The President addressing the meeting said:

LADIES AND GENTLEMEN:

Since our last General Meeting, in the month of November, 1956, I have to record with regret the deaths of the following members: District Justice T.G. O'Sullivan, Edwin N. Edwards, Christopher T.N. Russell, County Registrar, Cork; P. G. Collins, Timothy O'Shea, a former District Justice; Charles M. Barry, John Blood-Smyth.

To their relatives and also to their friends I would like to express my sincere sympathy and that of the Council.

It is my privilege, as this year's President of our Society, to inform the general body of the members, at this half-yearly general meeting of the principal matters affecting the profession generally, and the Society in particular, that have occurred during the past six months.

I had hoped at this meeting to be in a position to congratulate two Members of our Council in the persons of Mr. Arthur Cox and Senator Walsh on their election to the Senate, but unfortunately the Election returns are not yet out, and I understand we shall not have the result for a day or two.

A member of Our Society in the person of Mr. P. F. O'Reilly has been recently honoured by being appointed to the vacant post of Taxing Master, occasioned by the retirement of Mr. O'Hanlon. To him I would offer our hearty congratulations; he is an eminent past President of our Society, and was a member of the Council for many years, until his retirement on his appointment. He also is a former member of the Senate (to which he was elected on our Nomination) where he likewise did excellent work on behalf of the public and the profession.

During the Summer we are to have the pleasure of entertaining a large body of the members of the American Bar Association. Approximately 200 of them hope to be in Dublin at the end of July; and on the evening of August 1st, the Benchers, the Bar Council, and our Council are entertaining them at the Four Courts. Detailed particulars of this function will in due course be sent to all members of our Society, and it is hoped that as many members as possible will attend.

A rather important Bill came before our Council for consideration during the past six months, it is the Landlord and Tenant (Reversionary Leases) Bill. This Bill was given very careful consideration by our Council, and certain decisions were arrived at in reference to it, and certain suggested amendments were made for submission to the Department of Justice. In connection with it our especial thanks are due to Mr. George G. Overend for a most comprehensive report he drew up in the matter.

You have no doubt seen references in the public Press to the fact that a new Trustee Investment Bill is contemplated. The primary object of trust legislation should be the protection of the interests of the minors and other beneficiaries whose property is tied up in settlements. It is hoped therefore that any such legislation will not affect property of persons who have not full disposing power in any way which would not be permissible in the case of persons who are fully competent, except in so far as it may be necessary in the genuine interests of the beneficiaries themselves.

As you all know it has been the experience of trustees that the market value of Government Stocks has fallen heavily in the last few years.

In my view legislation dealing with authorised trustees investments should satisfy four conditions: (1) Express powers in wills or settlements giving trustees a wide or unlimited discretion in selecting investments should be permitted. (2) The statutory list of authorised investments should be wide enough to ensure, as far as it is possible, that trustees by prudent management will be able to safeguard the capital value of the trust property against depreciation. (3) For this purpose the statutory list of authorised investments should include deposit accounts in banks. (4) In dealing with property of wards and others under its control, the Court should have unfettered power to direct that monies shall be invested in such manner as it may think advisable in the interests of beneficiaries.

Once again, I regret I must refer to the matter of delays in Government offices. As you are all aware, this matter has come periodically before the general meetings of our Society in recent years, and it is constantly before the Council in consequence of complaints from members. At the November, 1955, general meeting a special resolution was unanimously adopted complaining that there was great and unnecessary delay in public offices and departments and requesting the Council to take steps to rectify matters.

In consequence of that resolution the Council took active steps as were reported to you by my predecessor, Mr. Dermot Shaw, in his address to you just twelve months ago. You will no doubt recollect that the Council decided at that time to tackle the problem at its source, or at all events

at its principal source, namely, the Valuation Office, and as a result of that decision an interview was sought and obtained with the Commissioner of Valuation, who received the deputation most courteously and sympathetically, and made certain promises to the deputation and stated that as a result of a reorganisation plan then envisaged it was hoped that matters would improve.

I regret to have to report that while undoubtedly there has been some improvement in the position still speaking on behalf of country practitioners I feel obliged to say that the new arrangements are not satisfactory.

The trouble seems to me to be mainly due to the fact that the Valuation Office deal with property situated in the country by staff valuers from Dublin visiting the country twice a year and inspecting the properties concerned; the delay which is bound to occur as a result of this system can be obviated and in my opinion entirely removed by appointing local resident valuers in each area, one each shall we say resident in Cork, Limerick, Waterford, Galway, Mullingar, and Sligo. If this practice were adopted I am confident it would expedite the valuations, and what in my opinion is equally important would decentralize this system and considerably simplify the work of the Valuation Office and, in addition, the work of solicitors who are usually blamed for delays in Government offices.

As regards the Probate Office, and the Land Registry, there has undoubtedly been some improvement in these offices, but there are still delays particularly in the former although there appears to be a readiness to expedite cases of particular importance or urgency. I would like to refer at this stage to a tendency which appears to be creeping in of closing local Probate Offices and local Land Registry Offices; in my opinion if this tendency were to gather momentum or to increase in any way it would be disastrous to the profession in general, and to the country practitioners in particular.

Many of these delays, and the closing of some of these offices is explained, or attempted to be explained, by what is called shortage of staff. I find it difficult to accept this explanation, in view of the enormous number of unemployed in the country at the present time, the large emigration of people looking for work whom we are told cannot find work at home.

It would be a considerable inconvenience to the country practitioner if he had not available locally the records of the Land Registry of his county and the records of the local Probate Office; the closing of any such offices would, in my opinion, inconvenience and embarrass not alone the profession but also the public without any real advantage to anybody.

We are all aware of the outrageous increase in Court fees imposed by the Government some six months ago. I understand that these increases or at all events some of them may be the subject of review by the authorities concerned, and I trust that as a result of that review reason will prevail. While undoubtedly some of the fees could have been justifiably increased, the increases made in my view in most cases were exorbitant and grossly excessive. Apart from the expense to those on whom the increases ultimately fall, it means an enormous increase in the outlay incurred by a solicitor in the running of his office, for which he may not be recouped for months and indeed in some cases for years.

I well remember some time ago when representations were made to the appropriate authority for a small increase in the District Court scale of professional charges. When that application was made the appropriate authorities argued that the District Court was regarded as the poor man's Court, and on no account in the circumstances could the professional charges be increased. To take two items alone, from the increase in the Court fees, a stamp on an Ordinary District Court Civil Bill, which used to amount to 1/6 is now 5/-, and in the case of the Circuit Court the stamp on a Circuit Court civil bill, which used to be 2/6 is now £1 0s. 0d., an increase in the latter case of 700 per cent. There is no necessity for me to go into further details in this particular matter, except to express the hope that reason and common sense will prevail and that on review these fees will be considerably reduced.

As a country solicitor I have a particular interest in the local bar associations. In my opinion it is essential for every solicitor to be a member of his local bar association. These associations throughout the country relieve the Council of the Society of a considerable amount of work in dealing with professional problems that arise between the members, and they are in many cases more competent to deal with certain classes of difficulties and differences than are the Council of the Law Society.

During my six months tenure of office, I have attended several of their functions, and I am glad to be able to report that they seem to be performing their duties most efficiently and in most cases have 100% membership. Unfortunately there are two areas in the country where the local bar associations for one reason or another are no longer

functioning. I hope that this state of affairs will soon change and that the local solicitors concerned will take steps as soon as possible to reconstitute the Associations, or if that is not feasible or possible if their numbers are too small I hope they will join some Association in an adjoining district or county.

In the February Number of the GAZETTE of our Society, you will no doubt have read a statement directed to be published by the Council for the guidance of the profession dealing with the position of a solicitor who acts for both vendor and purchaser in a sale of property. As a general principle, the Council laid it down that in their opinion it is undesirable that any solicitor should act for both vendor and purchaser, and that to act for both parties in any case where there is a conflict of interest is clearly improper.

I personally feel very strongly about this matter, but in spite of that I can see the contrary point of view. In my opinion it is wrong for any solicitor to act for both vendor and purchaser.

In a sale there is nearly always a conflict of interest between vendor and purchaser, and acting on the principle that "No man can serve two masters" and also having regard to my experience as a solicitor during the past 32 years, I have no hesitation in expressing my personal view in this matter.

I realise that following this precept a solicitor may lose a client on occasions, but I have every confidence in stating that for every client he loses he will gain one.

As you probably know, there are several bar associations throughout the country whose rules prohibit a solicitor from acting for vendor and purchaser in a sale, except in very small transactions, where the consideration is in the region of £200 or less, and there is always now the risk since the passing of the Solicitors Act, 1954, that a solicitor in a transaction of this kind acting for more than one party might find himself contravening the Professional Practice Regulations.

In a recent judgment given in England where an action was taken for negligence against a solicitor who had acted for both vendor and purchaser, the judge who heard the case in the course of his judgment said "It seems to me practically impossible for a solicitor to do his duty to each client properly when he tries to act for both vendor and purchaser," and in an earlier case a judge when giving judgment stated, *inter alia*, referring to the action of a solicitor, "It will be his fault for mixing himself up with a transaction in which he has two entirely inconsistent interests, and solicitors who try to act for both vendor and purchaser must appreciate that they run a very serious risk of liability to one or the other owing to the duties and obligations which such a curious relation puts upon them."

Recently a new Society was formed in Dublin known as The Medico-Legal Society. This Society I understand has been formed for the purpose of promoting medico-legal knowledge which is coming more and more into our daily lives and into the public eye. The annual subscription is £1 1s. 0d. and full particulars may be obtained from the Hon. Secretary, Mr. M. Leech, Solicitor, 4 Chancery Place, Dublin. In these times the professions should as much as possible co-operate with each other and this Society gives us an opportunity to advance that co-operation. In my opinion this Society is worthy of the support of our members, and I hope that as many as can possibly do so will join. Incidentally membership is also open to solicitor's apprentices.

Like many members of our profession, I am a member of the Solicitors' Benevolent Association, and have been a member for the last 31 years. Recently by virtue of my office as President of your Society, I had the honour and privilege of being asked to attend the annual general meeting of the Association for the purpose of seconding the adoption of the annual report; in consequence of being asked to perform this duty I read the annual report of the Association more carefully than I have ever done previously, and I was rather shocked to observe that there were still a considerable number of the profession, both North and South, who were not members of the Association. There were in fact over 1,000 solicitors who were not members. That figure in effect means that the majority of the profession in the whole of Ireland do not subscribe to the funds of the Association. I think you will agree with me that that is not as it should be. The Association has to depend on the support of the members, and while the directors of the Association do their best to spread the resources of the Association, it is felt that in view of the cost of living to-day the amounts they dispense are inadequate.

The amounts of the respective annuities and grants made by the Association must of course be governed by the annual income, and if this was increased such annuities and grants would be much larger. I strongly appeal to all members of the profession to join, so that the funds of the Association will be increased. The annual sub-

scription is only £1 1s. od. and any solicitor may become a life member by paying £10 10s. od.

I am glad to be able to report that as a result of the efforts of your Council a considerable improvement has been obtained in the salaries of wholetime solicitors to local authorities so as to correspond with the salaries paid to county medical officers of health and county engineers. While the solicitors concerned are few in number, the Council felt that their claims were of importance, both as regards the standing of the profession as well as in the interests of the solicitors concerned.

Your Council decided some months ago to make representations to the Department of Justice in favour of legislation providing for reciprocity between Ireland and Great Britain as regards money judgments and these representations have been duly made.

A draft memorandum has been settled by a Sub-Committee of the Council, and subsequently approved by the Council, for submission to the Workmen's Compensation Commission, which was set up some time ago to examine the existing Workmen's Compensation code, and to report whether any change was necessary or desirable, in particular in regard to the question of replacing the present system by a scheme of national insurance. This memorandum generally expressed the view that the Workmen's Compensation code as operated through the Courts for approximately fifty years should not be changed, and should not be transferred to any administrative machine or replaced by any scheme of national insurance.

Before I conclude, I must put on record the great help and assistance that has been given to me during the past six months by my two Vice-Presidents, Mr. Collins and Mr. Downing, who at all times have been only too glad, whenever required, to help and assist me in the discharge of my duties. I would also like to thank the members of the Council and the various sub-committees of the Council who have worked so well and so conscientiously in the interests of the profession.

Finally, of course there is our ever-present Secretary, Eric Plunkett, always available and so efficient, without whose advice and assistance I would at times have been completely at sea. He has gone out of his way on many occasions to help and assist me in the discharge of my duties, and it is a tremendous consolation to me to know that if I come up against any problem which seems to me to be insoluble I have only to discuss the matter with him and everything is immediately solved.

I must also thank his staff who are so helpful and obliging, and who were always available and anxious to assist me and the members of the Council in the performance of our duties.

New Schedule II.

The meeting then went into private business and considered the proposed new Schedule II and the Secretary's letter circulated with the agenda. The Secretary stated that written or verbal communications had been received from the following Bar Associations approving in principle of the proposals: Drogheda, Midland Bar Association, Wexford, Dublin, Kerry, Waterford, Mayo, Tipperary and Offaly, Kilkenny and Limerick. No Association had expressed opposition. Mr. C. J. Gore-Grimes proposed and Mr. Desmond Moran seconded the following motion:

> That this meeting approves in principle the letter of April, 1957, concerning the new Schedule II charges and leaves it to the Council to work out the details.

The following amendment was proposed by Mr. T. A. Lynch, seconded by Mr. G. G. Overend:

> That the right of solicitors to elect to charge under the existing system of itemised charges instead of accepting a scale fee be preserved.

Messrs. T. A. Lynch, P. C. Moore, F. J. Gearty and Matthew Purcell spoke in favour of the amendment. Messrs. D. P. Shaw and R. A. French spoke against the amendment. Mr. Gore-Grimes then asked permission to withdraw the substantive motion which was granted. The Chairman stated that the Council would come to a decision in the matter and would give careful consideration to all the views expressed at the meeting and in the replies to the Society's circular.

Costs of Acquisitions under the Labourers' Acts.

The meeting considered the letter from the Secretary to each member circulated with the agenda. Messrs. Lynch, Gearty and Purcell expressed the view that the President should dissent from the Minister's proposal to make a new Order abolishing the special costs code under the Labourers' Acts. The President stated that in coming to a decision he would bear in mind the views expressed by the speakers as well as replies to the Society's circulars referred to in the letter circulated with the agenda.

On the motion of Mr. P. C. Moore, Mr. Collins, Vice-President, took the Chair. Mr. Moore then proposed a vote of thanks to the President which was

carried with acclamation. The meeting then terminated.

EXAMINATION RESULTS

At the Preliminary Examination for intending apprentices to solicitors held on April 15th and 16th. The following candidate passed the examination:

Thomas Dillon A. Leetch.

Two candidates attended.

EXAMINATION DATES

Examination	*Date.*	*Last day for notice.*
Intermediate	June 11th - 13th	May 21st
Book-keeping	June 13th	May 21st
	September 3rd	August 12th
First & Second	June 28th, 29th	June 7th
Irish	Sept. 6 th & 7th	Aug. 11th
First Law	Sept. 2nd & 3rd	Aug. 12th
Final	Sept. 2nd to 4th	Aug. 12th
Preliminary	Sept. 3rd & 4th	Aug. 13th

RELATIONS BETWEEN SOLICITORS AND AUCTIONEERS

Following representations received from a provincial bar association the Council approached the Irish Auctioneers and Estate Agents Association with a view to joint action by the Society and the Association to discourage certain objectionable practices. The matter falls under two heads (1) Standing arrangements between solicitors and auctioneers whereby each party habitually employs the other for clients' business. It is pointed out that such arrangements are objectionable. A solicitor may be asked by a client to advise as to the standing or competence of a particular auctioneer and it would be within the normal scope of the solicitor's duty to tender such advice if asked, but it is not in accordance with proper professional practice and the duty which a solicitor owes to a client to influence clients in diverting business towards a particular auctioneer. Where there is a reciprocal understanding or arrangement with the auctioneer such conduct on the part of a solicitor may very well fall within the prohibition against unfair attraction of business contained in the Solicitors' Act 1954 (Professional Practice Conduct and Discipline) Regulations, 1955. The Irish Auctioneers' and Estate Agents' Association take the view that it forms no part of an auctioneer's duty to advise vendors or purchasers of property as to the selection of a particular solicitor and that any arrangement or understanding of the kind mentioned is greatly to be deplored. (2) Both the Society and the Association point out that it is unprofessional and may be illegal for either a solicitor or an auctioneer to split costs or commission in consideration of the introduction of business. The receipt by an agent of any gift or consideration as an inducement or reward for doing or forbearing to do any act in relation to his principal's affairs, or for showing or forbearing to show favour to any person in relation to such business, is a secret profit. Disclosure to the client is a defence but in the absence of disclosure and the client's consent the act is illegal and any commission so received belongs to the client.

DUBLIN SOLICITORS BAR ASSOCIATION

A meeting of the Council of the Association was held on Wednesday, the 1st of May, 1957.

The membership of the Association at that date is 243.

Mr. C. G. Vanston, a member of the Council of the Association, has been appointed to the District Court Rules Committee. Mr. P. F. O'Reilly, a former member of the Association, has been appointed a Taxing Master of the High Court.

Representations have been made that normally the costs of both a successful defence and a successful counterclaim should be allowed in the Circuit Court, and the result is awaited.

The next meeting of the Council of the Association was fixed for the 5th of June, 1957.

DECISIONS OF PROFESSIONAL INTEREST

Solicitor's authority to receive moneys and give discharge therefor.

The plaintiff's motor car had been damaged in a collision with the defendant's tractor, and the defendant admitted liability. The plaintiff consulted K., who was the solicitor for his insurance company, as such solicitor. K. was not his usual solicitor. K. conducted negotiations by correspondence with the defendant's insurance company which resulted in a compromise being reached. No proceedings had been instituted and K. was not on record. The compromise provided that the defendant should pay the sum of £185 15s. 0d., comprising £170 0s. 5d. for damages to the car, £10 10s. 0d. for K.'s fees, and £5 5s. 0d. for medical expenses. On the 10th March, 1952, the defendant's insurance company issued two cheques payable to K., for £180 10s. 5d. and £5 5s. 0d. respectively.

The cheques were paid on the 18th March and the 20th March, respectively. Shortly afterwards K. became ill and he died on the 15th April, 1952, without having paid or accounted for the money. His estate was insolvent.

The plaintiff sued the defendant in the Circuit Court for the amount agreed in the compromise and the defendant in his defence pleaded that payment had been made. The action was dismissed in the Circuit Court, and on an appeal by the plaintiff to the High Court it was held by Maguire J. that the plaintiff had adopted K. as his solicitor and, specifically, as his agent to arrange the compromise and to receive the moneys therefrom.

2, In contentious business a solicitor not entered on the record cannot bind his client by accepting a cheque or other negotiable instrument.

Per Martin Maguire J. :—" The law relating to solicitors as to authority to bind their clients by payments direct to the solicitors falls under two heads, namely 1, contentious and 2, non-contentious business. Sect. 2 of the Solicitors Remuneration Act, 1881, defines non-contentious business as business connected with sales, purchases, leases, mortgages, settlements, and other matters of conveyancing, and in respect of other business not being business in any action or transacted in any Court, or in the chambers of any Judge or Master, and not being otherwise contentious business.

This is not very satisfactory, nor is the definition in Stroud's Judicial Dictionary satisfactory. I do not propose to attempt a definition. It is, however, well established that in contentious business the solicitor on the record is authorised and has power to bind his clients. I have not been referred to any case in which it was held that a solicitor not on the record had such authority. In the case of non-contentious business there is no such authority and payment must be made direct to the client. A solicitor, unless specifically authorised to do so, is not justified in accepting a payment by cheque or other negotiable instrument, since payment, to be within the solicitor's general or statutory authority, must be made in cash. He is liable to make good the loss personally if the cheque is dishonoured. In Blumberg *v.* Life Interests and Reversionary Securities Corporation, Mr. Justice Kekewich says :—" A solicitor who has authority to accept a tender accepts anything short of a tender in cash at his own risk. No doubt it is usual for solicitors to trust each other and to accept each others' cheques, and the practice is desirable because it promotes good feeling and facilitates business. But I think I would be going much too far to say that a solicitor has authority to accept a tender according to the law of the land."'—(1897) 1. Ch. 193.

Note.—Under Section 56 of the Conveyancing Act, 1881, a solicitor has always had implied authority to receive the consideration for a deed upon its production duly executed and provided it contained a receipt for such consideration by the person entitled to give a receipt therefor.

Kearney *v.* Cullen ((1955) I.R., 18).

Solicitor held negligent if he fails to point out that subsequent marriage revokes a will and damages of £1,250 awarded to client for breach of contract.

In 1949 the plaintiff, who was then a widow, and Mr. H. each wished to make a will conferring benefits on the other, and on 29th Nov., 1949, they visited the defendant, a solicitor, at his office and instructed him to prepare drafts of wills to be executed by them. The instructions were given separately, although at the same interview. During the interview the question of marriage between Mr. H. and the plaintiff was raised in a manner which should have indicated to the defendant that it was a contingency with an aspect of reality, but the defendant did not warn either the plaintiff or Mr. H. that marriage would involve revocation of the wills for which they had given instructions, nor did he mention the possibility of drafting the wills in a form which would leave them unaffected by the marriage. Wills were drafted by the defendant in accordance with the instructions received by him and were executed by the plaintiff and Mr. H. respectively on 2nd December, 1949. In September, 1950, the plaintiff and Mr. H. were married. The defendant, who was acting for them at the time in connection with the purchase of a house, was informed of the marriage, but did not notify them that their respective wills of December, 1949 were thereby revoked. In June, 1952, the plaintiff consulted the defendant about changing her will. He destroyed the will of December, 1949, in her presence, without informing her that it had been revoked by her marriage, and drafted a new will, which she executed on 18th June, 1952. In September, 1952, Mr. H. died intestate. The value of his estate was, approximately, £3,850, and the approximate value of the property to which the plaintiff was entitled from his estate was £2,300, the difference between these values being £1,550. In an action against the defendant, the plaintiff claimed damages for loss and injury suffered by her by reason of the defendant's negligence and

failure to use reasonable skill and diligence as her solicitor.

HELD by Ashworth J. that:—(i) the defendant had been negligent in failing to point out to the plaintiff in 1949, when the wills were made and the question of her marriage with Mr. H. was raised, that the marriage would revoke the wills. Griffiths *v.* Evans ((1953) 2 All E.R. 1364). distinguished.

(ii) the damage was not too remote because, the plaintiff's claim was for breach of contract (Groom *v.* Crocker (1938) 2 All E.R. 394, applied), and (*a*) if the damage to the plaintiff were viewed as her lack of knowledge of her need to persuade Mr. H. to make a new will, that was a natural consequence of the defendant's negligence within the first rule in Hadley *v.* Baxendale ((1854), 9 Exch. 341) or (*b*) if the remoteness of the damage were tested by what might reasonably be supposed to have been in the contemplation of the defendant (in accordance with the rule in Hadley *v.* Baxendale supra) it was not unreasonable to impute to him realisation that he was depriving the plaintiff of a chance of recovering for herself the benefits that she would, but for her marriage, have gained from Mr. H.'s will of December, 1949.

(iii) although the existence of contingencies that had to be satisfied before the plaintiff would have realised the benefits to be conferred by Mr. H.'s will did not render the damage too remote, since there was reasonable prospect of them being satisfied (dictum of Fletcher Moulton, L.J., in Chaplin *v.* Hicks (1911) 2 K.B. at P. 793, applied), yet their existence reduced the amount at which the damages should be assessed, and in view of this, the damages awarded would be £1,250.

(iv) the defendant, being separately instructed by the plaintiff, was under no duty to inform her either in September, 1950 (when he learned of her marriage), or in 1952 (when he drew a new will for her), that her marriage had revoked Mr. H.'s will.

Note:—The result of this case and of Griffiths *v.* Evans may perhaps be summed up as follows:—

(i) The duty of reasonable care owed by a solicitor to his client required the solicitor not merely to obey his instructions, but to exercise reasonable foresight, at the time when he receives those instructions, as to to likely effect of any change of circumstances which ought then to be within his contemplation, and to warn his client accordingly.

(ii) If something occurs after the particular transaction has been completed, which he was not bound to foresee when originally consulted, he is not generally bound to reopen the matter with his client.

(iii) He is not bound to refer to matters which do not directly affect the subject of the retainer.

(Hall *v.* Meyrick—(1957) 1 All E.R. 208).

Inquiry into previous arrangement by successful respondent that he should not be liable for his counsel's fees refused by Privy Council.

A petition of a most unusual type in connection with the costs of an appeal came before the Judicial Committee of the Privy Council on 22nd January last, when counsel for the petitioner, an appellant who had been unsuccessful on the merits in a recent appeal to the Board and had been ordered to pay two-thirds of the respondent's costs of the appeal, stated that the petitioner believed that an arrangement had been entered into before the hearing of the appeal between the respondent company, its solicitors and a third party which was a stranger to the proceedings but was concerned to maintain the judgment appealed from, whereby the respondent should not be liable for fees of counsel. What the petitioner wanted to know, said counsel, was whether any such agreement had been entered into, for if it had, there were authorities to show that there was no liability on the party ordered to pay costs for that particular item of costs. Those authorities—Grundy *v.* Sainsbury (1910) 1 K.B. 645 and Adams *v.* London Improved Motor, etc. (1921) 1 K.B. 495—supported the following propositions: (1) Party and party costs were awarded in the nature of an indemnity to the successful party. (2) If, for any reason, the successful party was under no liability to pay his solicitor any costs, he could not recover any costs from his opponent. (3) That principle applied equally to a particular item of costs as it did to the whole costs. (4) In particular, if the solicitor agreed not to charge the client with counsel's fees or to look only to some third party for payment of those fees, and the opponent in the litigation was ordered to pay costs generally, he could not be charged with that item.

He was not suggesting, said counsel, that there was anything improper in the fact, if it were the

fact, that some outside interest had financed the appeal; there was no suggestion that it was a maintained action. While, however, he was not in a position to say that there had been the agreement alleged, he submitted that there was substantial evidence that someone other than the respondent did in fact pay at least counsel's fees, and though there had been a specific denial of any agreement, that appeared in only one sentence in an affidavit, and he wished to be given an opportunity of examining material witnesses. The matter, concluded counsel, was of some importance because the items in question ran into some thousands of pounds, and he asked the Board to exercise its very wide powers under s. 8 of the Judicial Committee Act 1833 and to refer the matter back for investigation to the registrar of the court from which the appeal came. If the petitioner was unable to establish any agreement, added counsel, and he acknowledged that the burden on the petitioner was very heavy, the respondent had the safeguard of costs. In the result the Judicial Committee, without calling on counsel for the respondent, said that the motion must be refused, and, in accordance with their almost invariable practice in the case of petitions, they gave no reasons for their decision.

(Reprinted by courtesy of *The Solicitor's Journal*, 2nd March, 1957, page 198).

Solicitor entitled to three-fourths of scale fee in case of abortive auction if he has substantially performed the work.

The applicant acted as solicitor for the respondent in connection with an auction of the respondent's garage premises, and also in connection with negotiations conducted before and after the auction for the sale of the premises by private treaty. The reserve price was not reached at the auction and the property was withdrawn. After further efforts to sell, the respondent changed his solicitor and the new solicitor acted for the respondent when a sale of the property was eventually effected by private treaty. The applicant delivered three bills of costs to the respondent, the first and third of which dealt with, among other things, the costs of attempts to sell the property before and after the abortive auction. The second bill charged three-fourths of the scale fee on the reserve price at the auction, in respect of the costs of the abortive auction. This fee was disallowed *in toto* by the Taxing Master on taxation. The applicant appealed by way of Notice of Motion to the High Court against this disallowance.

HELD—That the appeal to the High Court from the Taxing Master was properly brought by way of Motion on Notice and that it was not necessary to proceed by way of Originating Summons.

HELD further—That the transaction in question came under Schedule 1, Part I, Rule 2 (*a*) of the Solicitors' Remuneration General Order, 1884, under the Solicitors' Remuneration Act, 1881, and that the applicant was entitled to three-fourths of the scale fee payable to vendor's solicitor under the said Schedule.

Dixon J., delivering judgment, said that he held that the appeal from taxation by the Taxing Master to the High Court, which was provided for by Order lxv, Rule 66, of the 1905 Rules of the High Court and Supreme Court, could be properly brought by way of Motion on Notice and need not be brought by was of Originating Summons. The present appeal dealt with a very net point. The only question was whether the particular bill came within the provisions of Schedule 1, Part 1, Rule 2 (*a*) of the General Order of 1884, made in pursuance of The Solicitors' Remuneration Act, 1881. The Taxing Master seemed from his report to have taken the view that it did not, and could not, by reason of the fact that the solicitor had been employed in connection with attempts to sell otherwise than by auction, both before and after the unsuccessful auction which was the subject-matter of this bill, and had charged on an itemised basis in respect of this work. That view involved reading a qualification or limitation into paragraph (*a*) of the Rule, which was not there in express terms, that is to say, that paragraph (*a*) only applied to an abortive auction where no other work by way of attempted sale was carried out by the solicitor. His Lordship said that he did not see how or why such a qualification should be implied. If a solicitor employed in connection with an abortive auction was also asked to carry out other work for the client, he might be in a very disadvantageous position regarding remuneration if that qualification existed. In addition, practical difficulties might arise if there were a considerable lapse of time between the auction and the other work done by the solicitor before or after the auction.

His Lordship said he agreed with the view expressed in Gill on Costs, 1932 Edn., p. 198, that an abortive auction was to be regarded as a "complete transaction" within the meaning of the General Order of 1884, for the purposes of taxation. It was immaterial and irrelevant whether

or not other work had been done by the solicitor before or after the auction in connection with an attempted sale of the property.

As a mere matter of construction, apart from the practical interpretation of the Rule, the same result was reached. Paragraph (*c*) provided for the case where property was bought in and afterwards offered by auction by the same solicitor, i.e., a series of abortive auctions. In such a case, the solicitors only received the scale fee for the first attempted sale and for each subsequent sale was to charge "according to the present system as altered by Schedule II hereto," that is to say, on an itemised basis. If that were the position in the case of a series of abortive auctions, why should the position be different and more disadvantageous to the solicitor, where instead of a series only one abortive auction was held? The rule itself suggested that that position was not contemplated. What was contemplated was, that where property was offered by auction and bought in, the solicitor could charge three-fourths of the scale fee under paragraph (*a*) irrespective of whether the auction was preceded or followed by other attempts to sell, unless the case came within the provisions of another paragraph by reason of a subsequent successful sale by the same solicitor by auction or private treaty.

(Morris *v.* Allen—91 I.L.T.R. 52).

LEGAL APPOINTMENTS.

Mr. Seán O'hUadhaigh, Solicitor, 51 Dawson Street, Dublin has been appointed as solicitor for the Attorney General in charity matters.

LAND COMMISSION COURT

The Judicial Commissioner has issued the following direction:—

"The Allocation Schedule shall be clearly and accurately typewitten or legibly written in roundhand on writing large post paper."

The above direction is in lieu of the first sentence in paragraph 10 of the directions issued by the Judicial Commissioner dated the 5th February, 1924.

Dated 16th day of April, 1957.

M. Gavagan,
Chief Examiner.

MAYO SOLICITORS. BAR ASSOCIATION

At the Annual General Meeting of the Association, the following Officers and Committee were elected for the year 1957-58:—

President, Patrick J. Mulligan;
Vice-President, Edmund A. Corr;
Hon. Treasurer, Bridget M. Hynes;
Hon. Secretary, William Dillon-Leetch.
Committee: Patrick J. Brennan, Laurence Gill, Thomas D. Kelly, Michael Moran and Patrick U. Murphy.

OBITUARY

Mr. William Thornhill, Solicitor, died on the 20th February, 1957.

Mr. Thornhill served his apprenticeship with the late Mr. Walter Thornhill, 46 South Mall, Cork, was admitted in Hilary Sittings, 1896, and practised at 46 South Mall, Cork, under the style of Walter Thornhill & Son.

Mr. Hugh C. F. O'Doherty, Solicitor, died at his residence 18 Hyde Park, Dalkey, Co. Dublin, on the 29th April, 1957.

Mr. O'Doherty served his apprenticeship with the late Mr. Hugh C. O'Doherty, Londonderry, was admitted in Hilary Sittings, 1915, and practised at Derry and Buncrana under the style of Hugh C. O'Doherty & Son.

Mr. Charles M. Russell, Solicitor, died at his residence "Rath," Dundalk, Co. Louth, on the 6th May, 1957.

Mr. Russell served his apprenticeship with the late Mr. William Russell, Downpatrick, was admitted in Hilary Sittings, 1902, and practised at Dundalk under the style of MacMahon Russell & Co.

Mr. T. Osborne Davis, Solicitor, died at his residence Ormiston, Putland Road, Bray, Co. Wicklow, on the 13th May, 1957.

Mr. Davis served his apprenticeship with the late Mr. Robert N. Potterton, 42 Fleet Street, Dublin, was admitted in Hilary Sittings, 1920 and practised at Bray, Co. Wicklow.

Mr. Henry St. J. Blake, Solicitor, died at his residence "Belmount," Galway, on the 15th May, 1957.

Mr. Blake served his apprenticeship with the late Mr. James W. Blake, Galway, was admitted in Michaelmas Sittings, 1923, and practised at Galway. He was member of the Council of this Society from 1933 to the date of his death. He was Vice-President for the year 1937–1938 and President of the Society for the year 1946–1947.

THE REGISTRY

Register B.

LADY SOLICITOR, University Graduate, seeks position. City preferred. Box B213.

Register C.

WANTED, Nelson's "Probate Practice in Northern Ireland and Irish Free State" state edition and price expected. Box No. C.155.

PETER O'CALLAGHAN, late of Carrickastuck, Hackballscross, Dundalk, County Louth, Deceased. Any person knowing the whereabouts of a Will of the above deceased who died on 13th May, 1957, or having any information in connection therewith, please communicate with Daniel O'Connell & Son, Solicitors, Dundalk.

REGISTRATION OF TITLE ACTS, 1891 AND 1942 ISSUE OF DUPLICATE LAND CERTIFICATE

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Cerificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 7th day of June, 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
DUBLIN.

SCHEDULE.

1. Registered Owner, Michael Cullen. Folio Number, 377, County Galway. Lands of Cooleeny West in the Barony of Longford, containing 16a. 3r. 37p.

2. Registered Owner, Patrick Hurley. Folio Number, 2872, County Cork. Lands of Cloonmore in the Barony of Orrery and Kilmore containing 111a. 3r. 32p.

3. Registered Owners, Michael Donohoe and Margaret Donohoe. Folio Number, 4452, County Galway. Lands of Coolwoneen containing 10a. 3r. 24p., and lands of Cooloo containing 32a. 3r. 32p. both situate in the Barony of Tiaquin.

LABOURERS' ACTS. TAXATION OF COSTS

THE Minister for Local Government has made an order appointing Mrs. Moya Quinlan, Solicitor, 15 Parnell Square, Dublin, as the officer to tax costs under the above acts to 31st March, 1957.

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JUNE,
1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

IMPORTANT—TURN TO PAGE 21

MEETINGS OF THE COUNCIL

MAY 30TH: The President in the Chair. Also present John R. Halpin, D. J. Mayne, C. E. Callan, Joseph P. Tyrrell, Ralph J. Walker, Patrick R. Boyd, Peter D. O'Connell, Francis J. Lanigan, John Carrigan, Desmond J. Collins, Charles J. Downing, W. J. Comerford, John Maher, John J. Sheil, Dermot P. Shaw, George G. Overend, F. X. Burke, Thomas A. O'Reilly, Terence de Vere White, Arthur Cox, James R. Quirke, George A. Nolan.

The following was among the business transacted.

Costs of debt collection work.

A COMMITTEE to which this matter had been referred reported that having consulted a number of solicitors to carry on debt collection work they had come to the conclusion that it would be impossible to frame a satisfactory scale of costs for non-contentious business. It was recommended that no action be taken other than publishing in the *Gazette* a statement of the ruling recently given (*Gazette* February, 1957 page 68) that a solicitor should not accept from a client costs lower than the statutory party and party costs for contentious debt collection work. The report was adopted.

Circuit Court. Travelling expenses.

THE Committee considered a report from a Committee on a suggestion by a Bar Association that the Society should approach the Circuit Court Rules Committee requesting them to make a new rule providing for the allowance of travelling expenses as between party and party in addition to the statutory costs. The Committee stated that they were informed that in some circuits the County Registrar will allow travelling expenses as between party and party in cases in which the costs are taxed on the scale in the High Court less one fifth, by analogy with the practice under the High Court Rules 1926 appendix II item 194 but that this practice is not followed everywhere. The Committee stated that in their opinion the matter was suitable for representations by Bar Associations if advised to the County Registrar or if necessary

the Circuit Judge but that the Society should take no action. The report was adopted.

Search or correspondence fee.

A SOLICITOR acting for the widow and personal representative of a deceased testator wrote to another solicitor on her instructions asking him to hand over any deeds and documents in the latter's possession belonging to the deceased. The only document in the last mentioned solicitor's possession was an original grant of probate of the Will of deceased's father. The Council were asked for their opinion as to whether (*a*) the document is a valuable document within the meaning of Opinion 90 and (*b*) whether the solicitor holding the document is entitled to a search or correspondence fee on the ground that the requisitioning solicitor had not stated his client's title thereto. The Council, on a report from a Committee stated that (*a*) the document is a valuable document within the meaning of Opinion 90 (*b*) that the solicitor holding it is not entitled to charge a search or correspondence fee.

Family arrangement for sale and purchase. Costs.

THE widow and personal representative of a deceased intestate registered owner of land put a holding up for sale and bought it in through an agent who purchased in trust for £3,100. The widow was unable to find the necessary money to finance the purchase re-sold part of the holding for £350 and retained the balance.

The assurance to the purchaser was by a release from the next of kin setting out the title, the consideration being payments to each of them of £500 being the amount due on an account stated and settled. The solicitor acting for the purchaser enquired whether he should charge the commission scale fee on £3,100 the amount mentioned in the conditions of sale. On a report from a Committee the Council stated that the costs should be charged by items.

Settlement without prejudice. Subsequent insolvency of party.

MEMBER acted for a limited company which was a defendant in proceedings for a liquidated sum but was wrongly named in the civil bill. An offer of settlement made without prejudice was subsequently accepted by letter from the plaintiff's solicitor also marked without prejudice. Before acceptance of the offer member on the directors' instructions summoned a meeting of creditors and brought a petition for voluntary liquidation of the Company. The defendant's solicitor had previously received the sum of £35 from one of the directors for the purpose of the settlement and he enquired whether in the view of the Council he should pay this sum to the plaintiff's solicitor in settlement of the claim or to the liquidator of the Company. On a report from a Committee the Council stated that (1) if the sum of £35 was paid out of the Company's moneys it now belongs to the liquidator (2) if it was paid by the director out of his own moneys member must deal with it in accordance with the client's directions (3) on the facts stated there was no personal undertaking by the defendant's solicitor to the plaintiff's solicitor.

Vacancy on the Council.

MR. C. J. GORE GRIMES Dublin was co-opted from the supplemental list to fill the vacancy caused by the death of the late Mr. Henry St. J. Blake.

MR. H. ST. J. BLAKE DECEASED.

THE Council deeply regret to record the death of Mr. Henry St. John Blake of Galway on 15th May, 1957. The late Mr. Blake was admitted in Michaelmas Sittings 1923 and practised at Galway. He was elected to the Council on 26th day of November 1933, served as Vice-President in the year 1937-38 and as President in 1946-47. At their meeting on May 30th the Council passed a vote of sympathy with his widow and family.

Reception for Members of American Bar Association.

FORMS of application for cards for the reception on August 1st were issued with the June *Gazette*. Members who wish to attend the reception with their wives or guests are asked to make early application to facilitate the Society in issuing invitation cards.

DUBLIN SOLICITORS BAR ASSOCIATION

A MEETING of the Council of the Association was held on Wednesday, the 5th of June, 1957.

The form of contract for sale by private treaty prepared under the auspices of the Association has been found very useful and popular. The Council accordingly have acceded to requests that it may be purchased by all Solicitors interested, and not only by members of the Association.

A subcommittee of Messrs. Vanston, Gibney, Wolfe and R. Walker has been appointed to make

suggestions for Hire Purchase Rules for the District Court.

The next meeting of the Council of the Association was fixed for the 3rd of July, 1957.

NOTICE.

Service of Circuit Court Civil Bills and District Court Civil Processes.

ON representations made by this Association, the County Registrar for Dublin is communicating with the Civil Bill Officers urging them to improve the service of documents, and the returning of documents to Solicitors.

Any solicitor who has a complaint to make in either of these connections should communicate directly with the County Registrar, or through the Bar Association.

Members should endeavour to help the Civil Bill Officers by :—

(1) Ensuring that the correct addresses are given for the persons on whom documents are to be served.
(2) Ensuring that correct christian names are given.
(3) Allowing adequate time for service and return of documents.
(4) Ensuring that the name and address of the solicitor issuing the document appears on it.
(5) Giving sufficient notice to the Civil Bill Officer to attend Court in connection with substituted service applications. All members are requested to note and act accordingly.

SOLICITORS' GOLFING SOCIETY

THE Society's Summer Outing was held at Dundalk Golf Club on Saturday 11th May, 1957, the entries from the City and County were satisfactory notwithstanding rather unfavourable weather conditions. The following were the prize winners :

Society's Challenge Cup and Captains (J. C. Griffin's) Prize :	D. J. Collins (10) all square.
Runner up :	J. C. Griffin (14) 1 down.
Veterans Cup :	F. McKeever (9)
Runner up :	T. A. O'Reilly (16)
St. Patrick's Plate :	C. McAlester (10) 2 down.
Runner up :	W. A. Menton (8) 4 down.
Best 1st Nine :	J. J. O'Connor (17) 1 up
Best 2nd Nine :	M. Hanahoe (18) all square.
Special prizes :	W. J. Ryan, Barry Steen.

At the very enjoyable dinner in the Club House the Toast of the Society and Captain (Mr. J. C. Griffin) was proposed by Mr. W. Carroll, the President of Dundalk Golf Club. The Captain replied on behalf of the Society. Mr. T. A. O'Reilly proposed the Toast of Guests and H. McGahon D.J. and J. Kennedy D.J. made a joint reply.

A Meeting of the Society will be held in the Autumn for the President's Prize and subsidiary Competitions. Particulars will be circulated in due course.

Inquiries : Gerard M. Doyle, (Hon. Sec.)
50 Lower O'Connell Street,
Dublin.

EXAMINATION RESULTS

AT the Final Examination for apprentices to Solicitors held on the 15th, 16th and 17th days of April, the following passed the examination :—

Passed with Merit.

1. Brian V. Hoey, 2. Brian J. Claffey (B.A., LL.B.), 3. Laurence B. Cullen.

Passed (in alphabetical order).

Pierce O'Brien Butler B.A., Peter P. J. Callery, Gerard Charlton B.A., Gerald J. Crehan, Patrick A. Dorrian, Charles F. C. Downing, Patrick J. A. Gearty B.A., LL.B., Niall C. Gibbons B.A., John F. Kealy, Gregory A. Lynch, John J. Waters.

28 candidates attended ; 14 passed.

The Council awarded a Gold Medal to Brian V. Hoey and Silver Medals to Brian J. Claffey and Laurence B. Cullen.

The following passed in Part I or Part II Final Examination :—

Part I.

Francis X. Downes, Patrick V. Fagan, (A) ; Alphonsus Grogan, (A); William D. J. Hodgins, (A) ; Donal M. King, (A) ; John McKnight B.A., LL.B., Alban B. Rigney B.A., Seán Cormac Rynne, (A).

Part II.

Richard J. Branigan, Margaret T. C. Casey B.A., John L. Egan, Thomas B. Jellett, John B. Lawson B.A., LL.B., (B) ; Desmond J. Mackey, (B) ; Gerard A. Murphy, Brian W. Russell, (B) ; Desmond P. Windle B.A., LL.B., (B) ; Henry J. Wynne.

"(A)" denotes having already passed Part 2
"(B)" ,, ,, ,, ,, ,, 1

DATES OF PRELIMINARY AND FINAL EXAMINATIONS.

FROM and including 1958 onwards the Preliminary and Final Examinations will be held during the Whitsun and Long Vacations, instead of Easter and Long Vacations as at present. The dates of the other examinations will be unchanged.

UNIVERSITY OF DUBLIN
Trinity College.

SCHOOLS OF COMMERCE, PUBLIC ADMINISTRATION AND SOCIAL STUDIES.

APPLICATIONS are invited for the post of part-time lecturer in Industrial Law and Commercial Law. Terms of appointment may be obtained from the Registrar of the School of Commerce, who will receive applications under 15th July, 1957.

DECISIONS OF PROFESSIONAL INTEREST

Attempt by solicitor to pervert justice.

On 31st May after just over three hours' retirement a jury at the Central Criminal Court found James Austin Owens, aged 30, of Hendon, N.W., Guilty of attempting to pervert the course of public justice and Norman Harry Beach, aged 43, solicitor, of Kilburn High Road, N.W., Guilty of aiding and abetting him. Beach was sentenced to 12 months' imprisonment and Owens to six month's imprisonment. Beach and Owens were solicitor and client, and both had pleaded Not Guilty to the charges against them.

The jury failed to reach a verdict on charges of conspiracy to pervert the course of public justice. Mr. Justice Gorman discharged the jury from giving a verdict on that count.

Owens, according to the prosecution, was tried at Middlesex Sessions on November 15th on a charge of being under the influence of drink when in charge of a car. He was convicted and sentenced.

Beach was Owen's solicitor, and it was alleged that they conspired to take steps to prevent witnesses from identifying Owens as he stood in the dock. When he appeared in the Sessions Court, it was stated, Owens wore a hired black suit with striped trousers and wore a wig.

Mr. Justice Gorman's summing-up lasted five and a quarter hours.

When passing sentence on Beach the Judge said: "Your position is, of course, different from that of Owens. You are a solicitor of the Supreme Court charged peculiarly and particularly by virtue of that position with doing nothing to pervert the course of public justice. . . Of course a solicitor is entitled to be zealous but the finding of the jury means not merely that you have been overzealous but that you have in fact, as a solicitor, aided and abetted the commission of the offence of perverting the course of public justice. I think in considering your case I am entitled, and I do, to pay regard to the whole of the circumstances, but you must realize that it is really quite dreadful for a solicitor to act in the way in which the jury have decided that you acted.

(R. *v.* Owens and Beach—*Times*, 1st June, 1957).

A purchaser allowed into possession before completion is not liable to pay interest; because vendor was "in wilful default" in delaying to release a mortgage.

A contract for the sale of premises in Fairview, Dublin contained the usual clause providing for payment of interest by the purchaser if from any cause whatever other than the wilful default of the vendor, the purchase was not completed on the date fixed for completion. The purchaser was allowed into possession under a caretaker's agreement. Owing to the difficulty in communicating with a mortgagee who resided in Cairo, for the purpose of releasing a mortgage on the property, the purchase was not completed until more than a year after the date fixed for completion.

Shannon J. held that the vendor was in wilful default, as he knew or should have known the position as to the delay in releasing the mortgage before he entered into the contract, and therefore the purchaser was not liable to the vendor for interest due to laches.

(O'Byrne *v.* Robinson (1955-56) Ir. Jur. Rep. 46).

The equitable lien of a solicitor conducting a criminal appeal takes priority over the debt of a judgment-creditor.

The costs of an appeal in the case of "The People *v.* Barry Blogh." (reported at 90. I.L.T.R. 75) were awarded by the Court of Criminal Appeal to the solicitor of the successful appellant. The appellant had left the jurisdiction, before the judgment of the Court, without paying his costs. The amount of taxed costs came to £203 4s. 6d. and the Temple Press had on February 17th, 1956, obtained judgment against Blogh for £230 18s. 3d. and costs. The Temple Press, hearing of the taxation in favour of Blogh, obtained a conditional order of garnishee, and moved to have the order

made absolute to attach the sum of £203 4s. 6d. to answer their judgment and order.

It was held by Judge Conroy, in discharging the conditional order, that the solicitor's equitable lien was prior in time to the debt of the judgment creditor. This point was well covered by authority and was indeed only right in common sense and justice.

(Temple Press Ltd. *v.* Blogh (1955-56), Ir. Jur. Rep. 53).

Mortgage—Tenancy purported to be created by mortgagor before completing purchase.

While negotiating for the purchase of a house the title to which was registered under the Land Registration Act, 1925, the intending purchaser received two sums of money from C., the first expressed to be in respect of advance rent for a flat in the house and the second to be the balance of three years' rent in advance for the flat, the tenancy to commence after the conversion of the house into flats, the rent to be weekly, and should C. vacate the flat on one week's notice any balance of the rent to be refunded. On the day the sale was completed the purchaser executed a charge in Land Registry form and the transfer and charge were duly registered. C. was let into possession a few days after completion of the sale. Is the plaintiff chargee entitled to possession as against C. within 28 days from completion of the order?

Yes, said Harman, J. The arrangement with C. was made before the purchaser had any title to the property, and there was nothing to operate as an estoppel as against the chargee. As against him C. was merely an occupier on sufferance. Even if C. was entitled to a tenancy as against the purchaser, the tenancy would not have been a valid exercise of the power of leasing conferred by Sect. 99 of the Law of Property Act, 1925, since the tenancy was not granted at a rent and the payments were fines within sect. 205 (1) (xxiii) of the Act. NOTE: Sect. 99 of the Law of Property Act 1925 replaces Sect. 18 (6) of the Conveyancing Act 1881; which states that "every lease shall reserve the best rent that can reasonably be obtained . . . without any fine being taken" Section 205 of the 1925 Act is a Section dealing with definitions, and the word defined is "fine" as including a premium or foregift. In Sect. 2 (ix) of the Conveyancing Act 1881, "fine" is also stated to "include a premium or fore-gift, or any payment, consideration, or benefit in the nature of a fine, premium or fore-gift."

(Hughes *v.* Waite, (1957) 1 All E.R. 603).

"Property recovered or preserved." Charging order for costs.

A legally aided plaintiff brought a successful action for specific performance of a contract whereby he was to exchange his dwelling house for that of defendant, who was also an assisted person, her contribution being assessed at nil. There was no evidence that the dwelling houses were of different value. The plaintiff paid his maximum contribution of £194, but the Law Society registered against the house conveyed to him, under the Land Charges Act, 1925, a charge for the balance of the costs, some £286. Is the Law Society entitled so to do?

No, said Harman, J. If this was permitted the result would be disastrous to the plaintiff, for having got the house he would have paid not only the "price" for which he agreed but in addition his maximum contribution of £194 and a charge of £286 on his house. The house had not been "recovered or preserved" in the action within the meaning of sect. 3 (4) of the Legal Aid and Advice Act, 1949, and even if it had, it was contrary to the whole policy of the Act that a legally aided person's dwelling house should be made subject to a charge where it happened to be the property recovered or preserved in the action.

(Wagg *v.* The Law Society (1957) 2 All E.R. 274).

New trial ordered on account of Judge's interruptions at cross-examination of witnesses at trial.

In an appeal from a decision dismissing her claim under the Law Reform (Miscellaneous Provisions) Act 1934 and the Fatal Accident Acts, for damages for negligence and breach of statutory duty, the plaintiff widow made a submission that she had not had a fair trial on the ground that the Trial Judge had frequently interrupted counsel in cross-examining witnesses and had thus not given an opportunity to counsel to conduct the case properly.

HELD by the Court of Appeal (Denning, Romer and Parker, L.JJ.) reversing Hallett J. that there should be a new trial since every litigant was entitled to a fair trial at which his case could properly be put, and without that no cause could be lost nor could the appellate court affirm that it had been.

Per Denning, L.J.—Nevertheless, we are quite clear that the interventions, taken together, were far more than they should have been. In the system of trial which we have evolved in this country,

the judge sits to hear and determine the issues raised by the parties, not to conduct an investigation or examination on behalf of society at large, as happens, we believe, in some foreign countries. Even in England, however, a judge is not a mere umpire to answer the question "How's that?" His object above all is to find out the truth, and to do justice according to law; and in the daily pursuit of it the advocate plays an honourable and necessary role. Was it not Lord Eldon, L.C., who said in a notable passage that "truth is best discovered by powerful statement on both sides of the question" (see Ex p. Lloyds (1) (1822), and Lord Greene, M.R., who explained that justice is best done by a judge who holds the balance between the contending parties without himself taking part in their disputation? The judge's part in all this is to hearken to the evidence, only himself asking questions of witnesses when it is necessary to clear up any point that has been overlooked or left obscure; to see that the advocates behave themselves seemly and keep to the rules laid down by law; to exclude irrelevancies and discourage repetition; to make sure by wise intervention that he follows the points that the advocates are making and can assess their worth; and at the end to make up his mind where the truth lies. If he goes beyond this, he drops the mantle of a judge and assumes the robe of an advocate; and the change does not become him well.

Such are our standards. They are set so high that we cannot hope to attain them all the time. In the very pursuit of justice, our keenness may out-run our sureness, and we may trip and fall. That is what has happened here. A judge of acute perception, acknowledged learning, and actuated by the best of motives, has nevertheless himself intervened so much in the conduct of the case that one of the parties—nay, each of them—has come away complaining that he was not able properly to put his case; and these complaints are, we think, justified. Now it cannot, of course, be doubted that a judge is not only entitled but is, indeed, bound to intervene at any stage of a witness's evidence if he feels that, by reason of the technical nature of the evidence or otherwise, it is only by putting questions of his own that he can properly follow and appreciate what the witness is saying. Nevertheless, it is obvious for more than one reason that such interventions should be as infrequent as possible when the witness is under cross-examination. It is only by cross-examination that a witness's evidence can be properly tested, and it loses much of its effectiveness in counsel's hands if the witness is given time to think out the answer to awkward questions; the very gist of cross-examination lies in the unbroken sequence of question and answer. Further than this, cross-examining counsel is at a grave disadvantage if he is prevented from following a preconceived line of inquiry which is, in his view, most likely to elicit admissions from the witness or qualifications of the evidence which he has given in chief. Excessive judicial interruption inevitably weakens the effectiveness of cross-examination in relation to both the aspects which we have mentioned for at one and the same time it gives a witness valuable time for thought before answering a difficult question, and diverts cross-examining counsel from the course which he had intended to pursue, and to which it is by no means easy, sometimes, to return. Leading counsel for the widow submitted that the extent of the learned judge's interruptions was such that junior counsel for the widow was unduly hampered in his task of probing and testing the evidence which the board's witnesses gave. We are reluctantly constrained to hold that this submission is well-founded. It appears to us that the interventions by the learned judge while junior counsel for the widow was cross-examining went far beyond what was required to enable the judge to follow the witnesses' evidence and on occasion took the form of initiating discussions with counsel on questions of law; further, and all too frequently, the judge interrupted in the middle of a witness's answer to a question, or even before the witness had started to answer at all.

(Jones *v.* National Coal Board (1957) 2 All E.R. 155).

Damages against solicitors for negligence in advising clients.

Mr. Justice Lloyd-Jacob, sitting as an additional Judge of the Queen's Bench Division, awarded £2,000 damages to Mrs. Hilda Kitchen, widow, of St. Mary Cray, Kent, against Messrs. Donald, Darlington and Nice, solicitors, of Clement's Inn, London, who were advising her on her claim against the West Kent's Electricity Company, Ltd., arising out of the death of her husband on May 22nd, 1946, from electrocution from a faulty installation.

His Lordship said that the clerk acting for the solicitors, having obtained the opinion of counsel, came to the conclusion that the plaintiff had no claim, and he permitted the time within which a

claim under the Fatal Accident Act could be brought to run out without informing the plaintiff of that fact. In deciding without reference to the client that a writ should not be issued he had not exercised the standard of care he was bound to exercise in the conduct of the affairs of a client. Mrs. Kitchen would have been awarded a maximum of £3,000 if successful.

A claim by the plaintiff against the Royal Air Forces Benevolent Association was dismissed, his Lordship holding that there was no breach of duty on their part.

(Kitchen *v.* Donald, Darlington and Nice. *The Times*, May 22nd, 1957).

Disgraceful conduct—opinion of professional body.

The Divisional Court (The Lord Chief Justice, Mr. Justice Hilbery and Mr. Justice Devlin), gave judgment for the appellant in this appeal under the Architects (Registration) Act, 1931, by Mr. Thomas Hughes, F.R.I.C.S., of Boreham Wood, Hertfordshire, from a decision of the Discipline Committee of the Architects Registration Council of the United Kingdom disqualifying him from practising as an architect for two years.

Lord Goddard giving a reserved judgment, said that the Discipline Committee had found the appellant guilty of conduct disgraceful to him in his capacity as an architect on the ground that he combined estate agency with his practice as an architect, and had ordered that his name should be removed from the register of architects, that he should be disqualified from registration for two years and that his name should not be re-entered on the register unless he submitted himself to an examination.

Considering that the appellant, who was over 60, had been in practice for 35 years without any complaint as to his professional competence, it was remarkable that the respondent council should decide that the suspension imposed should only be determined if he sat for and passed an examination. His Lordship could only suppose that the reason for imposing such a condition was that the Council in fact meant to suspend him for life, as it was inconceivable that at his age the appellant would be willing to submit himself for examination. His Lordship doubted whether such a condition could lawfully be imposed.

The Architects (Registration) Act, 1931, had established a register of architects. Those in practice at the time of the passing of the Act were entitled to have their names included on the register. The appellant who had, since 1919, been in practice as an architect, chartered surveyor, land and estate agent and valuer had availed himself of this right in 1934. The Act had also established the Architects' Registration Council and a Discipline Committee. The council had, at some time after the passing of the Act, issued a code of professional conduct which provided that estate agency should not form part of a registered architect's practice. Such a code had no statutory force of itself. It was clear that at the time the code was issued an architect who also practised as an estate agent was entitled to apply for registration.

The Architects Registration Act, 1938, prohibited anyone calling himself an architect unless he registered. In 1937 the president of the council had written to the Institute of Chartered Surveyors recognizing the fact that there was nothing in the Bill (which the council was promoting) to interfere with the activities of architects.

The conduct which the discipline committee found to be "disgraceful" was that the appellant had refused to comply with the standard which the profession had set for itself. Disgraceful conduct was attributed to the appellant for doing that which the council had said legislation would not interfere with. The council seemed to have recognized that, in spite of the provisions of the code, they ought to allow the members who had previously carried on their avocations to continue to do so at least for a time, but that they had fixed a date (January 1st, 1956) beyond which it would be misconduct if they continued to do so.

The appellant had had the right to have his name entered on the register in the years after 1931. If the decision of the Discipline Committee was right, it would have been open to the council to remove the appellant's name from the register the moment it had been entered. Such a result was plainly absurd. The appellant had openly combined his practice as an architect with his practice in other occupations for the 20 years following his registration. How could it reasonably be said that it was disgraceful for him to continue to practise his other occupations after a particular date which the council chose to appoint?

The Court was concerned with a transitional state of affairs. In his Lordship's opinion it was wrong to apply the same consideration and standard to those in practice before 1931 as to new entrants. The appellant could not be held guilty of conduct that by any standard could be said to be "disgraceful" because he continued to practise in exactly the same way after registration as before,

and that practice did not disqualify him from registration.

Mr. Justice Hilbery delivered a concurring judgment.

Mr. Justice Devlin, concurring, said that in reaching their decision the Discipline Committee had overlooked one essential matter. It was not of itself disgraceful to disagree with the majority view and to act accordingly; it was only if a man had bound himself in honour to accept that view and to act accordingly that a deliberate breach of the code for his own profit could be called "disgraceful." The appellant had never so bound himself. Every man has the right to earn his living in whatever way he chose unless by the law or by his own voluntary submission the way was taken from him, and in the exercise of that right he must not be punished by a professional majority under a pretext that non-conformity of itself was disgraceful. What the council was trying to do was to enforce a code which had no legislative sanction and to coerce a minority, which was free and unpledged. If in December, 1955, anyone had suggested that Mr. Hughes was behaving "disgracefully," he could have recovered heavy damages for defamation. But, it was said, when the clock struck midnight he began to sin. So high a degree of punctuality brought the point to absurdity. Disgrace was not something that got brought in with the New Year. The day of purification had not arrived.

His Lordship had said that every profession has practices—such as advertising, poaching and undercutting—which it bars. These activities which are considered in the business world to be laudable examples of enterprise have always been considered offensive professionally. If a man joins a profession in which the use of trade weapons is barred, and then proceeds to employ them, he is taking an unfair advantage over his fellows—and may become guilty of disgraceful conduct.

(Hughes *v.* Architects Registration Council of "The United Kingdom") ([1957] 2 All E.R. 436).

Costs imposed on solicitor personally.

In a case, in which the plaintiff was injured when a short length of timber fell from a set suspended from the winch of a ship he was helping to unload, owing to a misunderstanding, the plaintiff's representatives and witnesses did not appear when the case came on for trial, although the case appeared in the week's list. Paull J. held that the defendant's costs of that day must be paid by the plaintiff's solicitor personally.

(Flatman *v.* J. Fry & Co. (1957) 5 C.L. 349).

Practice—Bias—Justice should be seen to be done—New Trial.

The plaintiff claimed from the defendants the return of jewellery alleged to have been pawned without her consent by one R. After the close of the evidence, (R., whose whereabouts were unknown, not having been called as a witness), and during the speeches Slade J. commented adversely on R. and said that he was inclined to accept the plaintiff's evidence. As a result of publicity given to the case R. contacted the defendants and with leave gave evidence on their behalf. He stated that he pawned the jewellery with the consent of the plaintiff. Slade J. ordered that the case should be tried de novo before another judge. His Lordship said that if having heard R.'s evidence he was still of the same opinion R. would leave court thinking that justice was not seen to have been done.

(Leigh *v.* Sutton (*The Times*, May 11th, 1957) 5 C.L. 413).

REGISTRATION OF TITLE ACTS, 1891 AND 1942.

NOTICE.

Ref. 1772/4/57

Folio 411 — County Cavan

Registered Owner — ANDREW BRADY

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of June 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Andrew Brady to 14a. 3r. 13p. of the lands of Lisclone situate in the Barony of Tullygarvey and County of Cavan being the lands comprised in said Folio.

NOTICE.

Folios 780 and 2089 County Cavan
Registered Owner PATRICK SMITH

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of June, 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificates of Patrick Smith to 11a.–r. 33p. of the lands of Aghnadaragan and to 9a. 3r. 1p. of the lands of Drumhillagh, both situate in (the Barony of Tullygarvey and County of Cavan being the lands comprised in Folios 780 and 2089 County Cavan respectively.

THE REGISTRY

Register B.

SOLICITOR qualified 1954 with good general experience desires position in September. City or country. Box No. B214.

SOLICITOR recommends experienced Shorthand Typist part time or full time work. Box No. B215.

SOLICITOR with over 6 years' general experience in busy offices, Dublin and Provincial town anxious to return to Dublin; partnership after trial period preferred, but not essential. Excellent references. Box No. B216.

Register C.

MICHAEL PATRICK RYAN late of 136, Upper Leeson Street, Dublin, Civil Servant, deceased.

Let any person knowing of the existence of a Will of the above deceased communicate with Michael Tynan & Co., Solicitors, 41 William Street, Limerick.

IMPORTANT

RECEPTION AUGUST 1st

Forms of application for cards are again issued with this edition of the *Gazette*. Members who want cards for themselves, wives or guests and who have not already applied are asked to do so without delay to facilitate the Society's staff in writing the cards.

SIGNATURE ON BILL OF COSTS

It has been learned that the Circuit Judge in County Meath has recently held that a bill of costs of a solicitor practising under a business name, and signed with the business name only, was not properly subscribed with the hand, of the plaintiff solicitor. It is hoped to publish a full report in next month's issue.

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JULY,
1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

COMMISSION ON INCOME TAXATION.

THE Commission was set up by the Government on 18th February, 1957 and its terms of reference are as follows :—

> To inquire generally into the present system of taxation of profits and income, its scope and structure, including the provisions for collection and the prevention of evasion; its effects on the national economy and the equity of its incidence; to recommend such amendments of the law as appear desirable and practicable; and if it is considered that the taxation of profits and income should be terminated or modified in any manner involving loss of revenue to recommend alternative means of raising equivalent revenue.

The Council intend to submit a memorandum of evidence. The views of members are wanted on the following matters.

(1) Proposals to substitute an alternative system of taxation for the present income tax.

(2) Any respects in which the present method of assessment and collection of the present income tax has an unfair incidence on (*a*) particular classes of taxpayers or (*b*) solicitors.

(3) Suggestions for improving the present method of assessment and collection of income tax.

Suggestions should be sent to the Secretary.

MEETING OF THE COUNCIL

JUNE 20TH: The President in the Chair. Also present John R. Halpin, Dermot P. Shaw, Cornelius J. Daly, Joseph P. Tyrrell, Francis J. Gearty, Terence de Vere White, Desmond J. Collins, John J. Nash, John Carrigan, Ralph J. Walker, Reginald J. Nolan, R. McD. Taylor, John Maher, Peter E. O'Connell, John J. Sheil, Sean O'hUadhaigh, Charles J. Downing, George A. Nolan, Derrick M. Martin, W. J. Comerford, C. Gore Grimes, Arthur Cox, Thomas A. O'Reilly, P. R. Boyd, George G. Overend, Desmond Mayne.

The following was among the business transacted.

Instructions for will. Privilege.

A MEMBER drew a will for a testator since deceased. The will is to be the subject of a probate action but member acts for none of the parties to the proceedings. He has been asked to supply to the solicitor for the next of kin a statement detailing the circumstances under which the will was drawn. He has no objection to supplying the statement but asked for the guidance of the Council on the question of privilege. On a report from a committee the Council expressed the opinion that member should not make any statement until proceedings have been commenced. Thereafter member might give a statement to any party interested on the understanding that copies will be given to the personal representatives and the other interested parties.

Acquisition of practice. Solicitor's duty as to wills.

A MEMBER took over the practice of another solicitor in 1944. The office safe contained a number of wills. Member does not know some of the clients and some of the wills have never been asked for either by the testators or personal representatives. Member asked for the guidance of the Council as to the proper course with reference to these wills. On a report from a Committee the Council expressed the opinion that member should open the envelopes containing the wills and to communicate with the testators, personal representatives, or next of kin as may be necessary if the testators have died for the purpose of notifying them of the existence of the wills in question.

Land Folios Registry. Commonage and appurtenant Rights.

A COMMITTEE reported on correspondence received from members pointing out that the normal practice in the Land Registry is to omit commonage and appurtenant rights from Land Registry maps. Where the copy map received from the Land Registry bears the usual certificate that the map is a true copy of the Land Registry map it may be misleading and the Committee took the matter up with the Registrar of titles. The Registrar stated that the delineation of such rights is seldom required and they are in practice omitted in the interests of expediting the work of the Registry. If a solicitor requires to have such rights delineated they will be included on the maps without extra charge on special request. On the Committee's report it was decided to take no further action except to notify members that the additional particulars will be included without extra charge when required.

THE NEW SCHEDULE II.

THE Council have learned that an anonymous document has been widely circulated to members of the Dail and Seanad in an endeavour to arouse opposition to the draft Solicitors Remuneration General Order, 1957. The following is a copy of the document with a letter and memorandum in reply which the Council have sent to all deputies and senators.

SOLICITORS REMUNERATION ORDER 1957

NEW SYSTEM AND METHODS OF CHARGING COSTS BY SOLICITORS

THE Incorporated Law Society of Ireland (the professional Association of all Solicitors in the Republic of Ireland) having made application to the Superior Courts Rules making Committee an Order entitled as above was approved.

This Order when it has been laid on the Table of Dail Eireann automatically becomes law on the expiration of one month.

The effect of the Order is to remove all limitation on the amount a Solicitor may charge to his client for services rendered to Clients in all matters, other than Costs payable by third parties in proceedings before the Courts, and is in fact assumption of unbridled Control of their own remuneration by Solicitors.

Two results inevitable ensue. Firstly, the delivery of the Public into the uncontrolled hands of Solicitors, and secondly, loss of revenue to the State.

Up to the present the system of charging Costs by Solicitors to Clients has been on a basis laid down in 1859 and increased by General Order from time to time—the most recent being one of 55 per cent. as from 1/1/52. This Schedule comprised items covering every conceivable task a Solicitor could be called upon to perform and with a stated fee, or charge for each item.

Under the present existing system a Solicitor is bound to furnish to a Client a Bill of Costs showing details of the work performed for which the Costs are charged setting out dates, details of work done and charges for each separate piece of work done. So that the Client may be satisfied that the charges are fair and reasonable and that the work charged for was in fact done (as few people could even guess at this aspect of Solicitors work) he has a fundamental right to have the Bill accurately checked and this is done by way of a Taxation and measurement of the Bill by the High Court Taxing Master appointed by Statute for such purpose. On such Taxation the Solicitor must vouch all the items contained in the Bill of Costs by the production of vouching documents, and of evidence that the

work charged for was done, was necessary, was for the benefit, and done in pursuance of the instructions, of the Client. The Client has of course the right of representation at the Taxation and can make such objections to the Bill of Costs as are proper.

The system of Taxation and measurement of Solicitors Costs has throughout the years protected Clients (the Public) against the possibility of being overcharged, and upholds the recent public assertion that "in no other profession is the Public more protected against extortionists than in the legal profession."

The new Order provides that each Solicitor shall be the sole judge of what is a reasonable reward for his services and he shall be entitled to fix a bulk sum for his services and amongst other considerations laid down in this Order which may be taken into account by the Solicitor in fixing such bulk fee are such as "the special skill and knolwledge a Solicitor may have for the work undertaken"—"the value of the work to the client"—"the rarity urgency or complexity of the work." This means that for the performance of identical work, different Solicitors may fix on different fees and no Client can be certain of what he is going to be charged for any particular job and could conceivably find when the bill was presented that it was so high that had he known the amount before he gave instructions he might decide that the results would not justify his having the work done. This is a fundamental change from the present system whereby he can ascertain to a fairly close degree what any job will cost before he decides to have it done.

The only suggested safeguard to a client in the new system is the provision that before a Solicitor sues a Client for fees he should inform the Client that there is available to him a right of submission of the Bill of Costs to the Law Society for a Certificate that the Bill is fair and reasonable. In other words the Solicitors would be the judges of their own cause and this might give rise to the feeling by a dissatisfied client that a disinterested tribunal or Taxing Master, as under the present System, would be more impartial. It is a fundamental rule that "not alone should justice be done but it should appear to be done."

A rather sinister feature of this provision in the new Order it will be noted is that it is only when a Solicitor proposed *to sue* his client for fees that he need inform him of this right (for whatever value such right may be) and the Order goes on to say that if a Client pays the fees demanded he shall have no right to such a Certificate from the Law Society.

All the foregoing observations deal with the effects of this new system in so far as ordinary clients are concerned, but when the position of Public Bodies is considered the result would appear to be likely to be chaotic. All Public Bodies Solicitors Costs must be taxed by the High Court Taxing Master. If the present Order becomes operative, the Taxing Master will have no standard or guide to assist him in measuring Solicitors Remuneration —he will have no priced details of the work and he cannot assess the fairness or otherwise of any of the charges made. If the Taxing Master decides that he cannot accept the Solicitors own uncontrolled estimate of the value of the services charged for, the Bill cannot be taxed. Local Government Dept. Auditors cannot pass costs unless taxed. This could conceivably result in Public Bodies not being able to get any legal business transacted if Solicitors refuse to work unless their fees were paid on their own estimations of the value of their services. In a normal year about 100,000 items of Public Bodies Solicitors charges are taxed by the Taxing Master so that it can be appreciated that this aspect of the difficulties raised by the new system presents, or is likely to present, a grave problem for the Local Government Department.

The Departments of Justice & Finance would also be affected by the operation of the new system as by recent increases of stamp duty the Taxing Office has been made self supporting and by the cutting out of taxations which would inevitably result by the new system the costs of running the Taxing Office would fall on the general State Revenue.

These practical implications and effects of the new system would not be apparent from casual reading of the new Order.

Only Dail Eireann can now stop the implementation of this new Order by the bringing in of an objection within the Statutory period of one month from the date of the laying of the Order on the Table of the Dail and thus preserve for the people, County Councils, and other similar Bodies anb Organisations liable to Solicitors for Costs, the complete protection they have under the present system.

It has been suggested by the Law Society when recommending this new system to their Members that a similar system has been operating satisfactorily in England for some years. Leaving this aside the question of whether, having regard to the totally different economies of the two Countries, a slavish copying of English methods is justifiable or desirable, it is a fact that no evidence in support of this suggestion is forthcoming and rather is it believed that the contrary is the fact.

THE INCORPORATED LAW SOCIETY OF IRELAND,
SOLICITORS' BUILDINGS,
FOUR COURTS,
DUBLIN, N.W.8.

C/42/'57. 26*th July*, 1957.

SOLICITORS REMUNERATION GENERAL ORDER 1957

Dear Sir/Madam,

The Council of the Incorporated Law Society of Ireland have seen a copy of an anonymous communication which has been circulated to certain members of the Dail and Seanad. The memorandum is a complete misrepresentation of the facts in so far as it states or suggests that the effect of the Order would be

(*a*) to abolish the present system of taxation of costs by independent officers of the court, or
(*b*) to remove all limitations on costs and make solicitors the sole judges of reasonable professional charges, or
(*c*) to relieve solicitors from the obligation of vouching their professional charges and disbursements.

The true position in respect of these matters is the converse of what is stated or suggested in the memorandum, which contains other misrepresentations and inaccuracies.

The internal evidence in the memorandum is strongly indicative that its author has a vested interest in the perpetuation of the present expensive and complicated system but is not a person who is at all concerned with the interests of clients. It is noteworthy that he has apparently obtained information concerning the order prior to its signature.

The draft Order has been approved by the Statutory Committee under the Solicitors' Remuneration Act 1881 consisting of the Chief Justice, The President of the High Court, the Senior Ordinary Judge of the Supreme Court and the President of this Society. It is inconceivable that such a Committee would act without careful consideration.

The Council of this Society are confident that no fair minded person will allow his views to be coloured by an anonymous communication the only possible effect of which could be to create bias. A factual statement is enclosed for the information of those who are interested in acquainting themselves with the true position.

Yours faithfully,
ERIC A. PLUNKETT,
Secretary.

SOLICITORS REMUNERATION GENERAL ORDER 1957

COSTS IN NON-CONTENTIOUS MATTERS

1. This Order which has been approved in principle but not yet signed is the work of a Committee consisting of four persons namely, the Chief Justice, the President of the High Court, the Senior Ordinary Judge of the Supreme Court and the President of the Incorporated Law Society who is the only solicitor on the Committee. This Committee of eminence and impartiality have paid due regard to all relevant matters before approving the Order.

2. The Order which has been approved by the Statutory Committee deals only with parts of a solicitor's business and these are entirely unconnected with Court proceedings. The costs of Court business are prescribed by different rules and have not been changed.

3. The main effect of the new Order is to substitute for a lengthy and involved bill of costs such sum as is fair and reasonable having regard to all the relevant circumstances and in particular:—

(*a*) the complexity or difficulty of the case.
(*b*) the amount or value of the property involved.
(*c*) the importance of the matter to the client.
(*d*) the skill knowledge and responsibility involved.
(*e*) the number and importance of any documents involved.
(*f*) the place and the circumstances in which the business is transacted.
(*g*) the time expended.

4. The system described in paragraph 3 is basically the same as the method used by accountants, surveyors, medical practitioners, architects and other professions. As regards non-contentious business where the costs are paid by the client to his own solicitor (and not by a third party as in litigation) there is no reason why solicitors should be in a different position from other professional men. Much of the advisory work done by solicitors and accountants is of a like nature, but an accountant does not render an itemised bill. He charges a gross sum on the general basis of paragraph 3 above. It is not reasonable to expect solicitors to be governed by an antiquated system which is not used by other professions for similar work.

5. Under the present system if a client feels that he has been overcharged his only redress is to have the bill taxed. This will involve him in expense if less than one sixth is taxed, off, as he will then be liable for the costs of taxation. The Order contains the following provisions for the protection of clients :—

(*a*) The client will have the right to apply to the Incorporated Law Society for a certificate, which must be given free of charge stating whether the amount of any bill is or is not fair and reasonable, and, if it is too high, what substituted sum would be a fair and reasonable charge.

(*b*) The client will still have the right to have the bill of costs taxed by application direct to the Taxing Masters of the High Court whether or not he has already obtained a certificate from the Law Society. The Taxing Master on such a reference will deal with the matter independently.

(*c*) On any taxation of a bill it will be the duty of the solicitor to satisfy the Taxing Master as to the fairness and reasonableness of his charge.

(*d*) If the Taxing Master allows less than one half of the amount charged he must bring the facts of the case to the attention of the Incorporated Law Society which may result in disciplinary action against the solicitor.

(*e*) The right of appeal from the Taxing Masters to the Court will remain.

A solicitor furnishing a bill of costs will know that it is subject to these tests. The Law Society on reference to them and the Taxing Master on taxation will be entitled to all necessary information including the solicitor's files and documents to enable them to judge the reasonableness of the charge.

6. The new system while allowing solicitors reasonable remuneration would be an incentive to efficiency and diligence. A solicitor who completes business with exceptional skill or expedition would be entitled to fair recompense for his additional exertions. On the other hand a solicitor who is dilatory or who transacts business in a roundabout or negligent fashion would be liable to have his remuneration reduced by the Taxation Masters. It is suggested that this principle, the value of the work to the client, is an important benefit.

7. The Council of the Incorporated Law Society are most anxious to increase the standard of professional integrity and efficiency. They have shown this by the promotion of the Solicitors Act, 1954 and by the steps which they have since taken for the protection of clients against solicitors whose conduct came to their notice. They believe that the new system would help the Society in maintaining this standard. The public interest would be served by freeing the profession from archaic restrictions while strengthening the hand of the professional body in disciplinary matters.

8. The new system would help to reduce the present unnecessary expense and delay in preparing and furnishing bills of costs. No business concern could stand the expense of ascertaining charges and furnishing accounts which the present system imposes on solicitors. The following is an actual example of a solicitor and own client bill of costs taxed by a solicitor for a public body. It is typical of many others.

Gross profit costs for year's work		£1,173
Disbursements		331
Total ...		£1,504
Taxed off		£40

The expenses of drawing and taxing the bill which resulted in a reduction of £40 were as follows :—

(*a*) Costs drawer's commission	£103	
(*b*) Costs drawer's scrivenery charges ...	38	
(*c*) Costs drawer's petty disbursements ...	9	
(*d*) Duty on costs ...	39	(see note (*d*) below)
(*e*) Taxation items in bill	44	
(*f*) Fee to solicitor and costs drawer opposing bill	31	
	£264	= 22.5% of the solicitor's profit costs as drawn.

Items (*a*) (*b*) and (*c*) £150 were paid by the solicitor to his costs drawer; items (*d*) (*e*) and (*f*) £114 were added to the bill and paid by the local authority

NOTE (d) This bill was taxed in 1953. The duty payable to the Taxing Office which was then £7 16 0 would be £39 to-day under the Fees Order made by the Minister for Justice in 1956. The higher figure has been included in order to show the present position.

less £40 taxed off. If the new system were in operation a considerable part of this expense could be saved. If in addition a county manager (who from his experience of dealing with bills from year to year is something of an expert) were authorised in his discretion to settle his solicitor's bill of costs without taxation a further saving could have been effected.

Taxation would, of course, be available if necessary. Generally speaking the present system, outmoded as it is and not used by any other profession, results in an undue dependence of the solicitors' profession on a small number of costs drawers in Dublin who are paid by commission. This is not a good thing either for members of the profession, who should be independent, or for their clients. Commission and scrivenery charges are disproportionate as the above example shows. Delays in having bills drawn and furnished due to the shortage of competent costs drawers may run into many months.

The costs drawers' association have recently sought to impose on the profession a scale of charges varying from 5% to 7½% on the gross amount of a solicitor's bill including disbursements paid by the solicitor. This may work out at 20% to 30% of a solicitor's net profit costs after payment of disbursements and overhead office expenses. The result is that a small body of men might receive for their services in preparing solicitors, bills in particular cases approximately one fourth of the amount which the solicitor receives in each case as net profit (and before payment of income tax) for doing all the professional work involved in the bill.

9. It is stated in the anonymous memorandum that the new system would result in a loss of court fees in the Taxing Office. It should be pointed out however, that these fees are added to the bill and paid by the client. In the instance cited in paragraph 8 the fees would amount to £39.0.0. The Council regard these fees as exorbitant and, in so far as they must be first paid by the solicitor and later collected from the client, as an unfair imposition on the profession. It is submitted that even if the new system resulted in some loss of revenue from fee stamps in the Taxing Office it would be inconsiderable in proportion to all court fees collected.

10. The old system was discarded in England in 1953. It was discarded in Northern Ireland in 1955 as regards the fee for instructions in non-contentious matters. In the Solicitors Bill 1957 which has passed the first reading in the House of Commons in Northern Ireland there is provision in Section 40 that a solicitor may, in respect of any non-contentious business carried out by him, charge and recover such remuneration as is fair and reasonable having regard to any schedule for the time being published by the Incorporated Law Society of Northern Ireland under Section 41 and the relevant circumstances, which are similar to those enumerated in paragraph 3 of this memorandum. Section 41 provides that the Law Society of Northern Ireland may from time to time publish schedules prescribing the remuneration which shall be regarded as fair and reasonable and by Section 42 the Taxing master is to have regard to such schedules. If this bill is enacted the position of the profession in Northern Ireland will be more favourable than that sought in the present memorandum for the profession in the Twenty-six Counties. As far as can be ascertained the system of item charges which it is now sought to abolish never existed outside these islands and certain British possessions. It has been abolished in Great Britain and is in course of abolition in Northern Ireland.

26th July, 1957.
Solicitors Buildings,
Four Courts,
DUBLIN.

DINNER DANCE

A DINNER Dance for members and their friends will be held in the Ballroom, Shelbourne Hotel, Dublin on Thursday 21st November, the date of the Ordinary General Meeting. Further particulars will be published in the August issue of the Society's *Gazette*. Applications for members will be dealt with in order of receipt. Members may apply for tickets for friends. The price of tickets will not exceed £1 5s. per head to include dinner and dance. Applications for tickets should not be made until after the next announcement.

PROGRAMME OF LECTURES 1957-58

COURSE A.

Company Law and Administration of Estates. 50 lectures delivered as follows :—

Michaelmas Sittings—18 ; Hilary Sittings—22 ; Easter Sittings—10 ; Minimum attendance for credit is, Michaelmas—14 ; Hilary—17 ; Easter —7. Lectures each Monday and Thursday at 2.15 o'clock save where otherwise notified.

COURSE B.

Convenancing Law and Practice and Land Law, 50 lectures delivered as follows :—

Michaelmas Sittings—18 ; Hilary Sittings—22 ; Easter Sittings—10. Minimum attendance for credit is Michaelmas—14 ; Hilary—17 ; Easter —7. Lectures each Tuesday and Friday at 2.15 o'clock save where otherwise notified.

COURSE C.

The Procedure and Practice of the Courts, 50 lectures delivered as follows :—

Michaelmas Sittings—18 ; Hilary Sittings—22 ; Easter Sittings—10. Minimum attendance for credit is, Michaelmas 14 ; Hilary—17 ; Easter— 7. Lectures each Tuesday and Saturday at 9 a.m. save where otherwise notified.

COURSE D.

Taxation including death duties, 50 lectures delivered as follows :—

Michaelmas Sittings—18 ; Hilary Sittings—22 ; Easter Sittings—10. Minimum attendance for credit is, Michaelmas—14 ; Hilary—17 ; Easter —7. Lectures each Monday at 9 a.m. and Saturday at 10.15 a.m. save where otherwise notified.

COURSE E.

Book-keeping, 50 lectures delivered as follows :—

Michaelmas Sittings—18 ; Hilary Sittings—22 ; Easter Sittings—10. Minimum attendance for credit is, Michaelmas—14 ; Hilary—17 ; Easter —7. Lectures each Monday and Thursday at 3.30 o'clock, save where otherwise notified.

COURSE F.

The rights, duties and responsibilities of solicitors, 2 lectures. An apprentice to obtain credit must attend both lectures. The dates on which the lectures will be held will be announced at a later date.

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

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

Fee—8 guineas for each course except course E for which the fee is £6 6s. and Course F for which there is no fee.

SOLICITORS' INDEMNITY INSURANCE.

MEMBERS whose negligence indemnity policies were effected through the agency of Harold J Wiley & Co. Ltd. (now in liquidation) are advised to look into the question of cover. The policies or cover notes will show the names of the principal brokers or the companies carrying the risks and members are advised to write direct to ensure that the policies are in force.

PRESENTATION OF CERTIFICATES OF ADMISSION

ON 20th June the President at a ceremony in the Society's Library presented certificates of admission to the following solicitors :

Ann M. A. Burke, (B.A.), 12 Rostrevor Terrace, Rathgar ; Gerald J. Crehan, 67 Home Farm Road, Drumcondra ; Ann M. B. Derham, 34 Haddington Road, Ballsbridge ; Patrick A. Dorrian, Imperial Hotel, Ballyshannon, Co. Donegal ; Charles F. C. Downing, Sheheree House, Killarney, Co. Kerry ; John M. A. Foley, Station Road, Bagenalstown, Co. Carlow ; Patrick J. Gearty, (B.A., LL.B.), Church Street, Longford ; Niall C. Gibbons (B.A.), 16 Dollymount Ave., Clontarf ; John P. C. Goff, Kilronan, Butlerstown, Co. Waterford (*2nd Place Sept. Final Silver Medal*) ; Alphonsus Grogan, 96 Killester Park, Killester ; William D. J. Hodgins, 11 Pearse Street, Nenagh, Co. Tipperary ; Brian V. Hoey, 5 Chord Terrace, Drogheda, Co. Louth (*1st Place April Final Gold Medal*) ; Brendan J. Jones, 61 Main Street, Tipperary ; John B. Lawson, (B.A., LL.B.), Frankfort House, Dundrum ; John R. Macken, Harbour Street, Mullingar, Co. Westmeath ; Austin V. Maher, Ballygagin House, Dungarvan, Co. Waterford ; Denis A. McArdle, 2 South King Street, Dublin ; Kevin P. St. G. McClenaghan (M.A., LL.B.), Upton, Willowbank, Dun Laoghaire ; Brian W. Russell, "Gweebarra," Western Road, Cork ; Patrick P. Ward, 9 Riversdale Grove, Terenure, Dublin ; Desmond P. Windle (B.A., LL.B.), 18 North Circular Road, Dublin.

AUTUMN EXAMINATIONS

Examination	*Date*	*Latest date for giving notice.*
First Law	Sept. 2nd & 3rd	August 12th
Book-keeping	September 3rd	August 12th
Final	Sept. 2nd, 3rd & 4th	August 12th
Preliminary	Sept. 16th & 17th	August 26th
First and second Irish	Sept. 18th	August 28th

SOLICITORS' APPRENTICES' DEBATING SOCIETY OF IRELAND.

For many years there have been informal inter-Debates between the four student Law Societies in Dublin. This year, the arrangements were put on a more formal basis when the Benchers of King's Inns presented a large silver Trophy for annual competition. The inaugural Debate of the new series was held at King's Inns on Friday, June 14th, with the Chief Justice in the Chair. A very distinguished attendance included members of the judiciary, the President of the Incorporated Law Society, Mr. Gaffney; members of the Diplomatic Corps, the Minister for Education, and some hundred solicitors, barristers and students. The Assessors were: Mr. Desmond Collins (for the Apprentices' Society); Professor Moran (for the D.U. Law Society); Mr. Edward Fahy (for the King's Inns Society), and Professor McGilligan (for the U.C.D. Law Society).

The Trophy was awarded to the Apprentices' team—Mr. Desmond P. H. Windle and Mr. Peter Smithwick.

The Auditor, Mr. Laurence F. Branigan, accepted the Trophy on behalf of the Society.

It is noteworthy that the Chief Justice is an ex-Auditor of the Society.

DECISIONS OF PROFESSIONAL INTEREST.

Duty of solicitors in drafting will Depends on circumstances.

The Court of Appeal (Hodson, Parker and Ormerod, L.JJ.) allowed this appeal by Mr. Meyrick, retired solicitor, of Ealing, from a decision of Mr. Justice Ashworth on December 21st, 1956 ([1957] 2 W.L.R. 458), by which, having allowed an amendment to the original statement of claim, he awarded damages to the plaintiff, Mrs. Sheela Kathléen Hall, widow of Robert Constable Hall, of Alton, Hampshire, on her claim for loss of benefits conferred on her by her late husband's will, on the ground that the defendant, who was her solicitor, had been negligent in failing to advise in November, 1949, that a marriage between her and her late husband would have the effect, under the Wills Act, of revoking the wills which he had at that date been instructed to draft for each of them. The parties were married in September, 1950, the wills being thereby revoked; and in December, 1952, Mr. Hall died, without having made any further will.

The plaintiff's action came before Mr. Justice Ashworth in November, 1956, on a statement of claim delivered in April, 1954, which alleged that in November, 1949, the plaintiff (then Mrs. James a widow) and Mr. Hall (then a divorced man) had jointly retained Mr. Meyrick to advise them in making mutual wills in contemplation of marriage. After two days of hearing the Judge indicated that he was not prepared to find that there was any joint retainer, and that the case as pleaded must fail. Counsel for the plaintiff asked for leave to amend to allege in the alternative that there had been separate retainers by the plaintiff and Mr. Hall respectively. The Judge allowed the amendment and eventually gave judgment in favour of the plaintiff.

Lord Justice Hodson said that the first point taken for the solicitor had been that the Judge was wrong to allow the amendment, since it was unjust to the defendant to deprive him of the benefit of the Statute of Limitations by a circuitous route. His Lordship proposed to rest his decision on that point.

Thus one of the questions raised on this appeal, of great moment and interest to solicitors, was whether the Judge had been right in holding that there was any duty at all on a solicitor in the circumstances to draw the attention of the client or clients to the provisions of section 18 of the Wills Act.

Though his Lordship did not propose to give his concluded opinion on that point, it could not be the duty of a solicitor in all cases to draw the attention of persons who came to their offices to make wills to the effect of marriage on a will. Each case depended on its own particular facts. This was a very unusual and special case. The parties came into the office—a man and a woman, both relatively elderly, each known to the solicitor to be single, each desiring to benefit the other sub-

stantially to the extent of their whole possessions on their death, known to have lived for 15 years as boarding house keeper and boarder. But as the Judge had found that the attention of the solicitor had been drawn to the prospect of marriage by the plaintiff's son, as another solicitor had given evidence that as a matter of good practice it would be right in those circumstances for a solicitor to ask the question and draw the client's attention to the Wills Act and as Mr. Meyrick himself had admitted that if such a state of affairs had existed there would be such a duty on him, this case was one in which the Judge's decision was at any rate supported by evidence. His Lordship would leave that matter there, having, he hoped, made it quite clear that he was not endeavouring to set an absurd or extravagant standard of duty for solicitors making wills for their clients.

On the first point, the effect of the amendment allowed was to substitute an entirely new contract for that originally pleaded, and having regard to the lapse of time the defence of the Statute of Limitations was available to the solicitor. The Judge was wrong to permit the amendment after objection had been taken, and the appeal should accordingly be allowed.

Lord Justice Ormerod, also concurring, said that no doubt it would be the clear duty of a solicitor, on being instructed to prepare a will, to advise his client of the effect of a subsequent marriage on the will if in fact the client told him that he was intending to get married in the near future, or even if it came to the knowledge of the solicitor in a less direct way than that. But his Lordship did not accept that it was the duty of the solicitor so to advise merely because the question of marriage had been casually and perhaps equivocally mentioned to the solicitor in an interview, either by a third person, as was the case here, or even by the client himself. Whether such a duty would arise on a case of that kind would depend on the actual words used at the time and all the circumstances in which they were used, including the knowledge of the solicitor as to his client's affairs. In view of the evidence of the plaintiff and her son here, his Lordship was bound to say that he would have felt very reluctant to find that there was a breach of duty by the solicitor, save for his own admission, in re-examination in answer to the Judge, that if the words which the Judge found were said had been said he would have regarded it as his duty to warn the plaintiff about the effect of a subsequent marriage on her will. (Hall *v.* Meyrick—(1952) 2 All E.R. 722).

The Northern Ireland Court of Appeal is bound by its previous decisions.

The Court of Appeal In Northern Ireland, like the Court of Appeal in England, is bound by its previous decisions, save in the limited and exceptional classes of cases listed in *Young* v. *Bristol Aeroplane Co. Ltd.*, (1944) K.B. 718. There are three such kinds of cases, as follows :—(1) The Court is entitled and even bound to decide which of two conflicting decisions of its own it will follow ; (2) The Court is bound to refuse to follow a decision of its own which, though not expressly overruled, cannot in its opinion, stand with a decision of the House of Lords ; and (3) The Court is not bound to follow a decision of its own, if it is satisfied that the decision was given *per incuriam*.

An application to the Court for particulars of a plea of undue influence in a probate action was refused by Lord McDermott L.C.J., and this decision was affirmed by the Court of Appeal (Porter and Black, L.JJ. and Sheil, J.) on the ground that that Court had decided the same issue in an unreported case in 1944.

Note—Although this question does not appear to have been determined by the Supreme Court, there is an *obiter dictum* of Maguire, C.J. in *Attorney-General* v. *C.I.E.*, 90 I.L.T.R. (1956) at page 141, to the following effect :—"Although there was no express decision to this effect, this Court has acted on the principle that this Court is bound by its own previous decisions. Mr. Micks contends that that principle applies only when there is an express decision on the point in question. I cannot accept that."

(Parkinson *v.* Watson—(1956) N.I. 1.)

Rehearing permitted, in cases of even conflict of judicial opinion.

If, in a Court of 3 Judges, one of them should die after argument but before judgment is delivered, and the remaining Judges are divided in opinion, the parties should then be at liberty to enter the appeal for rehearing, but, in the absence of any such rehearing, the order of the Court below should stand.

So held by the Northern Ireland Court of Appeal (Lord McDermott, L.C.J. and Black, L.JJ., Porter, L.J. having died before judgment was delivered).

(*In Re* McConnell, (1956) N.I. 151).

Costs of three counsel allowed in case of great difficulty and importance.

In an action under the Fatal Accident Acts the defendants paid £1,880 into Court with admission

of liability. The plaintiff, refusing this sum, proceeded to trial by a jury. At a trial, the only question submitted to the jury was the assessment of damages, and their apportionment between the defendants. The jury assessed the damages at £1,860, and Lord McDermott, L.C.J. entered judgment for the plaintiff for this sum, ordering the return of the balance to the defendants. As a result of a lengthy legal argument lasting five days before the Court of Appeal (Porter and Black, L.JJ. and Sheil, J.), the decision of the Lord Chief Justice was reversed, and judgment was unanimously entered for the defendants. On taxation, the Taxing Master disallowed the costs of a second senior counsel in the Court of Appeal, giving as his reason that, on his view of the authorities, a third counsel would only be allowed in cases of great magnitude, difficulty and importance. As the amount involved in the Court of Appeal was only £250, the case, in his opinion, could not be regarded as one of great magnitude.

On appeal, Black, L.J., who had been a member of the Court of Appeal hearing the case, held that the Taxing Master had erred in regarding these three elements as being conjunctive, and, that, as the case was not only of great difficulty but also of considerable importance the costs of three counsel should have been allowed in accordance with the usual practice in Ireland, as approved in a series of reported cases, which, sitting as a Judge of first instance, he considered he was bound to follow.

(McCormick *v.* Harland & Wolff Ltd. (No. 2)—(1956) N.I. 170).

LABOURERS ACTS (SOLICITORS' REMUNERATION) ORDER, 1957

S.I. No. 144 of 1957

THE Minister for Local Government in exercise of the powers conferred on him by section 31 of the Labourers (Ireland) Act, 1906, after consultation with the President of the Incorporated Law Society of Ireland, hereby orders as follows :—

1. This Order may be cited as the Labourers Acts (Solicitors' Remuneration) Order, 1957.

2. The Taxing Officer for the purposes of rule 51 of the Labourers (Ireland) Order, 1912 and rule 52 of the said Order as inserted therein by the Labourers (Ireland) Order, 1914 shall, as respects business undertaken on or before the 30th September, 1957, be Moya Quinlan, Solicitor, of 15 Parnell Square, Dublin.

3. Rule 51 of the Labourers (Ireland) Order, 1912 and rule 52 of the said Order as inserted therein by the Labourers (Ireland) Order, 1914, shall, as respects business undertaken by a solicitor on or after the 1st day of October, 1957, cease to have effect.

GIVEN under the Official Seal of the Minister for Local Government this fifth day of July, One Thousand Nine Hundred and Fifty-seven.

PATRICK SMITH,
Minister for Local Government

EXPLANATORY NOTE

This note is not part of the instrument and does not purport to be a legal interpretation.

Rule 51 of the Labourers (Ireland) Order, 1912 and rule 52 of the said Order as inserted therein by the Labourers (Ireland) Order, 1914, regulates the remuneration of solicitors acting for local authorities acquiring land for the purposes of the Labourers Acts, 1883 to 1956 and of solicitors acting for vendors of such land. The effect of this Order is to revoke these rules as respects business undertaken on or after 1st October, 1957; thereafter the remuneration of solicitors for such business will be that ordinarily payable for such business. This Order also appoints a taxing officer to tax costs under the Labourers Orders, 1912 and 1914 in respect of business undertaken before 1st October, 1957.

The position as to election is important. As respects business undertaken by a solicitor, on or after 1st October, 1957 the costs will be regulated by the Solicitors' Remuneration General Orders, 1884 to 1951. Clause 6 of S.R.G.O. 1884 provides that in all cases to which the scales prescribed in schedule 1 apply a solicitor may *before undertaking any business* by writing under his hand communicated to the client elect that his remuneration shall be according to the present system as altered by Schedule II, but if no such election is made the remuneration shall be according to the commission scale fee. *If a solicitor wishes to charge by items in respect of business undertaken on or after 1st October, 1957 it will be necessary to elect therefor in accordance with clause 6 above by notice in writing to the client and, as a matter of precaution, to the acquiring authority.*

SOLICITORS' GOLFING SOCIETY

THE Autumn Meeting of the Society will be held (by kind permission of Captain and Committee) at Limerick Golf Club, Ballyclough Limerick on Saturday 14th day of September, 1957 when the Incorporated Law Society's Challenge Cup; Presidents Prize (Mr. Niall S. Gaffney) and other prizes will be competed for. Further details will be published and circularised to all members. Early notification to me of intention to compete will be greatly appreciated, and members wishing to book overnight accommodation should notify me at once. Further inquiries, Gerard M. Doyle, Hon. Secretary, 50 Lr. O'Connell St., Dublin.

LIBRARY VACATION ARRANGEMENTS

THE Library will be closed from Thursday 22nd August at 5 p.m. to Monday 23rd September, 1957 at 10 a.m. Members requiring books urgently may apply to the Society's office

SLIGO BAR ASSOCIATION.

AT a General Meeting of the Bar Association held on Friday the 7th June, the following officers were elected for the year 1956-'57 :—

President : MARTIN FITZGERALD.

Vice-President : FRANCIS ARMSTRONG.

Hon. Secretary : THOMAS MULLANEY.

Committee :

E. P. HOWLEY; P. A. CURRAN; P. T. MONAHAN; E. P. GALLAGHER.

CORRESPONDENCE

THE following letter has been received from a member :

We would be obliged if you would insert in the next issue of *The Gazette* an inquiry : if any of the members of our profession act for persons who are in receipt of a rental from County Hospitals and other buildings supported by public funds, who are liable for rates on the half-rental.

As you are aware persons receiving rent in respect of hereditaments exempt from rating under Section 63 of the Poor Relief Act 1838 (1 & 2 Vict. c. 56) such as those used for charitable or public purposes are liable to be rated in respect of such rent to the extent of one half the poundage of the rate under Section 10 of the Poor Relief Act 1849 (12 & 13 Vict. c. 104). Neither the Legislature nor the Lessor of such premises could have foreseen that in the years to come the rates would exceed the rent received by the Landlord, which is fast becoming the state of affairs. So that if a person at the present time holds such premises that were let on lease on or after the date of the passing of that Act, at say a rental of £50 a year, he is obliged to pay the current rate based on a valuation of £25, and as the current rate in most districts at the present time is in the neighbourhood of from 30/- in many instances, to 38/- in the £1, it is quite clear that in a few years the actual sum that such a Landlord will have to pay to the Rating Authorities will exceed the actual sum he is receiving in rent; thus creating a situation contrary to natural justice, and to say the least of it unconstitutional. As a typical example that some Departments of State realise the injustice, the Board of Public Works who always draw their own Leases now insert a clause to the effect that on the Landlord paying the rates in the first instance, and producing receipts therefore, the Board refund the sum or sums paid in respect of rates.

There must be a number of the members of the profession, who have clients in a similar position, and we would like to know their views on the matter, and what steps should be taken to remedy this gross injustice.

REGISTRATION OF TITLE ACT 1891 AND 1942

NOTICE

FOLIO 1067 COUNTY CORK.
Registered Owner : JOHN SHEA

The Registered Owner has applied for a duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 29th day of July, 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of John Shea to 49a. 1r. 20p. of the lands of Finnanefield situate in the Barony of West Muskerry and County of Cork being the lands comprised in said Folio.

REGISTRATION OF TITLE ACT 1891 AND 1942

NOTICE

FOLIO 4113 COUNTY GALWAY.
Registered Owner: MICHAEL DONNELLAN

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 31st day of July, 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE

Land Certificate of Michael Donnellan to 26a. 1r. 9p. of the lands of Ballygasty situate in the Barony of Loughrea and County of Galway being the lands comprised in said Folio.

NOTICE

MR. GERALD MAGUIRE, LL.B. has changed his address from 16 Molesworth Street to 43 Fitzwilliam Square. Telephone No. 65373.

His Dublin agents for the Claremorris and Ballinrobe offices are Messrs. Hickey & O'Reilly, 8 Clare Street, Dublin.

THE REGISTRY.

Register C.

FOR SALE: "The Conveyancer" precedents 1915/36 in 22 vols. cloth bound including index; volume of corrections and additions; 6 loose issues September 1936/Dec. 1937. Box No. C.156.

FOR SALE: Complete set of Irish Jurist from 1935 to 1956—20 vols.—All bound in good condition except last two volumes—20 Guineas. Apply Librarian, Incorporated Law Society. Postage extra.

FOR SALE: Halsbury's Laws (Thin paper edn.) £12; English and Empire Digest (Thin paper, complete with Supplements) £20; Set Dail Statutes, 1922 to 1954, £22 10s. Apply Librarian, Law Library, Four Courts.

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1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

JULY 18TH : The President in the Chair. Also present Messrs. James R. Quirke, Louis Walsh, John J. Nash, John R. Halpin, George G. Overend, Ralph J. Walker, John Maher, Peter E. O'Connell, Reginald J. Nolan, Francis X. Burke, Thomas A. O'Reilly, Patrick R. Boyd, Christopher Gore-Grimes, Robert McD. Taylor, Joseph P. Tyrrell, George A. Nolan, Dermot P. Shaw, Desmond J. Collins, John Carrigan William J. V. Comerford, Derrick M. Martin, Francis J. Lanigan, Seán O'hUadhaigh, Charles J. Downing, John J. Sheil, Christopher E. Callan, Terence de Vere White.

The following was among the business transacted :

Law Clerks Joint Labour Committee

MR. Ralph J. Walker was appointed as one of the Society's representatives on the Committee in place of Mr. Patrick F. O'Reilly.

Lessor's costs of consent to granting of sub-lease.

MEMBERS asked for a direction from the Council as to whether a lessee is liable to pay the costs of the superior lessor of joining or concurring in a sub-lease where the agreement is silent as to costs. The Council having considered the analogous case of a mortgagee consenting to a lease made by the mortgagor and the available authorities decided that the custom of the profession is that in the absence of stipulation to the contrary the lessee pays the lessor's costs of obtaining the consent or concurrence of the superior lessor.

High Court on circuit

A letter from the secretary to the Chief Justice was read stating that the Chief Justice and the President of the High Court have determined that the High Court will go on circuit in July 1957 but that the half-yearly sittings for the High Court on circuit for the year 1958 shall be held in the month of March and October. The arrangement will be experimental and its continuance in future years will depend on whether it is found satisfactory.

UNQUALIFIED PERSON PREPARING LETTING AGREEMENT

MEMBERS reported to the Society the facts of a case in which a house agent had prepared a letting agreement of a furnished flat on behalf of the

landlord. No solicitor was engaged either for the landlord or the tenant. No fee was charged other than the usual house agent's commission on the letting. By direction of the Council a letter was written to the house agent referring him to the provisions of Section 58 of the Solicitors Act, 1954 and the decided cases in which it was held that the receipt of house agent's commission is fee or reward within the meaning of the section even although no specific sum for costs is appropriated to the letting agreement. No reply or acknowledgment was received from the house agent and proceedings were instituted on behalf of the Society. Before the case came on for hearing the defendant gave an undertaking not to repeat the offence and paid the Society's costs. On these terms the case was struck out. A letter has since been sent by the Society to the Irish Auctioneers and Estate Agents Association notifying them of the facts of the case and asking them to co-operate in putting an end to such practices. In the letter to the Association it was pointed out that the preparation of a contract for sale of property by a house agent who receives commission on the sale is equally a breach of the section. Members are asked to report to the Society any cases of infringement by unqualified persons of the provisions of part 6 of the Solicitors Act, 1954.

COMMISSION ON INCOME TAXATION

THE Commission was set up by the Government on 18th February, 1957 and its terms of reference are as follows :—

> To inquire generally into the present system of taxation of profits and income, its scope and structure, including the provisions for collection and the prevention of evasion; its effects on the national economy and the equity of its incidence; to recommend such amendments of the law as appear desirable and practicable; and if it is considered that the taxation of profits and income should be terminated or modified in any manner involving loss of revenue to recommend alternative means of raising equivalent revenue.

The Council intend to submit a memorandum of evidence. The views of members are wanted on the following matters.

(1) Proposals to substitute an alternative system of taxation for the present income tax.

(2) Any respects in which the present method of assessment and collection of the present income tax has an unfair incidence on (*a*) particular classes of taxpayers or (*b*) solicitors.

(3) Suggestions for improving the present method of assessment and collection of income tax.

Suggestions should be sent to the Secretary.

DINNER DANCE

FORMS of application for tickets are issued with this number of the *Gazette*. The dance will be held in the Shelbourne Hotel, Dublin on Thursday 21st November, the date of the Ordinary General Meeting. Tickets will cost one guinea each.

LIST OF NEW MEMBERS FROM 1st AUGUST, 1956, TO 31st JULY, 1957

PATRICK J. BRENNAN, Claremorris, Co. Mayo.
JOHN F. BUCKLEY, 68 Middle Abbey Street, Dublin.
PATRICK J. CAROLAN, Kingscourt, Co. Cavan.
FINTAN P. CLANCY, 3/5 Suffolk Street, Dublin.
COMMANDANT ARTHUR G. CULLEN, BALFEDOCK House, Curragh, Co. Kildare.
FRANCIS A. FITZPATRICK, 1 College Square North, Belfast.
COMMANDANT MICHAEL N. GILL, Southern Command H.Q., Collins Barracks, Cork.
MICHAEL C. HALPENNY, 96 Upper Georges Street, Dun Laoghaire.
BRENDA HALPIN, 18 Hume Street, Dublin.
GORDON A. HENDERSON, 18 Lr. Baggot Street, Dublin.
SEAN KELLY, 35 Parliament Street, Kilkenny.
RICHARD D. KENNEDY, Nelson Street, Tipperary.
RICHARD KNIGHT, 11 Lr. Ormond Quay, Dublin.
EDWARD A. G. LANE, 11 St. Stephen's Green, Dublin.
MATHEW J. LARDNER, 4 Gladstone St., Waterford.
MICHAEL J. LUCAS, 25 Westmoreland Street, Dublin.
BRENDAN J. LYNCH, Carrick-on-Shannon, Co. Leitrim.
CHARLES R. M. MEREDITH, 32 Molesworth Street, Dublin.
WILLIAM B. MONTGOMERY, 29 Wicklow Street, Dublin.
MICHAEL MORAN, Castlebar, Co. Mayo.
DONOUGH B. MCDONOUGH, Dundalk, Co. Louth.
COMMANDANT THOMAS M. MCMAHON, Custume Barracks, Athlone, Co. Westmeath.
HUGH B. NAUGHTON, Galway.
CARMEL O'CONNELL, 1 Clare Street, Dublin.
NICHOLAS O'KEEFFE, Cobh, Co. Cork.
SEAN O'MAHONY, 23 South Mall, Cork.
MAURICE PHELAN, 3/5 Suffolk Street, Dublin.
PHILIP P. REILLY, 30 Lr. Baggot Street, Dublin.
EDWARD J. RYAN, Thurles, Co. Tipperary.
MICHAEL A. STAINES, 2 Inns Quay, Dublin.
PATRICK L. TRACEY, City Hall, Cork Hill, Dublin.

EXAMINATION RESULTS

At the Intermediate Examination for apprentices to solicitors held on the 11th, 12th and 13th days of June 1957 the following passed the examination.

Passed with Merit.

1. Conal J. Clancy, 2. John P. A. Hooper, 3. Francis G. M. Gannon.

Passed.

Richard J. Black, Michael J. Butler, John C. Cashman, Peter D. Collins, Fionnbarra Dempsey, Marie T. Donnellan, Patrick Joseph Farrell, David R. Felton, Adrian F. J. Fitzgerald, Maire N. Gibbons, Michael J. Hogan, Brian O. Lyons, Edward M. Masterson, Dermod Morrissey-Murphy, Peter F. Moylan, Maurice A. Neville, Thomas P. O'Connor, Francis C. Quinn, Peter A. Smithwick, Donald O. Stuart, Rosaleen Walsh, Cathal N. Young.

43 candidates attended; 25 passed.

The Centenary Prize was awarded to Conal J. Clancy.

At Examinations in the Irish language held on the 28th day of June 1957, the following passed the examinations.

First Examination in Irish.

Robert Cussen, Michael G. Dickson, Delphine A. C. Dudley, David O'N. Kiely, Desmond J. O'Malley, Cyril M. Osborne.

7 candidates attended; 6 passed.

Second Examination in Irish.

Kenneth L. Armstrong, Michael J. Butler, Timothy H. Crowley, Marie T. Donnellan, Patrick V. Fagan, John F. Kealy, Noelle Maguire, Gertrude Louise O'Connell, Sean Cormac Rynne.

11 candidates attended; 9 passed.

LECTURES MICHAELMAS SITTINGS

Course A.—Company Law and Administration of Estates. Mondays and Thursdays, 2.15 p.m., commencing Thursday, October 3rd.

Course B.—Conveyancing Law and Practice and Land Law. Tuesdays and Fridays, 2.15 p.m., commencing Tuesday October 1st.

Course C.—The Procedure and Practice of the Courts. Tuesday and Saturday at 9 a.m., commencing Tuesday October 1st.

Course D.—Taxation including death duties. Mondays at 9 a.m. and Saturdays at 10.15 a.m., commencing Saturday October 5th.

Course E.—Book-keeping, Mondays and Thursdays at 3.30 p.m., commencing Thursday, October 3rd.

Course F.—The rights duties and responsibilities of solicitors two lectures. The dates on which the lectures will be held will be announced at a later date.

Fee £8 8s. for each course except Course E for which the fee is £6 6s., and Course F for which there is no fee.

RECEPTION FOR MEMBERS OF THE AMERICAN BAR ASSOCIATION

The President of Ireland and Mrs. O'Kelly were present at a reception held in the Great Hall of the Four Courts on Thursday August 1st in honour of members of the American Bar Association visiting Dublin. The reception which was attended by about 750 guests was given by the Honourable Society of the Kings Inns, The General Council of the Bar of Ireland and the Incorporated Law Society of Ireland. The guests were received by the Chief Justice and Mrs. Maguire, the Chairman of the Bar Council and Lady Esmonde, and the President of the Society and Mrs. Gaffney. The attendance included the Chief Justice of the United States and Mrs. Warren, the Attorney General of the United States and Mrs. Brownell, Lord McDermott Lord Chief Justice of Northern Ireland and Lady McDermott, the Honourable Mr. Justice Sheil and Mrs. Sheil, Northern Ireland, the President of the Incorporated Law Society of Northern Ireland and Mrs. Fox, Mr. Norman H. Murray, Secretary of the Incorporated Law Society of Northern Ireland, Mr. R. W. Porter, B.L., Honorary Secretary Bar Council, Northern Ireland and Mrs. Porter, an Tanaiste and Mrs. Lemass, the Minister for Justice and Mrs. Traynor, The Minister for Agriculture and Mrs. Moylan, the Minister for Finance and Mrs. Ryan, the Lord Mayor and Mrs. Carroll, and members of the Judiciary, the Bar and the Society.

CORRESPONDENCE

Re:—Poor Relief Acts 1838/1949

Dear Sir,

With reference to the letter appearing in the *Gazette* of the Incorporated Law Society of Ireland for July, 1957, I have a case somewhat similar to that mentioned by your correspondent.

I suggest that representation should be made to the Government to amend these Acts so that the owner of rent from County Hospitals etc. should be liable to be rated in respect of such rent to the extent of one-quarter poundage of the rate under the above Acts.

The present system is unjust having regard to the ever increasing rates which are bound to go higher every year in Ireland owing to existing circumstances.

Yours faithfully,
Hugh O'Donnell.

29 Dublin St.;
Carlow.
22nd August, 1957.

Dear Sir,

With reference to the July issue of the *Gazette*, I was very interested to read the letter published under the heading "Correspondence."

I am dealing with a case where the owner of a rent has to pay rates but fortunately the amount of the rates is not very large, and I believe that my client when he bought the rent would probably have taken the rates into consideration, although he could not have taken into account the tremendous increase which has occurred in the last few years.

I can, however, imagine a worse case than that of your correspondent. That is where someone, who perhaps needed the income very badly, bought a rent and the premises were subsequently sold to some charitable body which applied for and obtained exemption from rates.

In such a case when the liability for rates passed to the Landlord it would be equivalent to confiscating the landlord's income to the extent of the rates.

From my inquiries into the matter there seems to be no way to overcome the injustice except by legislation. Decided cases are not helpful and too much depends on the wording of individual leases. There have been cases where the Landlord has recovered the rates back from the tenant, but in most cases they cannot be recovered.

Yours faithfully,
DENZIL O'DONNELL,

25 Westmoreland Street,
Dublin.
23rd August, 1957.

Dear Sir,

We refer to the letter in the July issue of the *Gazette* concerning rates on premises occupied by the State. We act for a client who is paid a rent of £105 out of State owned property in the Midlands. She receives, in fact, less than £5 when our commission is deducted. We pointed out the unfair position to the Department concerned and they offered us the grandiose amount of £50 to redeem the rent. We suggested that the treatment accorded to owners of these rents is in strong contrast to the opening phrases of the introduction to the Constitution. We suggested that an average of fifteen years' rent should be taken in order to redeem it. They turned down this suggestion, but are considering increasing their offer.

We are strongly of the opinion that this situation being fairly general should be taken up by the Law Society rather than individuals.

Yours faithfully,
O'CONNOR & DUDLEY,

1 College Street,
Dublin.
4th September, 1957.

RE: MESSRS. HAROLD J. WILEY & CO., LTD.

Dear Sir,

Our attention has been drawn to a paragraph in a recent issue of your *Gazette* regarding the Professional Negligence Policies issued through the Agency of Messrs. Harold J. Wiley & Co., Ltd. We are writing to advise you that we have purchased the goodwill of this business and will look after policy holders' interests in the future. We have already written to all existing policy holders advising them of the change. However, we are writing to you to confirm that all Lloyd's policies remain in full force up to their existing expiry dates and are completely unaffected by Messrs. Wiley's liquidation.

If you could see your way to publishing a note to this effect in a future issue of your *Gazette* it would no doubt alleviate any anxiety which your members may have on this matter.

Yours faithfully,
ROBERT J. JOLLEY & CO., LTD.

Friends' Provident Building,
12/14, College Green,
Dublin.
26th August, 1957.

THE MEDICO-LEGAL SOCIETY OF IRELAND

AT the Annual General Meeting of the Medico-Legal Society held in April, 1957, Dr. J. P. Brennan, Coronor for Co. Dublin, was elected President for the year 1957–58.

In addition to the Hon. Vice-Presidents who were unanimously re-elected, the following Hon. Vice-Presidents were elected: Messrs. Sean Hooper, S.C.,; Liam Trant McCarthy, solicitor; and Dr. John Falvey. Mr. M. B. Daly, B.L., was elected Hon. Auditor.

In his report the Hon. Secretary said that although the Society was founded only last Autumn it had grown in numbers very considerably. He thanked all those who had assisted the Society during the year, including the President and Secretary of the Incorporated Law Society of Ireland for their great help.

The President of the Society referred to some current trials in Ireland and England which he said had given a great interest to the medico-legal matters in this country.

The Council of the Society has arranged the following ordinary meetings during the 1957–58 session:—31st October and 28th November, 1957; 30th January and 27th March, 1958.

A joint meeting with members of the American Bar Association on problems of medical jurisprudence was held in the Gresham Hotel on Saturday, 3rd August, 1957, at 11 a.m. This was followed by a luncheon in the Aberdeen Hall, at which the following spoke:—The Chief Justice, the Hon. Earl Warren (Chief Justice, U.S.A. Supreme Court), Hon. David Berger of Philadelphia, Mr. Campbell Brown of New York, the Hon. Mr. Justice Murnaghan and Mr. J. A. Costello, S.C.

Dr. Letitia Fairfield, C.B.E., M.D., President of the British Medico-Legal Society, will read a paper on "Confessions" on 31st October, 1957, at the Royal Hibernian Hotel, Dublin, at 7.45 p.m. The annual dinner of the Society will be held on Thursday 17th October, in the Royal Hibernian Hotel, at 7.45 p.m. Tickets, 21s. each. Dr. Frank McLaughlin, M.D., will speak on Thursday, 28th

November, in the Royal Hibernian Hotel, at 7.45 p.m., on "The problems of unnatural offences."

Full particulars as to membership, etc., may be obtained from the Hon. Secretary Mr. M. J. Leech 4 Chancery Place, Dublin. Phone 76931

DUBLIN SOLICITORS' BAR ASSOCIATION

A MEETING of the Council of the Association was held on Wednesday, 3rd July, 1957.

The Subcommittee has had the benefit of an interview with the County Registrar concerning the performance of their duties by Civil Bill Officers, and a recommendation has been made as to the qualification and training of future candidates.

The Association's form of precedent letting agreement has now been circulated to all members. The Council hope that it will have as much success as the Association's form of contract for sale.

The Council are now considering the possibility of producing executor and trustee precedent forms.

The date for the annual general meeting of the Association has been provisionally fixed for Wednesday, 9th October, 1957. Notices will be issued in due course.

The next meeting of the Council of the Association was fixed for Wednesday, 25th September, 1957.

MAYO SOLICITORS BAR ASSOCIATION

A SPECIAL General Meeting of the Association was held in the Bar Room, Castlebar, on Wednesday, 3rd July, 1957.

A resolution congratulating Mr. Michael Moran, T.D., on his appointment as Minister for the Gaeltacht and wishing him every success was proposed by Mr. Alfred V. G. Thornton, and seconded by Mr. Patrick J. McEllin and passed with acclamation.

Mr. Patrick J. McEllin was co-opted a member of the Committee in lieu of Mr. Michael Moran.

The fees under the Enforcement of Court Orders Acts, 1926, as approved by Justices of Nos. 7, 8 and 9 Districts were adopted and ordered to be printed and distributed amongst members.

The Dinner of the Association to be held in Newport House Hotel has been fixed for Saturday, 19th October next, in honour of Mr. Sean Hannon, Lay Commissioner of the Land Commission, and Mr. Michael Moran, T.D., Minister for the Gaeltacht.

All members are requested to become members of the Solicitors' Benevolent Association. The Honorary Secretary has sent a circular addressed to each member urging such membership and offering to forward any subscriptions given to him.

DECISIONS OF PROFESSIONAL INTEREST

Justices who employ counsel to defend prerogative writs in the High Court, instead of sending in affidavits under the review of Justices Decisions Act, 1872, have to pay the costs of the other side, if they lose the case.

The applicant moved for an order of mandamus directing the licensing justices for the division of Llanidloes, Montgomeryshire, to hear and determine an application for the extension of licensing hours.

The justices appeared by counsel to oppose the motion. The Court having granted the order of mandamus, counsel for the applicant asked for the costs of the application. The Divisional Court (Lord Goddard, L.C.J., Hilbery and Devlin J.J.) granted this application.

Per Lord Goddard, C.J.: The justices have made themselves parties to this application and the applicant is entitled to costs against them. The justices were entitled, if they chose, to avail themselves of the Review of Justices Decisions Act, 1872, which allows them to file affidavits. They do not then make themselves liable for costs, and they do not have to pay any stamp duty on the affidavit. If, however, they choose to appear here, they make themselves parties to the lis and take the risk of being ordered to pay costs, and are entitled to receive costs if they succeed in defeating the application. I have been trying to remind justices, not only in court, but also in addresses that I have given to them, of their rights under the Act of 1872. That Act was passed for the very purpose of allowing justices, against whom a motion for certiorari or mandamus was made, to put in affidavits giving their reasons for opposing the motion, so that the court could decide the case on the affidavits, but if justices will insist on instructing counsel and coming before the court and arguing the case, they are making themselves parties to a lis. The legislature has given them this opportunity of putting their views before the court without being liable for costs. If they do not choose to take it, that is their affair. The justices have come here, filed affidavit after affidavit, and have had the benefit of counsel's strenuous argument.

Counsel for Licensing Justices:—In my submission it would be a departure from previous practice that costs should be awarded against justices unless they had acted capriciously or oppressively. Orders which cover the indemnity of justices have been commonly made.

Lord Goddard, C.J.:—Then why should they

not pay if they lose? The justices need not have appeared. At one time this court very seldom ordered costs, and I think that the reason was that the Act of 1872 got overlooked. For at least three years now I have been trying to remind justices of the presence of this Act on the Statute Book. I have said over and over again that, if justices are not content with exercising the power which Parliament has given them but will insist on appearand arguing the case, they will make themselves parties to a lis and will have to pay costs if they lose, and if they win they will receive them.

Note:—Although the Review of Justices Decisions Act, 1872, does not appear to have been formally repealed in Ireland, it would appear to have been impliedly repealed by the Courts of Justice Acts, because it is understood that if a decision of a District Justice is impugned the Attorney-General instructs the Chief State Solicitor and nominates Counsel to appear on the Justice's behalf. The question of the District Justice having to pay costs personally would not thus normally arise.

(R. v. Llanidloes Licensing Justices—Ex parte Davies—(1957). 2 All E.R. 610l))

Solicitor, practising on his own under the name of a firm! can deliver a bill of costs signed in the name of the firm.

The Case of Carroll v. Ryan heard by Judge Deale at Trim Circuit Court in June, 1937, gave rise to an interesting legal point. Judge Deale declined to follow the English decision of Goodman v. Eban (1954, I.Q.B. 550), as the wording of the English Solicitors Act was different, and held that in a claim by a solicitor against a client for non-payment of his bill of costs amounting to £131, that, owing wording of Section 2 of the Solicitor's (Ireland) Act, 1849, the solicitor should have signed the bill of costs in his own name, and not in the firm name where he was the sole owner of the firm. Section 2 of the Act provides inter alia "that the bill shall be subscribed with the proper hand of . . . such solicitor." As Judge Deale was of opinion that the bill had not been subscribed in accordance with the Act, he dismissed the action.

An appeal was taken to the High Court on circuit. Haugh, J., in allowing the appeal held that, while he was not bound to follow the reasoning in Goodman v. Eban, he thought nevertheless it would be preferable to do so in this case and held that the bill which had been signed by the solicitor with the firm name had been properly subscribed. By way of *obiter dictum*, Haugh, J., stated that it would be preferable as far as possible for the solicitor concerned to sign the bill of costs in his own name, instead of in the name of the firm.

SMALL DWELLINGS ACQUISITION ACT, 1957

THIS Act amends the definition of market value of a house for the purpose of the Small Dwellings Acquisition Act 1899, previously set out in Section 32 of the Housing (Amendment) Act 1950. This market value is now to include the cost of building the house (including all reasonable incidental expenses), and the value of the interest of the person to whom the advance is made in respect of the site. Where the ownership of the house is occupied by the person to whom the advance is made, he shall be entitled to all reasonable expenses incidental to such acquisition. This provision is retrospective to the 24th December, 1956.

If an applicant is dissatisfied with the amount awarded by the local authority under this Act, such applicant may, upon payment of the prescribed fee laid down by regulations, submit his contention that he is entitled to a greater amount. The Commissioner, after having made the necessary inquiries, shall state whether or not he considers the contention well founded, and, if applicable, will state the amended amount which should be awarded. A statement from the Commissioner of Valuation shall not, however, affect the discretion of the local authority in the matter.

MARRIED WOMENS STATUS ACT, 1957

The Married Womens' Status Act 1957 came into force on 1st June, 1957, and briefly places a married woman, in respect of owning property, or making contracts, or committing torts, on the same footing as if she were unmarried; for most of these purposes she is henceforth to be treated as a separate person from her husband. The doctrine of restraint upon anticipation is abolished.

It is understood that copies of the Act which contains 21 sections, will be shortly on sale in the Government Publications Sale Office, G.P.O. Arcade, Henry Street, Dublin.

INDUSTRIAL AND COMMERCIAL PROPERTY (AMENDMENT) ACT, 1957

THIS Act implements the Industrial Property Convention of London of 1934, and the Copyright Conventions of Brussels in 1948, and of Geneva in 1952. Amendments are made to the 1927 Act in respect of the following matters:—

(*a*) Granting and sealing of patents.
(*b*) Prevention of abuse of monopoly rights.
(*c*) Patents of vessels, aircraft, and land vehicles accidentally landing in the State.
(*d*) Cancellation of registration of designs.

(*e*) International arrangements for the protection of inventions and designs.
(*f*) Definition of copyright.
(*g*) Term of copyright—50 years from 1st January after author's death.
(*h*) Works of joint authors.
(*i*) Copyright in publications of international organisations.

Copies of this Act may be obtained from the Government Publications Sale Office, G.P.O. Arcade, Henry Street, Dublin.

OBITUARY

MR. ARTHUR T. ELLIS, Solicitor, died on the 28th July, 1957, at Sir Patrick Dun's Hospital, Dublin.

Mr. Ellis served his apprenticeship with the late Mr. Henry T. Stewart, and the late Mr. Mark S. Orr, 33 Lower Ormond Quay, Dublin was admitted in Hilary Sittings, 1903, and practised at 44 Dawson Street as senior partner in the firm of Messrs. Ellis and Moloney.

THE REGISTRY

Register A.

YOUNG SOLICITOR, male or female, with land registry, conveyancing, experience offered good position with prospects, provincial City. Box A168.—

ASSISTANT SOLICITOR. Law Agent (Dublin), has vacancy for Solicitor aged under thirty. Good knowledge of conveyancing essential. Reply (in confidence), stating age, and details of education, qualifications and experience, to Box A169.

Register B.

DUBLIN SOLICITOR, having excellent practice, connection and capital desires partnership with established and progressive firm. High current earnings verified by audited accounts. Box No. B217.

SOLICITOR at present employed seeks change Dublin or N.E. Leinster. Experience in Probate, Land Registry and Court work. Qualified 5 years. Box No. B218.

COURT CLERK (male) desires situation Dublin preferred. Experience in High Court, Bankruptcy and general practice would consider part time position; 20 years experience. Box B219.

REGISTRATION OF TITLE ACTS, 1891 AND 1942—ISSUE OF DUPLICATE LAND CERTIFICATES

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the certificate of title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 31st day of August, 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
DUBLIN.

1. Registered Owner, Joseph Mulvin. Folio Number, 8668, County Kings. Lands of Clonmore (No. 1), containing 46a. 2r. 0p., and (No. 2), 16a. 3r. 14p. situate in the Barony of Warrenstown.

2. Registered Owner, Very Rev. Francis Edward Canon Stanford, P.P. Folio Number, 1033L, County Dublin. Premises known as No. 416 Griffith Avenue measuring in front to the said Avenue 36 feet in the rere 45 feet and in depth from front to rere on the east 242 feet 7 inches and on the west 221 feet 8 inches situate in the Parish of Glasnevin and City of Dublin.

3. Registered Owner, Patrick Brogan. Folio Number, 2893. County Clare. Lands of Lakyle, in the Barony of Leitrim containing —a. 3r. 16p.

INDEX TO STATUTORY INSTRUMENTS

published since February, 1957

AGRICULTURE, LANDS AND FISHERIES.

SUBJECT MATTER AND REFERENCE NUMBERS.

Butter Stocks—Levy of 59/- per cwt. imposed on Stocks of Creamery Butter held by Creameries on 9th May 1957—102/1957, 103/1957.

Dairy Produce (Price Stabilisation) (Amendment) Act, 1956 to come into force on 1st March 1957—30/1957.

Emergency Powers (No. 145) Order 1942 revoked, and replaced by Milk and Dairies (Amendment) Act 1956—129/1957.

Emergency Powers (Nos. 270 and 283) Orders 1943 revoked, and replaced by Dairy Produce (Price Stabilisation) (Amendment) Act 1956—32/1957.

Feeding Stuffs (Restriction of Import) Order 1953 amended—178/1957.

Home-Grown Wheat—National Percentage for 1956/57 reduced from 75% to 61%—145/1957.

Levy to be paid by Licensed Bacon Curers fixed at 4/7 per carcase—136/1957.

Milk and Dairies (Amendment) Act 1956 in operation from 1st July 1957—135/1957.

Milk and Dairies (Amendment) Regulations 1957—162/1957.

Milk and Dairies (Temporary Special Designation License) Regulations 1957.
Milk and Dairies Act 1935—Part VI revoked from 1st July 1957—137/1957.
Milk and Dairies Regulations 1957—138/1957.
Milk and Dairies (Amendment) Act 1956—Some provisions to come into force on 15th August 1957—177/1957.
Officers of Committees of Agriculture—Increased Travelling and Maintenance Allowances payable as from 6th May 1957—92/1957.
"Pasteurised Milk" defined—161/1957.
Pigs and Bacon Commission Regulations—171/1957.
Swine Fever—Restrictions on Movements of Pigs within Rural District of Rathdown, Co. Dublin, removed—107/1957.
Swine Fever (Restriction on Movement of Pigs)—128/1957 166/1957.
Wheat—Prices payable to Growers for Millable Wheat in 1957 fixed—133/1957.

COMMODITIES, GOODS AND SERVICES.

Subject Matter and Reference Numbers.

Bacon—Maximum Prices revoked—132/1957.
Bread—Maximum Wholesale and Retail Prices revoked—93/1957, 174/1957.
Bread need no longer be baked in Units of 8 ozs. or of 1 lb. 98/1957.
Bread—Maximum Prices and Authorized weights fixed after 20th May—111/1957.
Bread Order 1956 revoked—98/1957.
Butter Sale and Supply prohibited in Dublin City and County unless Butter was supplied by an authorised body—53/1957.
Butter (Revocation of Orders)—52/1957.
Butter Boxes of 56 lbs., when empty, no longer subject to Price Control—100/1957.
Butter Boxes cannot be sold save to a Creamery—55/1957.
Cigarettes—New Maximum Retail Prices fixed after 11th May 1957—104/1957.
Cloth, Clothing and Knitting Wool—Control of Profit Margins and
Creamery Butter—Maximum Prices fixed—54/1957.
Creamery Butter—Levy of 12/6 per cwt. imposed after 9th May 195 —101/1957.
Creamery Butter—Price Control removed—94/1957.
Creamery Butter—Wholesale Price Control removed—99/1957.
Fair Trading Rules:—No. 16—Entry into and trade in the Co-Operative Wholesale Distribution of Grocery Goods and Provisions.
Fair Trading Rules:—No. 14—Perambulators, Folding-Cars and Sun-Cars; No. 15—Pedal Bicycles, Spare Parts and Accessories.
Flour and Wheatenmeal—Ex-Mill Prices removed—106/1957.
Flour and Wheatenmeal—Maximum Retail Prices revoked—96/1957.
Gas Undertakers—Prescribed Dividends fixed—48/1957.
Intoxicating Liquor (Maximum Prices), 95/1957.
Hiring, Hire-Purchase and Credit Sales Orders—Conditions as to Deposit relaxed—25/1957.
Hiring, Hire-Purchase and Credit Sales Orders not applicable to Personal Clothing and to Household Soft Goods—56/1957.
Hiring, Hire-Purchase and Credit Sales Orders—All Restrictions removed after 1st April, 1957—66/1957.
Hydrocarbon Oils Rationing Order 1956 revoked—61/1957.
Importers of Fuel exempted from furnishing Returns of Cargoes to Minister—62/1957.
Motor Spirit—Margins of Retailer for Sale of same increased—195/1957, 65/1957.
Motor Spirit—Prices not to be increased within specified Period—41/1957.
Perambulators and Sewing Threads—Maximum Prices revoked—155/1957.
Petrol Rationing Order revoked—63/1957.
Stout and Porter—Price Control removed in all Areas save those listed below—75/1957.
Stout and Porter—Maximum Retail Prices in Dublin, Cork, Limerick and Waterford Boroughs and in Co. Dublin increased by 1d. per pint—95/1957.
Sugar—Maximum Wholesale and Retail Prices increased from 1st May 1957—83/1957.
Superphosphates and Compound Manures—Quantitative Restrictions on Importation removed—44/1957.

CONTROL OF IMPORTS AND EXPORTS

Subject Matter and Reference Numbers

Agricultural Produce (Cereals) Act 1938 (Section 10) (Exemption)—29/1957.
Brushes, Brooms and Mops—Import limited to 50,000 to March 1958—34/1957.
Control of Exports of many listed Commodities—64/1957.
Control of Imports (Quota No. 45) (Amendment)—147/1957.
Grouse, Partridge and Pheasants—Export prohibited save with written permission of local Garda Superintendent—76/1957.
Iron and Steel, Machinery and Vehicles—Export prohibited save under Licence—139/1957.
Laminated Springs—Import Quota fixed to 31st March 1958—33/1957.
Linseed Cake, Earth Nict Cake, Coconut Cake, Palm Kernel Cake and Soya Been Cake—all freed from Import Licensing Control under Agricultural Produce (Cereals) Act—123/1957.
Pearled Barley freed from Import Licensing Control under the Agricultural Produce (Cereals) Acts—124/1957.
Pyjama Cloth—Import of Certain Types controlled—147/1957.
Salmon Export Levy Regulations—116/1957.
Salmon Export prohibited unless prior Export Levy paid 115/1957.
Sugar—Import prohibited even if used in Manufacture of Goods for Export elsewhere—112/1957.
Sugar Syrup and Goods containing Sugar—Export Control removed—153/1957.
Wheaten Breakfast Foods exempted from provision prohibiting Import of Wheat—29/1957.
Wood Screws—Imports limited to 30,000 gross—113/1957.
Woven Woollen or Worsted Fabrics—Imports limited to one million square yards—164/1957.

COUNTY AND TOWN MANAGEMENT

Subject Matter and Reference Numbers

Applicants for Grants for the Installation in a Dwelling-House of a Private Water Supply or Private Sewerage Scheme—Conditions applicable—23/1957.
City and County Management (Amendment) Act 1955—Section 23 in operation from 1st July, 1957—134/1957.
Ceannanus Mor (Kells), Co. Meath—Boundary of Urban District extended from 23rd February 1957—35/1957.
Enniscorthy, Co. Wexford—Boundary of Urban District extended from 23rd February 1957—36/1957.

Housing (Private Water Supply and Sewerage Facilities) Regulations 1957—23/1957.
Kilkee, Co. Clare, may grant Camping Organisations a Licence for camping—114/1957.
Local Government (Officers Age Limits)—140/1957.
Local Government (Sanitary Services) Act 1948 (Section 34) (Town of Kilkee)—114/1957.
Local Government (Ireland) Act 1898 (Wicklow Co. Council)—26/1957.
Officers of Local Authorities must retire at 65 years if entitled to full pension, otherwise can wait until they are so entitled—140/1957.
Submissions to Commissioner of Valuation under Small Dwellings Acquisitions Act 1957—Fees payable—173/1957.
Wicklow Co. Council can provide Recreation Grounds and Public Walks within Wicklow Co. Health District—26/1957.

CUSTOMS AND EXCISE, EMERGENCY AND OTHER DUTIES.

SUBJECT MATTER AND REFERENCE NUMBERS

Bananas, Edible Nuts and Dried Fruit—Customs Duty varied—163/1957.
Concrete Beams and Concrete Brick Blocks—50% full duty (33⅓ preferential) restored—127/1957.
Compression Type Brass Couplings and Joints—50% full Duty (33⅓% Preferential) imposed—149/1957.
Customs Duties (Miscellaneous Suspensions) Order 1956 extended to 31st December, 1957—63/1957.
Fibre Yarns—50% full duty (33⅓% Preferential) imposed—148/1957.
Galvanized Plain ad Corrugated Iron and Steel Sheets—37½% Duty. (25% Preferential) imposed—131/1957.
Glazed Fireclay Pipes—60% full, 40% Preferential, Duty imposed—130/1957.
Gramophone Records, Mosaics and Bodies and Chassis of Motor Cycle Side Cars Customs Duty vzried—163/1957.
Iron and Steel Bars and Rods of less than $\frac{3}{16}$inch nor more than $\frac{5}{16}$inch, not liable to Customs Duty—69/1957.
Manure Forks and Drain Drags—50% full Duty (33⅓% Preferential) imposed—91/1957.
Motor Bodies—Ordinary Duty increased from 20% to 25%—70/1957.
Motor Chassis—Ordinary Duty increased from 12½% to 20%—70/1957.
Motor Vehicles and Oranges—Special Import Levies lifted—70/1957.
Paper and Felt Flower Pots—50% full duty imposed after 16th August 1957—172/1957.
Powders containing Malt Extract—Customs Duty imposed—68/1957.
Power-drawn Agricultural Machinery—37½% Full Duty (25% Preferential) imposed—108/1957.
Shirts not exceeding 8/- in value liable to additional Customs Duty of 6/—89/1957
Special Import Levy—Many articles exempted—163/1957, 78/1957.
Unprinted Paper—5% Duty re-imposed—77/1957.
Wheaten Breakfast Foods—100% full Duty (66⅔% Preferential) imposed after 26th February 1957—28/1957.

EMPLOYMENT REGULATIONS AND CONDITIONS OF EMPLOYMENT

SUBJECT MATTER AND REFERENCE NUMBERS

Boot and Shoe Repairing Joint Labour Committee—"Waiting Time" to be paid for in accordance with Minimum Rates—88/1957.
Creameries Joint Labour Committee—Employment Regulations Order—176/1957.
House Painting and Decorating Trade—Confirmation of Rules made by Apprenticeship Committee—120/1957, 74/1957.
Messengers Joint Labour Committee—Establishment Order for Limerick City—119/1957.
Messengers Joint Labour Commiteee—Establishment Order for Waterford City—118/1957.
Women's Clothing and Millinery Joint Labour Committee "Waiting Time" and Attendance at Instruction Course in Vocational School to be paid for in accordance with Minimum Rates—87/1957.

FINANCE AND CENTRAL GOVERNMENT

SUBJECT MATTER AND REFERENCE NUMBERS

Central Bank of Ireland (Forms of Statements of Accounts) (Amendment) Regulations 1957—86/1957.
Central Bank—Revised Form of Balance Sheet in respect of Legal Tender Note Fund in Statement of Accounts set out—86/1957.
Conditions under which Civil Servants who desire to surrender part of their Pension to provide a Pension for a Wife or Dependent can do so—20/1957.
Dail Eireann General Election to be held on 5th March 1957—22/1957.
Fisheries, Electricity Supply, Arterial Drainage, Turf Development and Sea Fisheries Transferred as from 9th April 1957, from Dept. of Agriculture to Dept. of Lands—67/1957.
Fisheries (Transfer of Departmental) Administration and Ministerial Functions—67/1957.
Prize-Bonds (First Draw for Prizes) Regulations 1957—179/1957.
Prize Bond Regulations 1957—40/1957.
Superannuation Act 1956—15th February 1957 to be appointed day—21/1957.
Superannuation (Allocation of Pension) Regulations 1957—20/1957.
Statistics Census of Production in 1956 to be undertaken—85/1957.
Statistics Census of Production in 1956 to be undertaken—39/1957.
Stock of 5½% National Loan 1966 can be paid as Death Duties 38/1957.

HARBOURS AND HYDRO-ELECTRIC WORKS

SUBJECT MATTER AND REFERENCE NUMBERS

Arklow Harbour Works, Co. Wicklow—125/1957.
Cork Port and Harbour—Harbour Rates increased from 12th August 1957—168/1957.
Drogheda Harbour Rates increased after 29th July 1957—156/1957.
Dublin Port and Docks Board may charge 3/6 per hour for watching any dangerous or combustible Goods—143/1957.
Dublin Port and Docks Board—Increase of certain Superannuation Allowances payable by them allowed—84/1957.
Galway Harbour Commissioners—Increase of Superannuation Allowances payable by them allowed—167/1957.
Lee River Hydro-Electric Scheme—Maximum Advanced raised from £4 million to £4½ million—71/1957.
Limerick Harbour Commissioners—Increase of Superannuation Allowances payable by them allowed—150/1957.
Sligo Harbour Works—175/1957.
Waterford Harbour Commissioners—Increase of Superannuation Allowances payable by the allowed—122/1957.

HEALTH.

SUBJECT MATTER AND REFERENCE NUMBERS

Disabled Persons (Maintenance Allowances) (Amendment) Regulations 1957—51/1957.
Health (Age Limit) for Specified Office—47/1957.
Health and Mental Treatment Act 1957 in force from 1st September 1957—169/1957.
Persons who provide Medical, Surgical or Hospital Benefits must henceforth obtain a Health Insurance Licence from the Minister—46/1957.
Resident Medical Superintendents of Carlow Mental Hospital must retire at 65 years—47/1957.
Voluntary Health Insurance Act, 1957—Sections 23 and 24 to come into operation on 1st June 1957—46/1957.
Voluntary Health Insurance Act 1957—12th February 1957 appointed as Establishment Day—24/1957.

JUSTICE, EXTERNAL AFFAIRS AND DEFENCE.

SUBJECT MATTER AND REFERENCE NUMBERS.

Clane and Kilcock, Co. Kildare—District Court Sittings fixed —110/1957.
Defence Forces (Pensions) Amendment Scheme 1957 —152/1957.
District Court (New Areas) Order 1927 (Variation No. 173)—110/1957.
Labourers Acts (Solicitors' Remuneration) Order 1957—144/1957.

MISCELLANEOUS.

SUBJECT MATTER AND REFERENCE NUMBERS

Association of Irish Traditional Musicians —High Court Deposit for holding Negotiation Licence under the Trade Union Act reduced by 75%—117/1957.
Emergency Powers (No. 301) Order 1943 revoked—79/1957.
Factories Act 1955 (Hoists and Lifts) (Exemption) —80/1957.
Game Preservation Act 1930 (Period under Section 21) (Extension)—76/1957.
Game Birds Protection—72/1957.
Land acquired by State under Emergency Powers Act 1939 —Compensation Provisions revoked—79/1957.
Offences against the State (Amendment) Act 1940 Detention Regulations 1957—146/1957, 154/1957.
Offences against the State (Amendment) Act 1940—Personnel of Commission for inquiring into Detentions—157/1957.
Pheasants, Partridges, Quail, Landrail, Plover, Mallard, Teal and Widgeon—Killing prohibited during specified periods 72/1957.
Savings Certificates—Fourth Issue (1946/52) may be held for further five years from date of maturity subject to further payments—158/1957.
Trade Union Act 1952 (Section 3) (No. 1) Order 1957—117/1957.

POSTS AND TELEGRAPHS.

SUBJECT MATTER AND REFERENCE NUMBERS.

Foreign Parcel Post Amendment (No. 3) Warrant 1957—49/1957.
Foreign Parcel Post Amendment (No. 5) Warrant 1957—58/1957.
Maximum Rates for Foreign Parcel Post increased from 35/- to 50/- per 22-lb. parcel—49/1957.
Newspapers (Special Service for Conveyance by Post Office Mail Vans) Warrant 1957—37/1957.
Newspapers may be conveyed by Post Office mail vans in Rural Areas—37/1957.
Reduced Rates for Printed Matter sent abroad—58/1957.

SOCIAL SERVICES.

SUBJECT MATTER AND REFERENCE NUMBERS.

Rural Residents, who are occupiers of land with £4 P.L.V., excluded from Unemployment Assistance until 22nd October 1957—45/1957.
Social Welfare (Overlapping Benefits) (Amendment) Regulations—142/1957.
Unemployment Assistance (Employment Period)—45/1957.
Unemployment Assistance (Second Employment Period)—121/1957.

TRANSPORT AND TRAFFIC.

SUBJECT MATTER AND EFERENCE NUMBERS.

Air Navigation (Investigation of Accidents) Regulations 1957 in force from 23rd February 1957—19/1957.
C.I.E. to acquire compulsorily some Premises in Cork in order to erect a new Bus Station—59/1957.
C.I.E.—Bye-Laws for regulating Travel on Railways confirmed —42/1957.
Carriage of Wheat—160/1957.
Coras Iompair Eireann no longer empowered to discontinue Railway services temporarily—60/1957.
Dublin and Cork Taximeter Fares—159/1957, 97/1957.
Emergency Powers Order (Coras Iompair Eireann) (Reduction of Railway Services Order 1944 (Revocation)—60/1957.
Gas Fund Contribution—57/1957.
Merchand Shipping (Certification of Able Seamen) Regulations 1957—109/1957.
Road Vehicles—Additional Index Marks for Dublin City —165/1957.
Taxis—Minimum of 2/3 prescribed for Journey, plus 10% on Charge recorded on meter allowed—97/1957.
Taxis—Extra 6d. for hiring Vehicle, and extra 6d. per person allowed—157/1957.
Transport Act 1950 (Compulsory Acquisition of Land)—59/1957.
Waterford North Wharf—Confirmation of Bye-Laws made by C.I.E.—31/1957.

ADMISSIONS AS SOLICITORS

1st August, 1956 *to* 31*st July*, 1957.

Name	*Service with*
BOURKE, MAUREEN, B.A. 5 Bushy Park Gardens, Terenure, Dublin.	RICHARD JASPER KELLY, Court House, Galway.
BURKE, ANN, M.A., B.A. 12 Rostrevor Terrace, Rathgar, Dublin.	JOHN L. BURKE, 63 Upr. O'Connell Street, Dublin.
CONROY, JULIA M., 4 St. Francis Street, Galway.	MARK F. CONROY, Galway.
COYLE. PETER JOSEPH, York St., Castleblayney, Co. Monaghan.	PETER J. Flynn, D'Olier St., Dublin.
CREHAN, GERALD J., 67 Home Farm Road, Drumcondra, Dublin.	JOHN CORRIGAN, Castleblayney, Co. Monaghan.
CULLEN, LAURENCE B., Wentworth Place, Wicklow.	CORNELIUS SHEEHAN, 30 Lower Ormond Quay, Dublin.
DERHAM, ANN, M.B., 34 Haddington Road, Ballsbridge, Dublin.	AUGUSTUS CULLEN, Wicklow.
	JOHN J. O'DWYER, 15 D'Olier Street, Dublin.

Name	*Service with*
Devine, Dermot J., Ardagh Court, Athlone, Co. Westmeath.	Dominick H. Kearns, Portumna, Co. Galway.
Dorrian, Patrick A., Imperial Hotel, Ballyshannon, Co. Donegal.	John Barry, Donegal, and John P. Ward, Raphoe, Co. Donegal.
Downing, Charles F. C., Sheheree House, Killarney, Co. Kerry.	Henry J. Downing, Killarney, Co. Kerry.
Fallon, William John, B. Abbey Street, Wicklow.	Augustus Cullen, Wentworth Place, Wicklow.
Fitzpatrick, Francis A., B.A., LL.B., Buck's Head, Loughinisland, Co. Down.	James F. Fitzpatrick, 20 Wicklow Street, Dublin.
Foley, John, M.A., Station Road, Bagenalstown, Co. Carlow.	James J. Breen, Bagenalstown, Co. Carlow.
Garavan, John F., B.A., Bridge House, Castlebar, Co. Mayo.	Alfred V. G. Thornton, Castlebar, Co. Mayo.
Gearty, Patrick J., B.A., LL.B., Church Street, Longford.	Francis J. Gearty, Longford.
Gibbons, Niall C., B.A., 16 Dollymount Avenue, Clontarf, Dublin.	John Gibbons, 8 Trinity Street, Dublin.
Gleeson, Noel M., 41 William Street, Limerick.	Martin C. Tynan, 41 William Street, Limerick.
Goff, John Paul C., Kilronan, Butlerstown, Co. Waterford.	George A. Nolan, 83 Quay, Waterford.
Grogan, Alphonsus, 96 Killester Park, Killester, Dublin.	Reginald A. Sainsbury, 19-20 Fleet St., Dublin, and Joseph G. Allen, 6 Clare St., Dublin.
Hodgins, William D. J., 11 Pearse Street, Nenagh, Co. Tipperary.	William L. Hodgins, Nenagh, Co. Tipperary, and Robt. L. McDonnell, 58 Dame Street, Dublin.
Hoey, Brian V., 5 Chord Terrace, Drogheda, Co. Louth.	Gerald St. John Nolan, Drogheda, Co. Louth.
Irwin, William Anthony, B.A., Ellesmere, College Road, Cork.	Bryan J. Murphy, 27 South Mall, Cork.
Jones, Brendan John, Church Street, Miltown-Malbay, Co. Clare.	Patrick J. Chambers, Ennistymon, Co. Clare.
Kelly, James Joseph, B.A., Woodville, Templemore, Co. Tipperary.	Sean D. O'Conghaile, 21 Parliament Street, Dublin.
Kelleher, Humphrey Patrick, Hazelton, Western Road, Cork.	Joseph Morrissey, 17A South Mall, Cork, and John B. Cottrell, 17 Parnell Place, Cork.
Kenny, Kenneth M. S., B.A., Ardshanbally, Adare, Co. Limerick.	Niall S. Gaffney, 86 O'Connell Street, Limerick.
Kennedy, Iseult Clare, 1 Appian Way, Dublin.	Gerald J. Quinn, 7 Leinster Street, Dublin.
Kiernan, Joseph John, 23 Mount Eden Road, Donnybrook, Dublin.	John F. Murtagh, 25 Eden Quay, Dublin.
King, Donal M., The Orchards, Blennerville, Tralee, Co. Kerry.	Joseph G. Guihan, Ashe Street, Tralee, Co. Kerry.
Lane, Edward Arthur, 1 Warrick Terrace, Leeson Park, Dublin.	Thomas Jackson, 11 St. Stephen's Green, Dublin.
Lawson, John B., B.A., LL.B., Frankfort House, Dundrum, Dublin.	John R. Lawson, 13 Molesworth Street, Dublin.
McArdle, Denis A., 2 South King Street, Dublin.	William P. Stevens, 19 Upper Ormond Quay, Dublin.
McCormack, Anthony Francis, Strokestown, Co. Roscommon.	Patrick Francis McCormack, Strokestown, Co. Roscommon, and Robt. S. Kiernan, 12 Clare Street, Dublin.
McClenaghan, Kevin P. St. George, M.A., LL.B., "Upton," Willowbank, Dun Laoghaire, Co. Dublin.	Herbert Eric St. George, McClenaghan, 11 Ely Place, Dublin.
McEniry, Timothy Bernard Lr. Cork Street Mitchellstown, Co. Cork.	William E. O'Brien, Mitchelstown, Co. Cork.
McGrath, Edmond J. K., B.A., Gortlandroe, Nenagh, Co. Tipperary.	Alfred V. G. Thornton, Castlebar, Co. Mayo.
Macken, John Raymond, Harbour Street, Mullingar, Co. Westmeath.	John Joseph Macken, Dominick St., Mullingar, Co. Westmeath.
Maher, Austin V., Ballygagin House, Dungarvan, Co. Waterford.	Austin R. Farrell, Dungarvan, Co. Waterford.
Moloney, Dermot John. Munster and Leinster Bank House, Midleton, Co. Cork.	Patrick J. Kavanagh, 9 South Mall, Cork.
O'Carroll, Michael Aiden, Hayden's Hotel, Ballinasloe, Co. Galway.	Brendan M. Flynn, Ballinasloe, Co. Galway.
O'Connell Carmel, B.A., Dip.Soc.S.C., H.Dip.inEd., 15 Iona Drive, Dublin.	Dermot Guinan, 39 Westmoreland Street, Dublin.
O'Dwyer, Albert C., B.A., Loc Fedora, Cashel, Co. Tipperary.	Nicholas J. O'Donnell, Tipperary.
O'Gorman, Patrick R., Hacketstown, Co. Carlow.	Thomas F. Millett, Baltinglass, Co. Wicklow.
O'Keeffe, Nicholas, 1 Harbour Row, Cobh, Cork.	John Henry O'Keeffe, 56 Grand Parade, Cork.
Phillips, James V. C., Westend, Millstreet, Co. Cork.	Francis P. Galvin, 36 South Mall, Cork.
Purcell, Michael P. O., M.A., 235 Queens Road, London, S.E.15.	James J. Hickey, 8 Clare Street, Dublin.

Name	*Service with*
Regan, Micheel A., Rathmolyon, Enfield, Co. Meath.	William Leo Carroll, Kells, Co. Meath.
Russell, Brian W., Gweebarra, Western Road, Cork.	Gerald F. O'Flynn, 59 South Mall, Cork.
Rynne, Sean Cormac, "Cluna," 14 Anglesea Ave., Blackrock, Co. Dublin.	Brendan P. McCormack, 56 Lower O'Connell Street, Dublin.
Tighe, Thomas E., O'Connell Street, Ballymote, Co. Sligo.	James P. McGarry, Ballymote, Co. Sligo.
Tracy, Patrick L., Trostan, Lavarna Road, Terenure, Dublin.	Charles J. Holohan, 19 Lincoln Place, and Dermod M. F. Walsh, City Hall, Dublin.
Ward, Patrick P., 9 Riversdale Grove, Terenure, Dublin.	Gordon M. Greene, 18 Lower Baggot Street, Dublin.
Waters, John Joseph, 100 Capwell Road, Cork.	James W. O'Donovan, 53 South Mall, Cork.
Williams, Terence M., B.A., 24 Palmerston Gardens, Rathmines, Dublin.	David R. Pigot, 21 Kildare Street, Dublin.
Windle, Desmond, P. B.A., LL.B., 18 Nth. Circular Road, Dublin.	Patrick C. Moore, 35 Sth. Great Georges St., Dublin.

SOLICITORS' APPRENTICES' DEBATING SOCIETY OF IRELAND

ANNUAL DANCE

We would like to bring to the notice of Past and Present Members of our Society and their friends that, owing to the proximity of the Incorporated Law Society Annual Dance, we have decided this year to transfer our Annual Dance from its traditional date early in November to Thursday, 23rd January, 1958.

Details will be published in the next issue.

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No. 5

November,
1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
NIALL S. GAFFNEY

Vice-Presidents
DESMOND J. COLLINS
CHARLES J. DOWNING

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

SEPTEMBER 19TH: The President in the Chair. Also present: Desmond J. Mayne, Francis X. Bruke, Peter E. O'Connell, George G. Overend, James J. O'Connor, Francis J. Lanigan, Thomas A. O'Reilly, Ralph J. Walker, John J. Sheil, John R. Halpin, Patrick R. Boyd, John Carrigan, Desmond J. Collins, Dermot P. Shaw, Arthur Cox, Derrick M. Martin, John J. Nash, W. J.

The following was among the business transacted.

Application under Section 16.
AN application was received from a solicitor asking for permission to employ in connection with his practice a former solicitor who was struck off the roll for professional misconduct by an Order of the Chief Justice made on a report from the former Statutory Committee. Council having considered a report from a Committee and the correspondence and relevant circumstances decided to refuse the application.

Privilege. Inquiries from Inspectors of Taxes.
A MEMBER wrote asking for the opinion of the Council on the question whether a solicitor for the executor of the estate of a deceased testator he is entitled to supply to the Inspector of Taxes information concerning payments to the beneficiaries. On a report from the Committee the Council decided to inform member as follows:—

1. If member is not acting for the beneficiaries no question of privilege arises as far as they are concerned.
2. He is entitled to supply the particulars if the personal representative so instructs him.
3. Neither the solicitor nor the personal representative is under any legal obligation to furnish the information to the Inspector of Taxes, but it may be necessary to furnish information as to the income of the estate in order to obtain a certificate of clearance.

Public body. Documents taken up on returnable receipt.
MEMBERS wrote to the Society on the subject of the refusal of a public body to lend title deeds on returnable receipt held by the public body as mortgagees under the Small Dwellings Acts and which were required by members as solicitors for the mortgagor who intended to sell the property. The Council ascertained that the practice of the public

body in question is to hand over the originals of title deeds held as security for a mortgage, except the original lease of which a photocopy will be supplied, if required, at a charge. The original lease is held by the public body with the other title deeds to the lessee's interest, and the counterpart is held by the lessor. The Council decided to inform members that no action could be taken in the matter. It was decided to suggest as a matter of conveyancing practice to solicitors acting for purchasers or lessees of property which is bought with the assistance of a loan that an extra copy of the draft lease or assignment should be made at the approval stage, which could be made conformable with the original and retained by the lessee or purchaser after stamping registration and completion. The necessity of an application to the lending society or public body for a copy of the lease would thereby be avoided.

Mortgagee and mortgagor. Incidence of costs of application for consent to lease.

A PROPERTY-OWNING Company executed a charge in favour of mortgagees as security for an advance. The material covenants in the mortgage were:

1. That no lease or letting of the land should be made without the consent of the mortgagees previously given in writing.
2. That in addition to all costs charges and expenses, which in the absence of stipulation to the contrary the mortgagees would be entitled to add to their security. The mortgagees might add in like manner costs charges and expenses of every kind which they might incur properly in relation thereto as between solicitor and client, and that the same should after demand for payment be deemed a further advance.

The company requested the mortgagees to consent to a letting of the lands and after negotiation and incurring costs the mortgagees refused their consent. The Council were asked on a submission to arbitration to decide whether the mortgagors were bound to pay the costs of the mortgagees incurred in connection with the application for consent to the subletting, subsequently refused as aforesaid. The Council on a report from a Committee decided on the facts submitted and as between the parties that the mortgagors were liable to pay the mortgagees' costs of the abortive application and negotiations under the express covenant in the mortgage.

Funds in court. Loss in market values.

MEMBERS drew the attention of the Society fo hardship arising from depreciation in investments representing funds lodged in court. On a report from a Committee, the Council decided to bring the matter to the notice of the Superior Courts Rules Committee and to suggest *inter alia* that the Accountant General should be authorised to invest funds in short-term Treasury Bills.

OCTOBER 2ND: Mr. Quirke in the Chair. Also present: Dermot P. Shaw, Terence de Vere White, G. G. Overend, John J. Sheil, Ralph J. Walker, John Maher, P. R. Boyd, Sean O hUadhaigh, Thomas A. O'Reilly, James R. Quirke, Desmond J. Mayne.

A special meeting of the Council was held to consider reports from the Court of Examiners on the first and second Irish, Preliminary, first law and the book-keeping examinations Autumn 1957.

OCTOBER 10TH: The President in the Chair. Also present: J. R. Quirke, A. Cox, John R. Halpin, George A. Nolan, John Carrigan, Desmond J. Collins, James J. O'Connor, Ralph J. Walker, Francis J. Lanigan, John J. Sheil, Reginald J. Nolan, P. R. Boyd, Cornelius J. Daly, Joseph Tyrrell, John Maher, F. J. Gearty, T. A. O'Reilly, P. E. O'Connell, W. J. Comerford, J. J. Nash, C. J. Downing, R. McD. Taylor, G. G. Overend, C. Gore Grimes.

The following was among the business transacted.

Attestation of documents.

A MEMBER wrote enquiring whether in the opinion of the Council it is permissible or desirable for a solicitor as an officer of the court to act as surety on a bond given by the members of a Committee for which he acts and to attest their signatures. The Council decided to inform member that they cannot advise on the legal position, but that they are of opinion that it would be undesirable for a solicitor to attest the signatures of other parties to a document to which he himself is a party.

The new Schedule II.

THE Secretary stated that the Solicitors Remuneration General Order, 1957, had been signed by the members of the Statutory Body and would be laid on the table in each House of the Oireachtas. He stated that he understood that the Oireachtas would meet on October 23rd and that under the provisions of Section 6 of the Solicitors Remuneration Act 1881 the Order might be disallowed by a resolution of either House within a month from that date. Messrs. O hUadhaigh, Cox, Nash, Walker and Overend were appointed as a sub-committee with full authority and discretion to handle the business

and take such steps as they might think necessary in the interests of the Society so as to bind the Council without referring back.

OCTOBER 31ST: The President in the Chair. Also present: Dermot P. Shaw, John R. Halpin, C. Gore Grimes, Ralph J. Walker, James J. O'Connor, Derrick M. Martin, James R. Quirke, John J. Nash, George G. Overend, John Dundon, John B. Jermyn, Sean O hUadhaigh, John Maher, W. J. Comerford, Cornelius J. Daly, Arthur Cox, Patrick R. Boyd, R. McD. Taylor, Thomas A. O'Reilly, Peter E. O'Connell, John Lanigan, Desmond J. Collins, John J. Sheil, George A. Nolan.

The following was among the business transacted.

The new Schedule II

THE Secretary reported on behalf of the sub-committee appointed at the last meeting to deal with this matter on behalf of the Council. The Council approved of the report and adjourned further consideration of the matter.

COMMISSIONERS OF CHARITABLE DONATIONS AND BEQUESTS FOR IRELAND

Public Notice

(Pursuant to the provisions of Section 6 of the Charitable Donations and Bequests Act 1871 as amended by the Charitable Donations and Bequests (Amendment) Act 1955).

The Findlater Scholarship

WHEREAS in or about the year 1877 the late Sir William Findlater Solicitor of the City of Dublin, donated a sum of One Thousand Pounds (£1,000) to the Incorporated Law Society for Ireland Upon Trust to invest the same and to apply the income therefrom annually to two Solicitors' Apprentices in two half-yearly payments, who, in the opinion of the Council of the said Law Society, amongst those examined at the final examinations for the year ending in Trinity Sittings had shown the most thorough acquaintance with the theory, principles, and practice of Law.

AND WHEREAS on the 7th November, 1900, the said William Findlater further transferred to the said Society a sum of £700 4% Debenture Stock of the Dublin Wicklow and Wexford Railway Company, to be held by them in augmentation of the said Trust Fund.

AND WHEREAS by reason of the coming into operation of the Solicitors Act 1954 (Apprenticeship and Education) Regulations 1955 (S.I. No. 217 of 1955) as amended by the Solicitors Act, 1954 (Apprenticeship and Education) (Amendment) Regulations 1956 (S.I. No. 307 of 1956) it has become impracticable to apply the said annual income in the manner heretofore obtaining.

AND WHEREAS the Council of the Incorporated Law Society have applied to the Commissioners of Charitable Donations and Bequests for Ireland to make a Cy-pres Scheme providing for the future application of the income and for the management of the charity.

AND WHEREAS the Scholarship Fund now consists of £292 14*s.* 0*d.* Bank of Ireland Stock; £822 0*s.* 0*d.* C.I.E. 3% Transport Stock 1955/1960; £69 8*s.* 2*d.* 4½% National Loan; £118 13*s.* 2*d.* 5% National Savings Bonds; and £30 13*s.* 1*d.* Cash.

AND WHEREAS the said Commissioners at their meeting held on the 8th October, 1957, acting under the power vested in them by Section 6 of the Charitable Donations and Bequests Act 1871, as amended by the Charitable Donations and Bequests (Amendment) Act 1955, made a provisional Cy-pres Order providing for the future payment of the Charity income in the provision of one annual scholarship to the student who (*a*) has entered into Indentures of Apprenticeship; (*b*) has not been called to the Bar; (*c*) has not been at any time a Solicitors' Clerk who availed himself of the provisions of paragraph 5 of the second schedule to the Solicitors Act 1954; (*d*) has completed the final examination within a period of twelve calendar months ending with the last day of Trinity Sittings immediately preceding the award of the Scholarship, and (*e*) has in the opinion of the Council of the Incorporated Law Society by his answering at the Society's written examinations in law, legal practice, and book-keeping (other than Term examinations) throughout his entire course shown the most proficiency in the subjects of the said examinations.

NOTICE IS HEREBY GIVEN that any person having any objection to make, or suggestion to offer, concerning the above provisional Order should forward the same in writing to this Office within 14 days from the date of this Notice.

By Order of the Board.
Dated this 12th day of December, 1957

(J. S. MARTIN), *Secretary.*

Office of the Commissioners of
Charitable Donations and Bequests
for Ireland,
128 Lr. Baggot Street,
DUBLIN.

EXAMINATION RESULTS.

Preliminary Examination.

At the Preliminary Examination for intending apprentices to Solicitors held on 16th and 17th days of September, the following passed the examination:

William Sydney Barrett, Edward R. A. Glover, David O'N. Kiely, Denis M. Murnaghan.

4 candidates attended. 4 passed.

At examinations held on 18th day of September under the Solicitors Act 1954, the following passed the examinations:

First Examination in Irish.

Eunice Mary Baily, Mary P. M. Berkery, Fintan M. Earley, Kevin Gerald Galvin, Ailin Ann Gibbons, Joseph Gilmartin, Rory More Hogan, John S. Horgan, Helen Mary Kirwan, John G. Lanigan, Dermot V. Loftus, Edward Brian McSwiney, Michael Brendan Malone, James Monaghan, Denis M. Murnaghan, Mary A. P. Timoney.

20 candidates attended. 16 passed.

Second Examination in Irish.

Francis G. M. Gannon, Thomas J. N. Gannon, Gill Greensmith, John M. O'Donnell, Donald M. Pratt, Peter A. Smithwick, Edward J. W. Warren.

7 candidates attended. 7 passed.

Book-keeping Examination.

At the Book-keeping Examination for apprentices to Solicitors held on the 3rd day of September, the following passed the examination:

Passed with Merit.

Ronald T. Ringrose.

Passed.

Henry Murphy, George O'Sullivan.

4 candidates attended. 3 passed.

First Law Examination.

At the First Law Examination for apprentices to solicitors held on the 2nd and 3rd days of September, the following passed the examination:

Passed with Merit.

John G. Fish, Patrick G. McMahon, Thomas D. Shaw.

Passed.

Michael E. Binchy, Thomas C. Buckley, James Joseph Devine, Thomas F. O'Connell, George O'Sullivan, Daire Walsh.

18 candidates attended. 9 passed.

The Centenary Prize was awarded to John G. Fish.

Final Examination.

At the Final Examination for apprentices to Solicitors held on the 2nd, 3rd and 4th days of September, the following passed the examination:

Passed with Merit

Michael P. Keane.

Passed.

Donald Ellis, B.A.; Martin E. Marren, B.A.; Peter F. Moylan, B.A.; Michael N. M. O'Donoghue, B.A.; Patrick C. Powell; Peter H. Quinlan, B.A.; Fergus P. Taaffe, James N. Tanham, Thomas A. Twomey, B.A.

20 candidates attended. 10 passed.

The Council has awarded a Silver Medal to Michael P. Keane.

The following passed in Part I or Part II, Final Examination:

Part I.

Susanna Bowler (A), John L. F. Hayes, Gerald A. Murphy (A), Andrew F. Smyth (A), Henry J. Wynne (A).

Part II.

Michael I. Moore, John McKnight, B.A., LL.B. (B); Patrick M. A. MacNamee, James P. G. O'Connor, Anthony J. O'Reilly, Francis C. Quinn, John P. Redmond, Alban B. Rigney, B.A. (B).

"(A)" denotes having already passed Part II.
"(B)" " " " Part I.

SCHOLARSHIPS, 1957.

The Findlater Scholarship was awarded to Brian V. Hoey, who served his apprenticeship with Gerald St. John Nolan, Drogheda, Co. Louth.

A special prize of £20 was awarded to Dermot J. Moloney, the runner-up for the Findlater Scholarship.

The Overend Final Examination Scholarship (Real Property and Conveyancing) was awarded to Brian V. Hoey.

The Overend Preliminary Examination Scholarship was not awarded.

SOLICITORS' GOLFING SOCIETY.

The Autumn Meeting was held at Limerick Golf Club (by kind permission) on 14th September, 1957, when the President's Prize (Mr. Niall S. Gaffney) was competed for and against very keen competition was won by W. J. Ryan of Abbeyleix.

At the Annual General Meeting in the Clubhouse Mr. James J. O'Connor (Thurles) was elected Captain for 1958.

At dinner in the Royal George Hotel, the guest of honour was the President and we were further honoured in having with us the Captain of Limerick Golf Club.

The following is the List of Prizewinners and the Officers and Committee for next season :—

Incorporated Law Society's Challenge Cup and President's Prize (Mr. Niall S. Gaffney)—Winner : W. J. Ryan (16) 38 pts.

Runner-up Prize to Incorporated Law Society's Challenge Cup—Winner : S. Casey (6) on 2nd Nine, 36 pts.

Ryan Challenge Cup (Handicap of 13 and upwards) and prize presented by Golfing Society—Winner : E. Dillon (18), 36 pts.

Runner-up Prize to Ryan Challenge Cup—Winner : T. A. O'Reilly (16), 36 pts.

Best Score (First Nine Holes)—Winner : J. Carr (14), 21 pts.

Best Score (Second Nine Holes)—Winner : M. O'Sullivan (11), 19 pts.

Best Score by competitor resident more than 30 miles away—Winner : M. Neary (5) on 2nd Nine, 35 pts.

Best Score of three cards drawn by lot—Winner : James O'Connor (Thurles).

Prize for secret score—Winner : Eugene Gillian.

Veteran's Prize—Winner : Niall S. Gaffney, 33 pts.

HON. OFFICERS, 1958 SEASON.

Captain : James J. O'Connor (Thurles) ; *Hon. Treasurer :* John J. O'Dwyer ; *Hon. Secretary :* Gerard M. Doyle. *Committee :* William Menton, John Maher, Michael Neary, L. K. Branigan, David Bell, T. F. McKeever, L. Kearon, J. J. O'Connor (Dublin), Eugene Gillan, J. C. Griffin (Ex-Capt., *ex-officio*).

DUBLIN SOLICITORS' BAR ASSOCIATION.

A MEETING of the Council of the Association was held on Wednesday, the 25th of September, 1957.

Discussions continue with the County Registrar concerning the performance of their duties by Civil Bill Officers.

The Council has under consideration the procedure of the Post Office Savings Bank as to payment of accounts of deceased account holders, and questions arising as to professional remuneration in cases of the compulsory acquisition of land.

The precedent Letting Agreement has been favourably received by the members, and appears to be in increasing use.

The Council gave a dinner to Mr. Frank Connolly, out-going President of the Association, at the conclusion of his year of office.

The Annual General Meeting was held by courtesy of the Law Society at Solicitors' Building, Four Courts, on Wednesday, 9th October, 1957. The Honorary Secretary's report was adopted, the debate covering generally the Association's activities during the year.

Special reference was made to the desirability of a further review of the organisation of the Dublin County District Court.

The Honorary Treasurer's report was also adopted.

Mr. Frank Connolly, the out-going President, thanked the members for their support during his year of office, and also thanked the Council and Officers of the Association for their co-operation and activity. He expressed special appreciation to the more senior members of the profession for their advice and help which were always forthcoming.

The Council and Officers of the Association for the year 1957–58 were then elected as follows :

President :- J. B. McGarry ; *Vice-President :* L. E. Kearon ; *Hon. Treasurer :* R. O'Connor ; *Hon. Secretary :* C. Hyland ; *Hon. Auditors :* P. Glynn and E. Crowley. *Council :* Messrs. E. Shiel, S. Millington, V. Wolfe, E. McCarron, J. A. G. Cullen, J. M. Farrelly, E. Byrne, F. Gibney, and K. Burke.

A MEETING of the Council of the Association was held on Thursday, 17th October, 1957.

The following Sub-Committees were appointed :

(*a*) Circuit and District Courts — Messrs. Vanston, Wolfe and Byrne.

(*b*) Emergency—The President, the Vice-President and the Hon. Secretary.

(*c*) Dinner—Messrs. McCarron and O'Connor.

Any member of the Association who wishes to put forward any matter for consideration by one of these Sub-Committees is requested to write to the Honorary Secretary.

The Association is in correspondence with the Department of Posts and Telegraphs about the procedure for payment out of deceaseds' accounts in the Post Office Savings Bank.

The preparation of Executor and Trustee Precedent Forms, the investigation of Compulsory Acquisition Costs and the revision of the Dublin Metropolitan and County District Court Areas continue to receive attention.

The next meeting was fixed for Wednesday, 6th November, 1957.

A MEETING of the Council of the Association was held on Wednesday, 6th November, 1957.

A sub-committee consisting of the President and

Messrs. E. McCarron and D. Pigot was appointed to deal with the preparation of executor and trustee precedent forms.

The sub-committee on Hire-Purchase Rules was re-appointed and consists of Mr. Frank Connolly (Chairman) and Messrs. Vanston, Gibney, Walker and Wolfe.

Thanks to the Incorporated Law Society the Association's Annual Dinner will be held at Solicitors' Buildings on Saturday, 14th December.

The District Court Areas sub-committee was re-constituted and consists of the President and Messrs. Byrne, McCarron and Farrelly.

It was decided to raise at the forthcoming General Meeting of the Law Society the question of the coming into force of the Solicitors Accounts Regulations, 1955.

The next meeting was fixed for Wednesday, 4th December, 1957.

CO. MONAGHAN SOLICITORS' BAR ASSOCIATION.

At the Annual Meeting of the above the following office-bearers were elected for 1957–58:

President: Mr. M. E. Knight (Clones); *Hon. Sec.:* Mr. D. M. Martin (Monaghan); *Hon. Treas.:* Mr. J. B. Murphy (Clones). *Council:* Messrs. J. J. Keenan (Monaghan), P. J. McEntee (Monaghan), J. C. O'Carroll (Carrickmacross), J. P. Black (Clones), W. J. McWilliam (Monaghan) J. Burns (Castleblayney), P. C. Coyle (Castleblayney).

CORRESPONDENCE.

Dear Sir,

It is the custom for the Plaintiff's solicitor in actions for personal injuries to allow medical examinations of their client by the defendant's doctor, provided plaintiff's doctor is present. The usual practice is for the defendant's doctor to limit his inquiries about the occurrence to what is encessary for the due understanding of the injuries. I have experienced cases where the defendant's doctor has required the plaintiff to tell him all about the accident from the beginning and has thereby obtained and written down the plaintiff's full version of the accident. I made some inquiries arising out of such a case and I was informed that some Insurance Company asked their doctors to get information about the accident from the injured person.

This appears to be an abuse of the doctor's position and may necessitate the presence of a representative of the solicitor for the plaintiff at the examinations.

Yours faithfully,

PATRICK GLYNN.

22 Nassau Street,
DUBLIN.

POOR RELIEF ACTS, 1838 TO 1949.

Dear Sir,

There seems to be general agreement amongst your correspondents as to the injustice of the present system whereby owners of rents payable out of properties exempted from rating are assessable to rates on the half rent. Legislation would be necessary to remedy the injustice in existing cases.

I have got the impression from the correspondence you have published that it is not generally known how to guard against this eventuality in future cases. It can be done by making the lessee's covenant to pay outgoings a covenant to pay all outgoings "assessed charged or imposed on the premises or the owner or occupier thereof or the rent payable thereout."

Yours faithfully,

RAYMOND HICKEY.

42, 43 St. Stephen's Green,
DUBLIN.

OBITUARY.

MR. MICHAEL KILLEEN, Solicitor, died on the 29th September, 1957, at his residence, 4 Bindon Street, Ennis, Co. Clare.

Mr. Killeen served his apprenticeship with the late Mr. Thomas Kelly, Kilrush, Co. Clare, was admitted in Michaelmas Sittings, 1902, and practised at Kilrush up to his appointment as County Registrar in 1929.

MR. REUBEN J. DODD, Solicitor, died on the 3rd October, 1957, at a Dublin hospital.

Mr. Dodd served his apprenticeship with the late Mr. Peter J. McCann, 5 College Green, Dublin, was admitted in Trinity Sittings, 1901, and practised at 5 Gardiner's Place at the date of his death.

MR. THOMAS HEALY, Solicitor, died on the 14th October, 1957, at his residence, North Street, Skibbereen, Co. Cork.

Mr. Healy served his apprenticeship with the late Mr. Joseph J. Healy, Skibbereen, Co. Cork, was admitted in Easter Sittings, 1919, and practised at Skibbereen under the style of Messrs. Joseph J. Healy & Co.

MR. FRANCIS J. MCKENNA, Solicitor, died on the 16th October, 1957, at the Surgical Hospital, Cavan.

Mr. McKenna served his apprenticeship with the late Mr. Thomas J. S. Harbison, Cookstown, Co. Tyrone, was admitted in Trinity Sittings, 1925, and was County Registrar at the date of his death.

MR. PETER O'CONNOR, Solicitor, died on the 9th November, 1957, at his residence, Upton, Newtown, Waterford.

Mr. O'Connor served his apprenticeship with the late Mr. Daniel Dunford, Waterford, was admitted in Hilary Sittings, 1912, and practised at Waterford as senior partner in the firm of Messrs. Peter O'Connor and Son. He was a member of the Council of this Society from the year 1928 to 1948, and Vice-President for the year 1932–33.

Mr. Patrick V. C. Murtagh, Solicitor, died on 16th November, 1957, at his residence Oaklawn, Athlone, Co. Westmeath.

Mr. Murtagh was admitted in Hilary Sittings, 1921, and practised at Athlone under the style of Messrs. Fair & Murtagh. He served on the Council for the year 1925–26.

THE REGISTRY.

Register A.

Dublin Solicitor, with good connection, ten years in practice on his own account desires partnership with firm or individual equally well established, or would consider office sharing arrangement in good central position in city. Box No. A170.

For Sale, Partnership in excellent practice in Dublin, with option to purchase entire at end of two years from date of partnership. Box No. A171.

Register C.

Lost Will—Thomas Leader, Clonakilty, Co. Cork, Draper, deceased. Will any Solicitor having a Will executed by the above please communicate immediately with Liam M. Collins, Solicitor, Clonakilty, Co. Cork.

Simon Peter Byrne, deceased, late of 2 Gilford Park, Sandymount, Dublin. Will any person having any knowledge of a Will of the above named who died on the 29th of September, 1957, kindly communicate with the undersigned solicitor for the next-of-kin, James A. Connolly, 13 Bachelor's Walk, Dublin.

REGISTRATION OF TITLE ACTS, 1891 AND 1942—ISSUE OF DUPLICATE LAND CERTIFICATES.

Applications have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 29th day of November, 1957.

Joseph O'Byrne,
Registrar of Titles.

Central Office,
Land Registry,
Chancery Street,
Dublin.

Schedule.

1. Registered Owners, John Mangan and Michael Mangan. Folio Number, 51, County Kildare. Lands of Dysart, in the Barony of Carbury, containing 176a. or. 10p.,

2. Registered Owner, Maurice McEvoy. Folio Number, 54, County Carlow. Lands of Grangeford Old, in the Barony of Carlow, containing 0a. 2r. 34p.

3. Registered Owners, John and Daniel Murphy. Folio Number, 86, County Kerry. Lands of Killonecaha, in the Barony of Iveragh, containing 146a. or. 20p.

4. Registered Limited Owner, Annie Brennan. Folio Number, 1770(R.), Co. Carlow. Lands of Kilmeany, in the Barony of Carlow, containing 96a. 2r. 7p.

5. Registered Owner, Patrick Sheehy. Folio Number, 18415, County Limerick. Lands of Ballynacourty in the Barony of Kenry, containing 15a. 1r. 0p.

6. Registered Owner, John Kinsella. Folio Number, 3925, County Kildare. Lands of Newtown, in the Barony of Naas North, containing 133a. 2r.23p.

7. Registered Owner, Eliza Quinn. Folio Number, 6183, Co. Wexford. Lands of Camolin Park, in the Barony of Scarawalsh, containing 17a. 1r. 3p.

8. Registered Owner, Patrick Leahy. Folio Number, 3310, County Cork. Lands of Grange West, in the Barony of Orrery and Kilmore, containing 41a. or. 33p.

9. Registered Owner, Annie Kerrigan. Folio Number, 10325, Co. Meath. That part of the land of Abbeyland South known as No. 13 Cannon Row in the Barony of Navan Lower.

10. Registered Owner, James Harrold. Folio Number, 187, Co. Limerick. Lands of Boughilbo, in the Barony of Shanid, containing 42a. 1r. 25p.

11. Registered Owner, Martin Garvey. Folio Number 445, Co. Galway. Lands of Carrowntober East, containing 5a. or. 16p., fifteen undivided 5130th parts containing 558a. 2r. 8p. of the lands of Carrowntober East, and to 89a. 2r. 19p. of the lands of Carrowntober West, all situate in the Barony of Tiaquin.

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No. 6

December,
1957

THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
JOHN CARRIGAN

Vice-Presidents
JOHN R. HALPIN,
FRANCIS J. LANIGAN

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

PRACTISING CERTIFICATES, 1958–59.

1. MEMBERS are reminded that practising certificates for the year to end 5th January 1959, should be taken out on or after 6th January 1958 and not later than Wednesday, 5th February 1958, in order to take effect as a qualification to practise from January 6th.

2. Under the provisions of the Solicitors Act, 1954, the declaration to be lodged with the Society on applying for a practising certificate shall be completed and signed by the applicant personally unless the Registrar, on the ground of illness or some other sufficient ground, dispenses with personal signature of the declaration. Dublin agents of country solicitors should therefore take up the declarations in good time and forward them for signature to their correspondents.

The President and the Vice-Presidents.

MR. JOHN CARRIGAN of Thurles, has been elected President of the Society for the coming year. Mr. John R. Halpin of Cavan, and Mr. Francis J. Lanigan of Carlow, have been elected Vice-Presidents.

ORDINARY GENERAL MEETING.

AN ordinary general meeting of the Society was held in the Library, Solicitors' Buildings, Four Courts, Dublin, on Thursday, 21st November, 1957. The President, Mr. Niall S. Gaffney, took the chair.

The notice convening the meeting was taken as read.

The Minutes of the ordinary general meeting of the Society held on 9th May, 1957, were read, confirmed and signed.

Mr. Donough O'Donovan proposed and Mr. D. B. Gilmore seconded the adoption of the audited accounts and balance sheet. The motion was adopted, and the President signed the balance sheet.

Messrs. Kevans & Sons were re-appointed as the Society's auditors.

The Secretary read the report of the scrutineers of the ballot for the election of the Council and provincial delegates for the year 1957-58. The report stated that for the office of provincial delegate the following had been returned unopposed :—

Ulster—Derrick M. Martin. Munster—Edward Treacy.

Leinster—Reginald J. Nolan. Connaught—Christopher E. Callan.

The foregoing were declared duly elected:

The result of the ballot for the 31 ordinary members of the Council and the supplemental list was as follows:—

Dermot P. Shaw, 540; Niall S. Gaffney, 512; Arthur Cox, 496; Thomas A. O'Reilly, 485; John Carrigan, 477; Charles J. Downing, 456; Patrick R. Boyd, 455; Desmond J. Collins, 454; Joseph P. Tyrrell, 454; Cornelius J. Daly, 449; John R. Halpin, 436; Francis J. Lanigan, 432; William J. V. Comerford, 431; John J. Nash, 425; Sean O'hUadhaigh, 423; Francis X. Burke, 418; Peter E. O'Connell, 417; George A. Nolan, 405; John J. Shiel, 404; Ralph J. Walker, 391; Terence de Vere White, 391; Robert McD. Taylor, 390; George G. Overend, 389; Patrick O'Donnell, 375; Desmond J. Mayne, 371; James R. Quirke, 361; Patrick Noonan, 350; William Dillon-Leetch, 341; John Maher, 338; James J. O'Connor, 331; Eunan McCarron, 327.

Supplemental List: Francis J. Gearty, 318; Christopher Gore-Grimes, 301; Benedict J. Daly, 252;

The President declared the foregoing members of the Society duly elected to the Council and supplemental list in accordance with the scrutineers report.

The following candidates received the number of votes placed after their names:

Gerard M. Doyle, 216; Charles Hyland, 216; Raymond V. H. Downey, 108.

The President moving the adoption of the report of the Council said:

LADIES AND GENTLEMEN,

Since our last Meeting in May, I have to record with regret the death of the following members:

William Thornhill, Cork; Hugh C. F. O'Doherty, Londonderry and Buncrana; Charles M. Russell, Dundalk; T. Osborne Davis, Bray; Henry St. J. Blake, Galway; Arthur T. Ellis, Dublin; Joseph C. Guihan, Tralee; Michael Killeen, Ennis; Reuben J. Dodd, Dublin; Thomas Healy, Skibbereen; Francis J. McKenna, Co. Registrar, Cavan; Peter O'Connor, Waterford; Patrick V. C. Murtagh, Athlone.

To their relatives and friends, on behalf of myself and the members of the Council and the general body of the profession I extend our sincere sympathy.

I must particularly refer to the loss we on the Council in particular have suffered by the sudden and untimely death of Henry St. J. Blake, Solicitor, of Galway. Harry, as he was known to us all, was in every sense of the word an ornament to the profession to which we belong. He was a staunch and loyal Member of our Society, and had served on the Council from the year 1933 up to the date of his death; moreover, he was Vice-President of the Society in the year 1937-38, and President in the year 1946-47. He was held in the highest esteem by the public and his professional brethren in the City and County of Galway, and was active and interested in many fields of sport and in particular in Tennis and in Rugby football.

Mr. Peter O'Connor of Waterford was one of the oldest members of this Society. He achieved distinction in many fields, not least in athletics. He held the Olympic Record for the long jump from 1906 until 1922. He served on the Council from 1928 to 1948 and was a former Vice-President. In him we have lost a trusted and distinguished colleague. Mr. P. V. C. Murtagh was a former member of the Council, and was one of the oldest and most respected members of the profession.

It is my privilege and part of my duties as your President to summarise the work of the Council during the past 12 months, and in particular during the last six months, since our last meeting, and to a lesser extent to review and record some of my own activities during the period of my term of office as your President.

Some of the matters about which I wish to speak to you have already been dealt with in the Council's Report and in my half-yearly address to you last May.

During the past twelve months, as you will have observed from a perusal of the Annual Report, as happened in recent years, the Council has had an extremely busy year.

During my term there were 14 meetings of the Council, 81 meetings of the Sub-Committees of the Council, and 4 meetings of the Disciplinary Committee. In this latter connection the work of the Disciplinary Committee has to all intents and purposes been suspended during the last 12 months, due to the fact that they are awaiting a decision of the Supreme Court in a particular case of which you are all aware, wherein the jurisdiction of the Committee and its powers are the subject in question. We can only hope that it will be given this term, so that the Disciplinary functions will not much longer remain in the present unsatisfactory state.

The Annual Report of the Council, which has been circulated to you, only in effect gives the bare outline of the work that has been done by the Council during the past twelve months, it does not really indicate to the ordinary member of the Society the tremendous amount of real work put into these meetings of the Council and meetings

of the Council Sub-Committees by the members at all their meetings during the year.

As President I can honestly and truthfully say that during the past twelve months the attendance at the Council meetings and the Committee meetings of the Council has surpassed all previous records. It has been an inspiration and a great encouragement to me to observe this state of affairs.

When I took office as your President at the end of last year I did so with considerable misgivings as to my ability to adequately do the work and stay the course, and as to my competency to fill the office and to sit in this Chair. I have been fortified and sustained by the help and assistance given to me by my two Vice-Presidents and the other members of the Council; their help and encouragement exemplified by their excellent attendances at the meetings of the Council and the Committees has enabled me to do my work with increasing confidence and pleasure as the months went by.

There seems to me no doubt whatever that the Council and the Committees attached to them, unlike the proverbial rolling stone, are all the time gathering more work and faced with more and bigger problems. As a result of this a special Sub-Committee has been sitting during the year to consider suggested changes in the form of our organization and to secure if possible the more effective working of the Council by reviewing the Constitution and Bye-Laws of the Society.

There are still roughly 200 solicitors who are not members of our Society, and it is difficult to decide what is the best method of persuading them to join. They must be convinced of the advantages of being members of our Society, by their fellow-Solicitors who are already members, and by the Local Bar Associations getting in touch with them, so that in due course our Society would have almost 100 per cent. membership.

One of the matters causing considerable concern to our Council during the past 12 months has been the over-crowding of our Profession.

It is part of the duty of the Registrar's Committee to report to the Council on the number of Apprentices entering into Indentures and the number of new Solicitors who are admitted annually.

Some time ago this Committee recommended that this particular matter should be kept under constant review by the Council, as they were of the opinion that this over-crowding of our profession may be primarily responsible for the number of complaints which come before the Society and the Disciplinary Committee.

As you all know under the Solicitors Act the Society are obliged to maintain a Compensation Fund which will after 1960 be sufficient to provide full indemnity for defaulting Solicitors, bearing this fact in mind, and realising that the year 1960 is only approximately 2 years ahead, I feel myself that some steps will have to be taken to limit or possibly even to reduce the annual intake of solicitors to the profession.

One of the principal matters affecting the profession during the last twelve months was in my view the proposed new Solicitors' Remuneration General Order, 1957, dealing with costs in non-contentious matters. As you are aware, last year a Sub-Committee of the Council was appointed to consider proposals for an Application to the Statutory Body under the Solicitors' Remuneration Act, 1881, on the subject of charges under Schedule II, S.R.G.O., 1884, for non-contentious business. The Council subsequently on receipt of a Report from its Sub-Committee formulated proposals which were circulated to the profession dealing with the suggested new system of charges under Schedule II analogous to the system which came into operation in England in 1953, and which was partly adopted in Northern Ireland in 1955.

By direction of the Council, an Application was made to the Statutory Body which having considered the matter at several meetings decided to make the necessary Order which was duly drafted and finally approved. Before its signature by the Statutory Body an anonymous communication was sent to a number of the members of the Dail and Seanad, seeking opposition to the Order, and making a number of inaccurate and untrue statements as to its general effect. When our Sub-Committee became aware of this document they drafted in my opinion a very excellent letter in reply containing a factual statement as to the true position, and this letter was sent by direction of the Council to the Minister for Justice, the Secretary of the Statutory Body and each member of the Dail and Seanad. The order was signed by the Statutory Body on 10th, October but was disallowed by a motion brought in Seanad Eireann by the Government just over a week ago. The manner in which this motion was brought and the majority by which it was carried are fully dealt with in the report of the Special Committee of the Council which was appointed to deal with the matter. I do not wish to make any further personal comment as I am the only Solicitor member of the Statutory Body which made the order which has been disallowed. The report of the Sub-Committee has been submitted to the Council to be read at this meeting for the information of

members of this Society. The report will be published in the Society's Gazette in due course.

Every President in recent years has expressed the importance of Solicitors becoming members of their Local Bar Associations. Last year, my predecessor, Mr. Shaw, interested himself in the revival of two dormant Associations in Longford and Sligo, as a result I am glad to be able to report that the Bar Association in County Sligo has been reformed, and if there is anything that I can do, or the Council can do, towards a similar state of affairs coming into being in Longford it will have our fullest support.

Earlier this year the Government set up a Commission on Income Taxation, and your Council were asked to submit a Memorandum of evidence to this Commission. In this connection the Council would like the views of the members on the matters referred to in the Annual Report, and I would earnestly suggest that any member who is interested in this matter would let us have his view at the earliest opportunity, so that if the Council so think fit they may be included in a Memorandum of Evidence to be submitted by the Society to the Commission.

In last year's report of the Council it was mentioned that a Memorandum had been submitted to the Statutory Committee under the Land Act, 1933, asking that the level of item charges for conveyancing business in the Land Commission should be brought into line with the scale of charges for other conveyancing business, and a copy of this memorandum was printed as an Appendix to the last Report. I regret to have to state that no final decision has been made by the Land Commission. This matter has been the subject of negotiations which have been going on for some time with the Land Commission, and your Council are pressing that the matter should be brought to a conclusion. There is no doubt that the present charges allowed for such business are unremunerative, and that the work involves a disproportionate expenditure of time and effort for insufficient reward.

Arising out of this matter, I should mention the subject of the payment of purchase money and costs in depreciated Land Bonds; the position has not been rectified by the issue of new Bonds at a higher rate of interest, as it is now quite clear that there is little or no market for the Bonds on the Stock Exchange, and owners and their Solicitors who receive payment in these Bonds have some difficulty in realising them. It seems to me a most unsatisfactory state of affairs that where a Department of State is given statutory powers to acquire land compulsorily they do not pay for same in cash, but in depreciated Land Bonds.

You will see also in the Appendix to the Council's Report, which has been circulated, a Memorandum on the subject of the Land Commission procedure. This Memorandum was prepared by Mr. Shaw for the Council in an effort to expedite and make easy for both the Land Commission and the members of the profession the investigation and completion of sales through the Land Commission, and so that these matters could be attended to be correspondence, without the necessity of personal attendance at the Land Commission Offices.

Both my predecessor and I have already referred in half-yearly Reports to the increases in Court fees, these became effective by the Orders of the Minister for Justice in October, 1956; a memorandum was subsequently submitted by the Council to the Minister showing the effect of certain of these increases in particular cases. As a result of that memorandum the Minister has agreed to receive a deputation on the subject, but no date, time, or place has yet been fixed, and we on the Council and I personally hope that there will be no further delay by the Minister or the Department in receiving this deputation, as the matter is considered by the Council as of major importance not alone to the profession but to the public.

As you have seen from the *Gazette*, the Minister for Local Government in accordance with Section 31 of the Labourers Act, 1906, asked for my views as President of the Society on a proposed new Order abolishing the special costs scale under the Labourers' Acts, and suggesting that bills of costs of solicitors acting for vendors and purchasers should be taxed by the general Taxing Office under the provisions of S.R.G.O., 1884 to 1951. After obtaining the views of interested solicitors and the profession generally, I informed the Minister that I had no objection to the proposed Order which was duly made on the 5th July, 1957, and came into operation on the 1st of October of this year. The Order was printed in the July issue of issue of the *Gazette*, with an explanatory note on its effect, particularly in regard to the election of the item charges, which should be studied by all members.

As you are aware, a Commission was set up some time ago to deal with the matter of Workmen's Compensation. At the request of the Commission the Council submitted a statement of their views in the matter within its terms of reference; in the view of the Council the present code of Workmen's Compensation Law required only minor changes and amendments.

The Solicitors' Apprentices' Debating Society of Ireland

Solicitors' Buildings,
Four Courts,
Dublin.

December 1957.

Dear Sir,

On Thursday January 23rd 1958 we will hold our Annual Dance in the Gresham Hotel from 9 p.m. to 3 a.m.

Once again it is our pleasure to ask your support for our Dance which in the past years has earned a very deserved popularity. We feel sure that you will welcome this opportunity of renewing old friendships and of meeting your future colleagues in the legal profession.

We would be greatly obliged if you would let us know at your earliest convenience the number of tickets you will require. Tickets are one guinea each.

Should you find it impossible to attend, your financial support would be warmly appreciated.

Yours sincerely,

William A. Young,
Honorary Dance Secretary.

Please forward.....tickets for the Society's Annual Dance on January 23rd at the Gresham Hotel for which remittance £ is enclosed.

Dated....., 1957.

The Honorary Dance Secretary,
The Solicitors' Apprentices' Debating Society of Ireland,
Solicitors' Buildings,
Four Courts,
Dublin.

Signed..... (block capitals)

Address.....

.....

In my half-yearly Report to the Council in May I referred to the delays in the Valuation Office. I regret to say that so far as my personal experience goes, there has been little or no improvement in this particular regard. I don't believe there will be any improvement until the Government adopts the suggestion I made in my half-yearly Report in May, namely that these valuers should be situated locally in local offices instead of being sent down throughout the country from Dublin. These delays in my opinion are unnecessary and unwarranted, and a bad example to the rest of the country. It seems to be absolutely ridiculous that it should take a valuer six months or more to value a property which he could inspect in an hour and report on in another hour, if he were on the spot in a local office.

In consequence of the very successful Dinner-Dance held in November of last year, it has been decided to renew the function this year, and accordingly the Dinner-Dance is being held to-night at the Shelbourne Hotel, where I trust you will all be and where I hope you will thoroughly enjoy yourselves.

Before I conclude this address, I must mention what a pride and privilege it has been for me to be your President during the past year. It has been a year of great social activities so far as I was concerned, and while it meant a good deal of travelling around, and at first I viewed the prospect with considerable misgivings, I must now confess when I have come to the end of my term of office that I enjoyed every minute of it.

There are three special occasions which I will always remember and cherish. There was our visit to Northern Ireland in May of this year, where Mrs. Gaffney and I spent three days as the Guests of the Incorporated Law Society of Northern Ireland. Then there was my visit to London where I was entertained by the President and Council of the English Law Society at their Annual Dinner, and lastly, and by no means least, there was our own reception in conjunction with the Benchers and the Bar to the members of the American Bar Association in the Round Hall of the Four Courts, and the subsequent reception at the Castle, given by An Taoiseach.

My term of office has been made easy by the fact that I had two Vice-Presidents in the persons of Mr. Desmond Collins and Mr. Charles Downing, who were always ready and willing to help me out on every possible occasion. I had a most loyal and considerate Council, who have been more than generous and accommodating to me in every way. I have had the support and help of not alone my own colleagues in Limerick City and County but indeed throughout the whole of this land North and South. During all this time, and during all my stresses, strains and tribulations, both at home and abroad, I had the help and enthusiastic assistance of our most able and efficient Secretary, Eric Plunkett, together with his most competent and willing staff.

I now move that the report of this Council for the year 1956-57 be adopted.

The motion for the adoption of the report was seconded by Mr. Desmond J. Mayne.

The Secretary, at the request of the President, read a report from the special committee of this Council on the Solicitors' Remuneration General Order, 1957.

The President asked the Press representatives to retire and the discussion on the report was taken in private. Mr. J. B. McGarry on behalf of the Dublin Solicitors' Bar Association, asked for information as to the present position of the Solicitors Accounts' Regulations and why they had not been brought into operation. In the discussion which followed, the following members participated. Messrs. J. R. Halpin, Sean O'hUadhaigh, Arthur Cox, Desmond Moran, Desmond Counahan, Charles Hyland, Denis Greene, Leslie Kearon, C. J. Gore Grimes, Donough O'Donovan, F. X. Burke, J. P. Tyrrell, S. V. Crawford, D. P. Shaw, William Dillon Leetch, John Sheil, John Carrigan, John Nash, James Hickey, George Nolan, M. J. Lardner.

The President stated that the views expressed and all other relevant views and information would be carefully considered by the Council. The motion for the adoption of the report was put to the meeting and carried without dissent.

The following motion on the agenda was then proposed by Mr. G. G. Overend, seconded by Mr. John Carrigan:

(*a*) That bye-law 35 be amended by the substitution of the word "one" for "three" therein.

(*b*) That the following new bye-law be substituted for the existing bye-law 37:—

37. When the poll has closed the scrutiny shall be proceeded with and at the November general meeting in each year the scrutineers of the ballot shall return the names of the thirty-one candidates for election as ordinary members having the greatest number of votes and shall also return the name of the candidate for election as provincial delegate for each province having the greatest number of votes, and the Chairman of the meeting shall thereupon declare the thirty-one candidates first returned duly elected as the ordinary members.

of the Council for the ensuing year, and shall also declare the candidates so returned as having the greatest number of votes for their respective provinces to be duly elected as provincial delegates for such provinces respectively.

(*c*) That the following new bye-law be substituted for the existing bye-law 38 :—

38. In case of vacancies occurring on the Council during their year of office among the ordinary members of the Council, or if a sufficient number of candidates be not nominated and the scrutineers of the ballot being thereby prevented from returning the full number of thirty-one ordinary members, the Council may if they see fit as occasion may require co-opt from the general body of the Society a sufficient number of members to complete the full number of thirty-one. In case of a vacancy in the office of provincial delegate, either arising during the year of office of the Council or through the absence of due nomination, the vacancy may be filled by the Council by co-option in like manner. A co-opted member of the Council shall hold office only until the next ensuing election for the Council but shall be eligible for re-election. A motion to co-opt a member of the Council shall in order to be carried require at least twenty affirmative votes.

The President put the motion to the meeting and it was carried without dissent.

Thursday, 20th November, 1958, was appointed as the date of the next Annual Meeting.

On the motion of Mr. O'hUadhaigh, Mr. Collins, Vice-President then took the Chair. Mr. O'hUadhaigh proposed and Mr. Cox seconded a vote of thanks to the President for his distinguished service to the Society during his year's office. The President replied and the proceedings terminated.

MEETINGS OF THE COUNCIL.

NOVEMBER 21ST. The President in the Chair. Also present, Desmond J. Collins, Vice-President; Charles J. Downing, Vice-President; Patrick R. Boyd, Francis X. Burke, John Carrigan, William J. V. Comerford, Arthur Cox, Cornelius J. Daly, William Dillon-Leetch, John R. Halpin, Francis J. Lanigan, John Maher, Desmond J. Mayne, Eunan McCarron, John J. Nash, George A. Nolan, Patrick Noonan, Peter E. O'Connell, James J. O'Connor, Patrick O'Donnell, Sean O'hUadhaigh, Thomas A. O'Reilly, George G. Overend, James R. Quirke, Dermot P. Shaw, John J. Sheil, Robert McD. Taylor, Joseph P. Tyrrell, Ralph J. Walker, Terence de Vere White, D. M. Martin, Reginald J. Nolan, Edward Treacy, C. E. Callan.

The following was among the business transacted :

Solicitors' Remuneration General Order, 1957.

THE Council considered and adopted a report from the Sub-Committee appointed to deal with this matter to be read at the ordinary General Meeting of the Society.

Nominations for the Council, 1958–59.

PURSUANT to Bye-Law 29 (*a*) 13th October, 1958, was appointed as the final date for receipt of nominations for candidates for the election to the Council for the year 1958-59, and 13th November, 1958, was appointed as the date of the ballot.

THE NEW SCHEDULE II

THE following General Order made by the Statutory Body under the Solicitors Remuneration Act, 1881, was laid on the table of the Dail and Seanad on 14th October :

S.I. No. 199 of 1957.

SOLICITORS' REMUNERATION GENERAL ORDER, 1957.

WE, the body in that behalf authorised by the Solicitors' Remuneration Act, 1881, as adapted by the Solicitors' Remuneration Act, 1881 (Adaptation) Order, 1946, made pursuant to the Adaptation of Enactments Act, 1922, do hereby, in pursuance and execution of the powers given to us in the said statute as so adapted, and of all other powers enabling us in that behalf, make the annexed General Order.

1. This Order may be cited as the Solicitors' Remuneration General Order, 1957, and the Solicitors' Remuneration General Orders, 1884 to 1951, and this Order may be cited together as the Solicitors' Remuneration General Orders, 1884 to 1957.

2. In clause 2(*c*) and in clause 6 of the Solicitors' Remuneration General Order, 1884, (hereinafter referred to as "the Order of 1884") for the words "according to the present system as altered by Schedule II hereto" there shall be substituted the words "in accordance with Schedule II hereto."

3. The following amendments shall be made in the Rules applicable to Part I of Schedule I to the Order of 1884 :—

(*a*) In Rule 2 for the words "according to the present system, as altered by Schedule II hereto" there shall be substituted the words "in accordance with Schedule II hereto."

(*b*) In Rule 5 for the words "are to be dealt with under the old system, as altered by Schedule II hereto" there shall be substituted the words "are to be calculated in accordance with Schedule II hereto."

(*c*) In Rule 10 for the words "according to the present system, as altered by the Schedule II hereto" there shall be substituted the words "in accordance with Schedule II hereto."

4. The following amendments shall be made in the Rules applicable to Part II of Schedule I to the Order of 1884 :—

(*a*) In Rule I for the words " according to the present system as altered by Schedule II " there shall be substituted the words " in accordance with Schedule II hereto."

(*b*) In Rule 4 for the words " are to be dealt with under the old system as altered by Schedule II " there shall be substituted the words " are to be calculated in accordance with Schedule II hereto."

5. The following Schedule shall be substituted for Schedule II to the Order of 1884 :—

" SCHEDULE II.

For any business, not being contentious business, for which no charge is prescribed by Schedule I, or in respect of which the solicitor has, in accordance with clause 6 of this Order, elected to charge under Schedule II, the remuneration shall be such sum as may be fair and reasonable having regard to all relevant circumstances and in particular to—

(1) the complexity, importance, difficulty, rarity or urgency of the questions raised ;

(2) where money or property is involved, its amount or value ;

(3) the importance of the matter to the client ;

(4) the skill, labour, specialised knowledge and responsibility involved on the part of the solicitor ;

(5) the number, character and importance of the documents prepared or perused ;

(6) the place where, and the circumstances in which, the business, or any part thereof, is transacted ; and

(7) the time expended by the solicitor and his staff :

Provided that—

(*a*) Without prejudice to the provisions of the Solicitors (Ireland) Act, 1849, the client may require the solicitor to obtain a certificate from the Incorporated Law Society of Ireland certifying that the sum charged is fair and reasonable or, if it is not, what is a fair and reasonable sum and the sum so certified, if less than that charged, shall, in the absence of taxation be the sum payable ;

(*b*) before the solicitor brings proceedings to recover costs on a bill delivered under this Schedule, he must, unless the costs have been taxed, have drawn the attention of the client in writing—

(i) to his right under paragraph (*a*) of this proviso to require the solicitor to obtain a certificate from the Incorporated Law Society of Ireland, and

(ii) to the provisions of the Solicitors (Ireland) Act, 1849, with regard to taxation of costs ;

(*c*) the client shall not be entitled to require the solicitor to obtain a certificate from the Incorporated Law Society of Ireland under paragraph (*a*) of this proviso after the bill has been either taxed or paid ;

(*d*) on any taxation of a bill delivered under this Schedule it shall be the duty of the solicitor to satisfy the Taxing Master as to the fairness and reasonableness of his charge ; and

(*e*) if the Taxing Master allows less than one-half of the amount charged, he shall bring the facts of the case to the attention of the Incorporated Law Society of Ireland."

6. The Solicitors' Remuneration General Order (No. 2), 1920, is hereby revoked.

7. This Order shall apply to all business in respect of which a bill of costs shall not have been furnished before the 10th day of October, 1957.

DATED THIS 10TH DAY OF OCTOBER, 1957.

CONCHUBHAIR A. MAGUIDHIR,
Chief Justice.

CAHIR DAVITT,
President of the High Court.

CECIL LAVERY,
Senior Ordinary Judge of the Supreme Court.

NIALL S. GAFFNEY,
President, Incorporated Law Society of Ireland.

On November 13th the Minister for Justice on behalf of the Government proposed a resolution in Seanad Eireann asking the Government to disallow the Order. The motion was carried by 23 votes to 21 and by the Solicitor's Remuneration General Order, 1957 (Disallowance) Order, 1957 (S.I. No. 232 of 1957) the Government disallowed the Order. The following report from a special Committee of the Council was read at the Ordinary General Meeting on November 21st.

It is our duty to make a report to the Society on a matter which has caused the greatest concern not only to the Council but to every practising solicitor, namely the motion disallowing the Order of the statutory body under the Solicitors' Remuneration Act. The members of the Statutory Body are the Chief Justice, the President of the High Court, the Senior Ordinary Judge of the Supreme Court, and the President for the time being of the Society.

In July last the Statutory Body proposed to make a General Order under the Solicitors' Remuneration Act, 1881, adopting in principle the system of costs for non-contentious business outside Court which has been in operation in Great Britain since 1953. This is a gross sum of such amount as shall be fair and reasonable and the tests of fairness and reasonableness are set out in detail. Basically the method proposed is that which is used in most other professions for similar work. The Order provided two safeguards which are peculiar to the solicitors' profession, firstly the client's right to obtain free of charge a certificate from the Society as to the reasonableness or otherwise of the charge, and secondly an over-riding right to have the bill taxed by the Taxing Master.

A copy of the proposed Order was sent by the Statutory Body to the Department of Justice early in July. The Body intended to make the Order on 9th October. Late in July an anonymous circular was posted to certain members of the Oireachtas which, in the guise of protecting the public interest, sought to misrepresent the real effect of the Order Realising the serious nature of these misstatements the Council immediately circulated an answering statement of the facts and the interview was sought with the Department of Justice. On September 3rd the Secretary of the Society wrote to the Department repeating a verbal request already made in July to the Minister to receive a deputation. On 7th September the Society received a letter from the Department intimating that the Minister had seen the documents and " doubted whether any useful purpose would be served by receiving a deputation unless the Council proposed to advance further arguments ",

It might have been expected that the Minister would have welcomed, indeed if necessary would even have sought, an opportunity of discussing any matter of common interest to his Department and the profession. We have had no previous experience of so chilling a reply to a request for an opportunity of expressing the Council's views. We regarded this letter as a clear intimation that the Minister had already made up his mind, without regard to the request for a discussion first made late in July and repeated in September.

The Statutory Body met on 9th October. They had before them a letter written a few days previously by the Secretary of the Department addressed to their secretary. Having read it they unanimously decided to make the Order. The Order was signed on 10th October and duly sent to the Dail and Seanad as required by the statute. On the same date the Body by their secretary sent a reply to the letter from the Department.

The Order was signed by all four members of the Statutory Body after the fullest consideration of all material facts including the letter from the Minister. It does not appear that the Department at any stage asked to be heard by the Statutory Body or that any communication was made by the Department between July and 9th October, while the draft Order was on the Departmental file, other than the letter to which we have referred.

The Statutory Body authorised the President of the Society to inform the Council of the existence of the correspondence between the Department and the Body. At this stage the Statutory Body did not think it appropriate that copies should be supplied to the Society. We were, however, aware of the fact that the Government had made certain objections to the draft Order.

Being convinced that the case for the Order had not been adequately presented we asked the Taoiseach to receive a deputation, which he did on 23rd October, accompanied by the Minister for Justice. The deputation consisted of Messrs. O'hUadhaigh, Cox, Walker, Overend and the Secretary. In the course of the discussion we offered certain undertakings to meet any possible objections. The Taoiseach said that he would make a report to the Government.

On the following day An Taoiseach requested the deputation to give the undertakings to him in writing and enquired whether the deputation had authority to bind the Council. We replied in the affirmative and the undertaking signed by the four members of the Council and the Secretary was delivered to Government Buildings on 28th October. On receiving the document the Taoiseach asked us to make certain small verbal amendments. A fresh undertaking embodying these amendments was signed and submitted on 29th October. By this document the Council undertook with the Government through An Taoiseach (*a*) that if at any time after the expiration of twelve months injustice appeared from the operation of the order the Council would of their own motion or at the request of the Attorney General bring it before the Statutory Body for review and if necessary amendment or revocation as the Body might think fit ; (*b*) to make a regulation under the Solicitors Act, 1954, requiring a solicitor furnishing a gross sum bill to draw the attention of the client to his rights under the Order.

While An Taoiseach stated that the decision must rest with the Government we felt, and still believe, that when he asked for the second undertaking on 29th October he attached great importance to its value and we felt that the Government would accept the undertaking. We were greatly surprised to learn on 8th November that we were mistaken. On Monday, 11th November, we learned that a motion to disallow the Order was down for debate in the Seanad for the following Wednesday afternoon and although we had very little opportunity of approaching Senators to make our case, we did what we could in the time at our disposal. There is no solicitor in the Seanad. If the motion had been put down in An Dail we would have had spokesmen there to present our case.

The motion was taken at 3 o'clock, first on the Order Paper on Wednesday, 13th November. At the outset, several Senators protested at the shortness of the notice and pressed for an adjournment. This the Minister refused to allow. The Minister read a statement and was followed by eleven Senators opposing the motion in the strongest terms. They all protested against the extraordinary speed and absence of reasonable notice. One Senator said that he had received no notice. The Senators asked the Minister to lay before the House the correspondence between the Department and the Statutory Body whose Order they were asked to quash, but this he refused to do on the plea that he had not the necessary permission from the Statutory Body.

There is on the file of the Incorporated Law Society a letter dated 28th October addressed to the Society by the Secretary of the Statutory Body stating that while they would not consider it appropriate themselves to supply the correspondence to the Society they had no objection to the Minister's making it available to the Society, and that they had written to the Minister so informing him. On November 12th the Society referred to this permission and asked the Department for copies of the documents by the following day but the Minister did not see his way to acceding to this request.

The Minister insisted on having the motion put without reading the documents. The terms of the motion were " That Seanad Eireann is of opinion that the Solicitors' Remuneration General Order 1957 should be disallowed and requests the Government to disallow it ". It was carried by 23 votes to 21. None of those who voted for the motion expressed any opinions on it.

The Minister's reported statement in the Seanad as to the effect of the Order on costs of leases and purchase of houses was completely inaccurate as the Order had no relation to such costs.

This is not the place to argue the case for the order made by the Statutory Body. The Society made a detailed case and no attempt was made to answer it specifically either in discussions with the Society or the Statutory Body or in the debate in the Seanad. Most of the speakers in the debate pointed out that if the Minister had an arguable case against the Order he did not disclose it. The Order, made by a body which includes the Chief Justice, the President of the High Court and the senior ordinary Judge of the Supreme Court, has now been disallowed at the behest of the Minister by a majority of two after a debate in which no supporter of the motion spoke. We cannot but feel that the Society has been treated without consideration and the Statutory Body with little respect. It is, however, only right to say that at the interview which he accorded and in subsequent communications An Taoiseach personally showed great courtesy to the deputation.

The official record of this debate is contained in volume 40, No. 9 of the Seanad Debates November 13th, columns 671 to 748, which may be bought at the Government Publications Sale Office for tenpence post free. We advise every member of the Society to read it. The Minister in his closing speech expressed the hope for good relations between his Department and the Society, and we should like to be able to feel that such good relations exist. If they are to be established a different attitude and approach must be discovered by the Department towards the Society and the statutory bodies which regulate professional matters. The Department must also be prepared to trust the Society and to show a better realisation of the fact that the Council are as anxious to serve the public as the governing bodies of other professions which have never been subject to restrictions which are still imposed on solicitors

in this State, but which have been abolished elsewhere as unsuited to twentieth-century conditions.

Following the publication of the report of the sub-committee in the daily press the following leading articles appeared in the newspapers :

THE MAILED FIST.

Yesterday at the annual general meeting of the Incorporated Law Society, its president read the report of a special committee set up to deal with the Solicitors' Remuneration General Order, 1957. It appears that the Order in question was made upon the application of the Law Society by a statutory body at present consisting of the Chief Justice, the President of the High Court, the Senior Ordinary Judge of the Supreme Court, and the President of the Incorporated Law Society. The Order, in effect, proposed to substitute for the present detailed bill of costs furnished by a solicitor in non-contentious work outside court a bulk fee of such amount as should be fair and reasonable, based upon certain tests detailed in the Order. The Order further reserved to the public two safeguards stated to be peculiar to the solicitors' profession—namely, the client's right to obtain free of charge from the Law Society a certificate of the reasonableness or otherwise of the charge, and the over-riding right to have the bill taxed by the Taxing Master. The Order, when made, was laid upon the table of both Houses of the Oireachtas, either of which could within one month by motion upon notice revoke it. It was, in fact, revoked by the small majority of two votes last week in the Senate upon a motion brought by the Minister for Justice.

Quite apart from the rights and wrongs of this Order, concern must be felt over the way in which the Minister and his department dealt with the matter, as revealed by the debate which took place in the Senate and by the report of the Law Society. It would be hard to conceive of any persons better qualified to deal with the question of solicitors' remuneration than those named above, and it is quite inconceivable that they would make this or any other Order without very careful consideration. In his closing speech in the debate, the Minister for Justice said : " We made it clear in our communication to the statutory body that if they wished to consider other ways and means, we would be prepared to give sympathetic consideration to their views." In other words, if the statutory body care to make another Order upon terms dictated by him and his department, then he will not oppose it. This appears to be the kernel of the whole affair. It seems strange that any Minister or Department of State should decline to discuss such a matter with a body like the Law Society, which was obviously anxious to explain its case and smooth out any difficulties that might have arisen. It was a matter of sufficient importance apparently for the Taoiseach to intervene and himself arrange to receive representatives of the Law Society to discuss it.

It seems clear that the Taoiseach was reasonably satisfied after hearing the society's representatives, that their case should be further considered, for he then asked them to put in writing certain undertakings they had given to him verbally. This was done, and, in the words of the Law Society report, " they felt that the Government would accept the undertakings." Apparently they were wrong, for some days later a notice of motion to disallow the Order—giving, in fact, the barest possible notice—appeared on the Senate order paper. It is of interest that there is no member of the solicitors' profession in the Senate, whereas there are solicitor members of the Dail who could have made their society's case. In spite of this fact, every one of the eleven members of the Senate who spoke—and they came from varied walks of life—opposed the motion in no uncertain terms. They protested most vigorously against the methods used by the Minister to steam-roll, by the use of the Government majority, the motion through the House, and against his failure to produce for the information of the House the documents relating to the matter. Not a single senator raised his voice in favour of the motion. In his closing speech the Minister expressed his hope for a continuance of the good relations existing between his department and the society, but by his action in this matter he has treated not only the Law Society but the Chief Justice and his colleagues with scant courtesy, if not utter contempt—(*Irish Times*, 22nd November, 1957.)

A WRONG DECISION

The Incorporated Law Society has issued an emphatic but reasoned protest against the Government's decision to procure the disallowance of the recent Order governing solicitors' remuneration. The incident to which the protest refers was, to say the least, somewhat disedifying.

In the first place, the Order which has been disallowed was not an order made by the solicitors' body. It was an order made and approved by a statutory body which includes the Chief Justice, the President of the High Court and another Judge of the Supreme Court—men whose status is a sufficient assurance that they had the interests of the public foremost in their minds. In the second place, it was an Order not designed to increase the costs allowable to solicitors but to introduce a simpler and more business-like method of dealing with costs in certain non-contentious business. Thirdly, the Order has been disallowed at the behest of the Government by a minority vote of the Seanad on arguments which were fallacious and erroneous.

It is difficult to lay all the blame on the Minister for Justice. He is a layman and naturally must rely on the advice of his permanent officials. The attitude of the permanent officials may be gauged by the revelation now made by the Incorporated Law Society. The Society sought an opportunity of expressing its views through a deputation to the Minister. One would have thought that such a request from such a a responsible body would at once have been granted. In fact the Minister—again, no doubt, acting at the suggestion of his officials—declined to receive the deputation.

The Minister cannot, however, be altogether absolved, nor can the other members of the Government. Fair play and ordinary courtesy would have at once prompted a readiness to receive the deputation and to hear and consider the solicitors' views before a decision was taken. This course was all the more desirable because the statutory body responsible for the Order, headed by the members of the judiciary, could obviously not be involved in any public controversy. The Government, acting through the Minister, preferred to invoke a British Statute of 1881 to nullify the Order, to ignore and not receive the views of one of our leading learned professions, and to act on the views of the officials of the Department who presumably advise the Minister on such matters.

The whole incident has been not only disedifying but disturbing. It is quite clear from the full official report of the debate in the Seanad that even the minority vote which was sufficient to secure the disallowance of the Order was obtained if not by party direction certainly by arguments which were untenable and based on a misunderstanding of the whole situation. This is no way to treat the legal profession. It is no way to treat the members of the judiciary and the other members of the legal profession who give their services in such matters to the public. It is a disquieting indication of the attitude of the officials, whoever they may be. And it is not serving the interests of the public at large. Steps should be taken forthwith to undo this wrong.—(*Irish Independent*, 23rd November, 1957.)

THE INCORPORATED LAW SOCIETY OF NORTHERN IRELAND.

THE President of the Society for the year 1957-58 is Mr. Leonard I. Fox.

The Vice-Presidents are Mr. Thomas Q. King, Mayfair, Arthur Square, Belfast, and James J. Napier, Esq., 19 Chichester Street, Belfast.

The five extraordinary members of the Council of the Incorporated Law Society of Ireland are Messes. L. I. G. Fox, Thomas Q. King, James J. Napier, Charles MacLaughlin, James C. Taylor.

THE SOUTHERN LAW ASSOCIATION.

AT the Annual General Meeting of the Association in Cork on 15th November, 1957, the following officers were elected for the year 1957–58: President, Mr. James W. O'Donovan; Vice-President, Bryan J. Murphy; Hon. Treasurer, Gerald J. Moloney; Hon. Secretary, James D. Donegan.

The following members were appointed to represent the Association as extraordinary members of the Council of the Incorporated Law Society of Ireland: Messrs. James W. O'Donovan, Bryan J. Murphy, Edmund Hayes, J. B. Jermyn and P. J. Kavanagh.

THE SOCIETY'S DINNER-DANCE.

A SUCCESSFUL Dinner-Dance was held on 21st November, 1957, in the Shelbourne Hotel, Dublin. There was an attendance of approximately 320 members and friends.

PRESENTATION OF CERTIFICATES OF ADMISSION.

ON 21st November the President at a ceremony in the Solicitors' Library presented certificates of admission to the following solicitors:

Julia M. Conroy, 4 St. Francis Street, Galway; Laurence B. Cullen, Wentworth Place, Wicklow, (3rd place, April Final, Silver Medal); John McKnight, B.A., LL.B., Dublin Road, Newry, Co. Down; Patrick Collins Powell, Woodfield, Shanakiel, Co Cork; Sean Cormac Rynne, "Cluna," Anglesea Avenue, Blackrock, Do. Dublin; Andrew F. Smyth, 95 Kincora Road, Clontarf, Dublin; Thomas A. Twomey, B.A., "Newtown House," Maynooth, Co. Kildare.

INTERNATIONAL BAR ASSOCIATION.

COLOGNE Conference Programme (July 21–26, 1958). The following topics have been selected for discussion at the 1958 conference:

In Plenary Session or Symposia:

1. The Problems of Tort Liability and Financial Protection arising out of International Atomic Operations.

2. The American Closed Corporation and its Equivalent, and the status of Wholly-Owned Subsidiaries in Other Countries.

3. Monopolies and Restrictive Trade Practices.

In Committee Meetings:

4. The Legal Profession:
   (*a*) Insurance Protection against any and all types of Lawsuits—their Propriety and Legality.
   (*b*) Qualifications to Practise Law in the Foreign and International Field.
   (*c*) Consideration of the Various Plans for Providing Retirement Income for Members of the Legal Profession.
5. Administration of Foreign Estates.
6. International Shipbuilding Contracts.
7. Protection of Investments Abroad in Time of Peace.
8. Legal Aid.
9. International Judicial Co-operation.

Members who propose to attend the conference and who would be willing to contribute papers on any of the above subjects are requested to communicate with the Secretary.

LAND REGISTRY.

The following letter from the Registrar of Titles is reprinted at the request of the Mayo Solicitors Bar Association:

Your Ref. L/2/48.

7th April, 1948.

DEAR MR. PLUNKETT,

Re Authentication of Documents Executed in the U.S.A.

I am in receipt of your letter of the 25th ult. on the subject of the authentication in the U.S.A. of the execution of documents affecting lands the subject of Folios in the Land Registry.

I have given consideration to the representations contained in your letter particularly with regard to certain difficulties which arise in carrying out the formalities with regard to authentication. In the

circumstances, I have given directions that in future where releases are being obtained from persons resident in the U.S.A. of their interests in registered land, such releases will be accepted by the Registry if they are executed in the presence of two independent witnesses, one of such witnesses being an Attorney-at-Law, a Bank Official, a Clergyman or some other respectable person of standing in the district, provided however, that the usual Affidavit by the personal representative of the Owner, setting out the several persons entitled, including those resident in the U.S.A., is lodged.

Yours sincerely,
JOSEPH O'BYRNE,
Registrar.

NOTICE.

THE Librarian of the Incorporated Law Society of Northern Ireland, Royal Courts of Justice, Belfast, requires the following issues of the *Gazette* for the use of the members and would greatly appreciate if, in the absence of available stocks, a member would be prepared to donate the following issues of the *Gazette* :—

Vols. 1 (1907) to 22 (1928) inclusive ; ; Vol. 25, No. 10 (April, 1931) ; Vol. 26, No. 3 (July, 1931) ; Vol. 27–Nos. 1 (May, 1932) and 10 (April, 1933) ; Vols. 28 (1933–34) and 29 (1934–35) ; Vol. 36, No. 8 (February, 1942) ; Vol. 43, No. 3 (July, 1948).

Postage will be refunded. All further correspondence relating to this matter should be addressed to :—Miss Anderson, Librarian, Incorporated Law Society of Northern Ireland, Royal Courts of Justice, Belfast.

THE REGISTRY

Register A

ASSISTANT SOLICITOR required for large practice in good provincial town. Permanent position for suitable applicant who must be experienced in all branches. Reply stating age and full details of education, qualifications and experience to Box No. A172.

Register B

EXPERIENCED SOLICITOR seeks position as qualified assistant. Interview requested. Box No. B220.

Register C

WANTED urgently—Good prices paid if volumes complete and binding in good condition.

Irish Equity Reports—1838–50—Vols. 12 and 13 *Irish Common Law Reports*—1849–66—Vols. 1–17 complete and duplicates of Vols. 13, 14, 16 and 17 ; *Irish Chancery Reports*—1849–66—Vols. 1–17 complete ; *Law Reports* (Ireland)—1878–93—Vols. 13 (duplicate) ; 15–18, and 25–29 ; *Irish Reports*—1913 to 1924, 1921 (Two extra copies) ; 1922 and 1923 (Duplicates), 1928, 1931, 1938, 1940, 1942 and 1946 ; *New Irish Jurist*—Vol. 1 (1900) ; *Irish Law Reports*—1894–1912—Complete set of 12 vols ; *Northern Ireland Reports*—1925 to 1956—complete ; *Times Law Reports*—1884 to 1952—68 Vols. complete ; *Irish Law Times* (1867–1957) including Reports—Vols. 1–27, 1–16 (duplicates), 50–57, 61–91, 63–78 (duplicates), 73–76 (duplicates), 82–91 (duplicates), 89–91 (duplicates). Apply Librarian, Incorporated Law Society.

REGISTRATION OF TITLE ACTS 1891 AND 1942.

NOTICE.

FOLIO 11092 — COUNTY LIMERICK

Registered Owner : JAMES DOODY

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 23rd day of December, 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of James Doody to Oa. Or. 35p. of the Lands of Abbeyfeale West situate in the Barony of Glenquin and County of Limerick being the lands comprised in said Folio.

FOLIO 12904 — COUNTY CLARE.

Registered Owner : EVA O'BRIEN.

The Registered Owner has applied for a Duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 23rd day of December, 1957.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Eva O'Brien to oa. 1r. 25p. of the Lands of Kilfenora situate in the Barony of Corcomroe and County of Clare being the Lands comprised in said Folio.

OBITUARY

MR. PATRICK V. C. MURTAGH, Solicitor, died on 16th November, 1957, at his residence, Oaklawn, Athlone, Co. Westmeath.

Mr. Murtagh was admitted in Hilary Sittings, 1891, and practised at Athlone under the style of Messrs. Fair and Murtagh. He served on the Council for the year 1925–26.

MR. PETER P. TAAFFE, Solicitor, died on 16th December, 1957, at his residence, Green Crofts, Merville Road, Stillorgan, Dublin.

Mr. Taaffe served his apprenticeship with Mr. Philip N. Smith, Solicitor, Cavan, was admitted in Michaelmas Sittings, 1940, and practised at Naas, Co. Kildare.

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January,
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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
JOHN CARRIGAN

Vice-Presidents
JOHN R. HALPIN,
FRANCIS J. LANIGAN

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

PRACTISING CERTIFICATES, 1958–59.

Important

THE latest date for taking out practising certificates in time was Wednesday, 5th February. Attention is drawn to the provisions of Part V of the Solicitors Act, 1954, with regard to the issuing of practising certificates and the Sections 54 to 57 with regard to the qualifications for acting as solicitor and the consequences of practising without a certificate. The form of declaration which must be made in order to obtain a practising certificate may be obtained by Dublin solicitors, or by country solicitors through their Dublin agents, on application to the Society's office. Neither the declaration nor the certificate when issued can be sent by post.

MEETING OF THE COUNCIL

DECEMBER 5TH:

Solicitor to Body Corporate. Apprentice

A REPORT from the Court of Examiners on an application by a solicitor in the whole-time employment of a Body Corporate for permission to take an apprentice was considered. It was decided that the application should not be granted.

Solicitors' Accounts Regulations, 1957

THE Council made the regulations and directed that they should be submitted to the Chief Justice for his concurrence.

Law Clerks' Joint Labour Committee

THE Secretary stated that an application for an all-round increase of 10s. per week had been considered by the Committee. Modified proposals have been submitted by the Committee to the Labour Court. These proposals will not take effect unless approved by the Labour Court.

Joint Committee with the Bar Council

MESSRS. Desmond J. Collins, Thomas A. O'Reilly, and George G. Overend were re-appointed as the Society's representatives on the committee.

COMMITTEES OF THE COUNCIL, 1957–58.

Registrar's Committee

SEAN O'HUADHAIGH, Chairman; Patrick R. Boyd, Desmond J. Collins, Cornelius J. Daly, Charles J. Downing, Francis J. Lanigan, John Maher, George A. Nolan, Peter E. O'Connell, James J. O'Connor, John J. Sheil, Terence de Vere White.

Compensation Fund Committee
TERENCE DE VERE WHITE, Chairman; Patrick R. Boyd, Desmond J. Collins, Cornelius J. Daly, Charles J. Downing, Francis J. Lanigan, John Maher, George A. Nolan, Peter E. O'Connell, James J. O'Connor, Sean O'hUadhaigh, John J. Sheil.

Finance, Library and Publications Committee
PATRICK R. BOYD, Chairman; Desmond J. Collins, Arthur Cox, Cornelius J. Daly, Charles J. Downing, Thomas A. O'Reilly, James R. Quirke, Dermot P. Shaw, Robert McD. Taylor.

Parliamentary Committee
ARTHUR COX, Chairman; Francis X. Burke, Niall S. Gaffney, Patrick Noonan, Patrick O'Donnell, Sean O'hUadhaigh, Dermot P. Shaw.

Privileges Committee
ROBERT McD. TAYLOR, Chairman; Francis X. Burke, Christopher E. Callan, William J. V. Comerford, Arthur Cox, William Dillon-Leetch, John Maher, Derrick M. Martin, Desmond J. Mayne, Eunan McCarron, John J. Nash, Reginald J. Nolan, Patrick Noonan, Patrick O'Donnell, George G. Overend, John J. Sheil, Edward Treacy, Joseph P. Tyrrell, Ralph J. Walker.

Court Offices and Costs Committee
JOSEPH P. TYRRELL, Chairman; Francis X. Burke, Christopher E. Callan, William J. V. Comerford, Arthur Cox, William Dillon-Leetch, John Maher, Derrick M. Martin, Desmond J. Mayne, Eunan McCarron, John J. Nash, Reginald J. Nolan, Patrick Noonan, Patrick O'Donnell, George G. Overend, John J. Sheil, Edward Treacy, Ralph J. Walker.

Court of Examiners
THOMAS A. O'REILLY, Chairman; Patrick R. Boyd, Desmond J. Collins, James R. Quirke, Robert McD. Taylor.

DISCIPLINARY COMMITTEE, 1957–58.

NIALL S. GAFFNEY, Chairman; John R. Halpin, Desmond J. Mayne, John J. Nash, William J. Norman, Thomas A. O'Reilly, George G. Overend, James R. Quirke, Dermot P. Shaw, Ralph J. Walker.

PRESS NOTICES BY SOLICITORS

IT is permissible to have one insertion in each recognised Irish daily or local newspaper circulating in the district in which the solicitor carries on practice of any of the following matters.

(*a*) Change of address or telephone number;
(*b*) Commencement of practice;
(*c*) Acquisition of another practice;
(*d*) Dissolution of partnership,

provided that in any case the notice has not the form or appearance of an advertisement. A solicitor commencing independent practice after dissolution of a partnership of which he was a member may publish notice thereof in accordance with the above conditions.

BAR ASSOCIATIONS

DUBLIN SOLICITORS' BAR ASSOCIATION

A MEETING of the Council was held on Wednesday, 4th December, 1957.

The Council congratulated the President on the manner in which he opened the debate at the Law Society's General Meeting relating to the Solicitors Accounts Regulations.

The Director of Savings, by letter dated 25th November, 1957, stated that he hoped to have in operation before long a revised system for payment of Savings Bank Accounts of deceased depositors. The Association had represented that a declaration of identity should be dispensed with when a grant is produced; that one of two or more executors should be sufficient to sign the notice of withdrawal and the warrant for payment; that payment should be made on foot of the warrant without that document being in turn presented to the Post Office to be exchanged for a cheque. It appears that these points have been accepted, and that payment by means of crossed warrant will be introduced shortly. It appears that payment will be made only to an executor, and not to a nominee. Members are asked to observe the functioning of the new system, and to inform the Council whether it is satisfactory or could be further improved.

As a result of representations the Law Agent to the Dublin Corporation has agreed to allow half the scale fee on the compulsory acquisition of weekly or monthly tenancies where title is not made; where title is made the full scale fee will be allowed. The Council regard this decision as reasonable.

Progress was reported on various other matters, and the next meeting was fixed for Wednesday, 8th January, 1958.

A MEETING of the Council was held on Wednesday, 8th January, 1958.

No information has yet been vouchsafed by the Minister for Justice about District Court reorganisation.

The Council considered that the organisation of a group for Voluntary Health Insurance was not

a matter for this Association, but might be undertaken by the Law Society, and directed that the matter be referred to them.

The meeting also considered the subjects of Executor and Trustee Precedent Form, the problems arising on the borrowing of deeds from the Dublin Corporation, possible improvements in the Legal Diary, and certain recent newspaper publicity hostile to the profession.

A member suggested that Service of Circuit Court Civil Bills by Summons Servers on Limited Companies by registered post was unnecessarily cumbersome, and that solicitors could effect such service themselves. The Council concluded that the Circuit Court Rules are clear on the subject, and decided not to take any action.

The next meeting of the Council was fixed for Wednesday, 5th February, 1958.

County Kerry Law Society

At the Annual General Meeting of the County Kerry Law Society held in Tralee on 30th November, the following Officers and Committee were elected for the coming year:—

President: Mr. Gerald Baily; Vice-President: Mr. Thomas O'Neill; Chairman: Mr. Charles J. Downing; Hon. Sec and Treasurer: Mr. Joseph J. Grace. Committee: Messrs. D. E. Browne, W. A. Crowley, H. J. Downing, J. D. O'Connell, M. L. O'Connell, J. J. O'Donnell, J. S. O'Reilly, and D. F. O'Shea.

County Meath Sessional Bar Association

At the Annual General Meeting of the Association held on 13th December, 1957, the following Officers were elected:

Chairman: Mr. Alan Donnelly; Hon. Secretary and Treasurer: Miss E. Brennan. Committee: Messrs. Barry Steen, Kenneth Kilbride, Thomas Noonan, Patrick Noonan, F. Reilly, and Louis Noonan.

Roscommon Solicitors' Bar Association

At the Annual General Meeting of the above held on 17th December, 1957, the following Officers were elected:—

President: Mr. Patrick J. Neilan, Roscommon; Chairman: Mr. John Kelly, Elphin; Vice-Chairman: Mr. James T. Claffey, Castlerea; Treasurer: Mr. James J. Sheerin, Boyle; Secretary; Mr. P. Desmond O'Connor, Ballaghaderreen.

Ordinary Members: Messrs. Maurice De La Staunton, Castlerea; Patrick C. Sweeney, Roscommon; Thomas Callan, Boyle; M. Desmond Carlos, Strokestown, and Francis X. Burke, Boyle.

County Louth Sessional Bar Association

At a meeting of the County Louth Sessional Bar Association held on the 1st January, 1958, the following Officers were elected for the year 1958:— Hon. President: James J. Murphy; Vice-Presidents: Arthur S. Coulter and Francis P. Johnston; Secretary and Treasurer: Philip McCourt.

COMMISSIONERS OF CHARITABLE DONATIONS AND BEQUESTS FOR IRELAND

Public Notice

(Pursuant to the provisions of Section 6 of the Charitable Donations and Bequests Act, 1871, as amended by the Charitable Donations and Bequests (Amendment) Act, 1955.)

The Overend Scholarship

WHEREAS Trevor Thomas Lethem Overend, Solicitor, of the City of Dublin, who died on the 8th April, 1919, by his Will dated 2nd May, 1914, bequeathed to the Incorporated Law Society of Ireland the sum of One Thousand Pounds (£1,000) to be invested by them and the income applied as to one-half thereof for the Endowment of a Legal Scholarship in connection with the preliminary examination of Apprentices to Solicitors and the other one half in connection with the final examination.

AND WHEREAS by the reason of the coming into operation of the Solicitors Act 1954 (Apprenticeship and Education) Regulations 1955 (S.I. No. 217 of 1955) as amended by the Solicitors Act 1954 (Apprenticeship and Education) (Amendment) Regulations 1956 (S. I. No. 307 of 1956) it has become impracticable to apply the said annual income in the manner heretofore obtaining.

AND WHEREAS the Council of the Incorporated Law Society have applied to the Commissioners of Charitable Donations and Bequests for Ireland to make a Cy-pres Scheme providing for the future application of the income and for the management of the Charity.

AND WHEREAS the Scholarship Fund now consists of £1,277 12*s.* 6*d.* 3% Exchequer Bonds; £19 16*s.* 11*d.* 4½% National Loan; £38 13*s.* 9*d.* 5% National Savings Bonds, and £41 7*s.* 4*d.* Cash.

AND WHEREAS the said Commissioners at their meeting held on the 17th December, 1957, acting under the power vested in them by Section 6 of the Charitable Donations and Bequests (Ireland) Act 1871 as amended by the Charitable Donations and Bequests (Amendment) Act 1955, made a provisional Cy-pres Order providing for the future application of the charity income in the provision

of one annual scholarship to the student who (*a*) has entered into Indenture of Apprenticeship; (*b*) has attended a year's course of lectures approved by the Society at Dublin University or at one of the constituent Colleges of the National University of Ireland; (*c*) has not at any time been a Solicitor's Clerk who has availed himself of the provision of paragraph 5 of the Second Schedule to the Solicitors Act 1954; (*d*) has not presented himself for the first law examination on any previous occasion; (*e*) has not been called to the Bar; and (*f*) has in the opinion of the Council of the Incorporated Law Society by his answering at the Society's first law examination shown the most proficiency in the subjects of the said examination.

NOTICE IS HEREBY GIVEN that if any person has any objection to make, or suggestion to offer, concerning the above provisional Order, he, or she, should forward to the same in writing to this Office within FOURTEEN DAYS from the date of this Notice.

BY ORDER OF THE BOARD,

Dated this 7th day of February, 1958.

J. S. MARTIN,
Secretary.

Office of the Commissioners of
Charitable Donations and Bequests
for Ireland,
128 Lower Baggot Street,
DUBLIN.

COMMISSIONERS OF CHARITABLE DONATIONS AND BEQUESTS FOR IRELAND

Public Notice

(Pursuant to the provisions of Section 6 of the Charitable Donations and Bequests Act 1871 as amended by the Charitable Donations and Bequests (Amendment Act) 1955.)

The Findlater Scholarship

WHEREAS the Commissioners of Charitable Donations and Bequests for Ireland at their meeting held on 8th October, 1957, acting under the power vested in them by Section 6 of the Charitable Donations and Bequests Act 1871 as amended by the Charitable Donations and Bequests (Amendment) Act 1955 made a provisional Cy-pres Order relating to the future application of the Findlater Scholarship Fund.

AND WHEREAS at their meeting held on the 14th January, 1958, the said Commissioners made a further Order modifying their previous Order so as to provide for the future application of the Charity income in the award of an annual scholarship to the student who receives the highest marks on the aggregate results of the Second and Third Law Examinations held by the Incorporated Law Society pursuant to the Solicitors Act 1954 (Apprenticeship and Education) Regulations 1955 (S.I. No. 217 of 1955) as amended by the Solicitors Act 1954 (Apprenticeship and Education) (Amendment) Regulations 1956 (S.I. No. 307 of 1956.)

NOTICE IS HEREBY GIVEN that if any person has any objection to make, or suggestion to offer, he, or she, should forward the same in writing to the Office of the said Commissioners within FOURTEEN DAYS from the date of this Notice.

BY ORDER OF THE BOARD.

Dated this 7th day of February, 1958.

J. S. MARTIN,
Secretary.

Office of the Commissioners of
Charitable Donations and Bequests
for Ireland,
128 Lower Baggot Street,
DUBLIN.

DECISIONS OF PROFESSIONAL INTEREST

Unfair attraction of business: acting for both parties

In a matter which was brought before the Disciplinary Committee in England the facts were as follows:

A firm of solicitors was charged with, inter alia, an offence under Rule 1 of the Solicitors' Practice Rules, 1936, namely, that they had done a thing which could reasonably be regarded as calculated to attract business unfairly.

The solicitors acted for an estate development company who were building and selling a block of flats at prices of £2,500 or £2,600 each.

In August, 1955, the company were concerned at what they considered to be delay on the part of various solicitors acting for purchasers in completing the purchases. They asked the solicitors if completion would be expedited if they acted for both parties, and if they would be prepared so to act. The solicitors expressed reluctance to act, but, in reply to the company's query as to what their costs would be if they did act, said they would amount to £21.

In October, 1955, a proposed purchaser was written to by the sales manager of the company to the effect that, if she engaged the company's solicitors, completion would be speeded up and the company would pay the stamp duty; he also stated that the solicitors' costs would be reduced by about £10, if they acted for both parties.

In evidence before the Committee, the sales manager said that the offer to pay stamp duty if the purchaser instructed the company's solicitors had not been put to the solicitors, but was made in an attempt to encourage the purchaser to instruct these solicitors so that matters would be expedited.

In November, 1955, the sales manager wrote to the solicitors stating that the purchaser desired them to act for and "in these circumstances we shall pay the stamp duty". When the completion statement was submitted it showed the costs as £21 18s., and no sum was included for stamp duty.

In March, 1956, another proposed purchaser was informed by employees of the company that, if he instructed the solicitors, he would effect a saving in his legal costs and the company would pay his stamp duty.

After some correspondence, this purchaser wrote to the solicitors saying, "I understand . . . that if I instructed you to act for me there would be a saving of £25 in stamp duty and £10 for conveyance fees", and asking exactly how much he would have to pay for these items.

The solicitors' reply stated: "on the question of expenses our clients inform us that they are willing to pay the stamp duty if the transaction is carried through by us. In these circumstances, also, your fees payable to us will be approximately £30".

The Committee in their Findings stated that "it can hardly be doubted that an offer on the part of the vendor that he will pay the stamp duty for the purchaser if he instructs a particular solicitor in the transaction is calculated to attract business unfairly to that solicitor", and they ordered that a fine be imposed upon the partners of the firm concerned.

Solicitors' clerk disqualified under act of 1956 *for* 1953 *offence.*

The Divisional Court (The Lord Chief Justice, Mr. Justice Barry and Mr. Justice Havers) dismissed an appeal by an unadmitted solicitor's clerk againt an order of the Disciplinary Committee of the Law Society made on 20th September, 1957, directing that no solicitor should in connexion with his practice take or retain the appellant into or in his employment or remunerate him without the written permission of the Law Society. The order was made under section 16 (1) of the Solicitors' Act, 1941, as amended by section 11 (1) of the Solicitors (Amendment) Act, 1956, in respect of an offence in 1953.

The Lord Chief Justice, giving the reserved judgment of the Court, said that, by the Act of 1941, where a solicitor's clerk had been convicted of any criminal offence in respect of property of the solicitor by whom he was employed or any client of that solicitor an application for an order such as was made in this case might be made. The amending Act of 1956 allowed the Society to apply for an order where a clerk had been convicted of any offence in respect of any property, irrespective of whether it belonged to his employer or one of his clients. This applicant was convicted of larceny in 1953 of property which belonged neither to his employer nor to a client of his, and he accordingly contended that to apply the provisions of the Act of 1956 to a person convicted before that Act came into operation would be to make its operation retrospective.

It was stated in Maxwell on the Interpretation of Statutes that it was a fundamental rule of English law that no statute should be constructed to have a retrospective operation unless such a construction appeared very clearly in the terms of the Act or arose by a necessary or distinct implication; and that passage had been approved by the Court of Appeal. But, in their Lordships' opinion, this Act was not in truth retrospective. It enabled an order to be made disqualifying a person from acting as a solicitor's clerk in the future, and what happened in the past was the cause or reason for the making of the order but the order had no retrospective effect. It would be retrospective if the Act provided that anything done before the Act came into force or before the order was made should be void or voidable, or if a penalty were inflicted for having acted in this or any other capacity before the Act came into force or before the order was made. This Act simply enabled a disqualification to be imposed for the future which in no way affected anything done by the appellant in the past. Accordingly, in their Lordships' opinion, the Law Society had jurisdiction to make the order complained of. The appeal was dismissed.

(In re a Solicitor's Clerk (1957) 1 W.L.R. 1219; or (1957) 3 All E.R. 617.)

Circumstances when an unsuccessful plaintiff in an action to revoke probate is entitled to costs out of his estate.

O'Daly, J., held that an unsuccessful plaintiff, the testator's brother in a jury action to revoke probate, on the ground that the testator was mentally unstable, is nevertheless entitled to his costs out of the estate when the necessity for bringing the action is occasioned by the testator's mental condition; this is so, even where the plaintiff had previously accepted a share of the estate under a partial intestacy (i.e., moneys on deposit receipt) under the will, the grant of probate of which is sought to be revoked.

Per O'Daly, J.—The plaintiff's revocation suit, tried before a jury, concluded with a verdict in favour of the defendant-executor. The defendant, through his counsel, thereupon applied to have the

plaintiff condemned in costs. As an alternative, he asked that the plaintiff pay towards the defendant's costs the sum of £150 lodged in Court; alternatively, he asked that the plaintiff be ordered to bear his own costs. The plaintiff, on the other hand, applied for an order for the payment of his costs out of the estate.

If this had been a case of opposition by the testator's brother to probate of the will propounded by the executor I should have no hesitation in saying that in my opinion the testator's own conduct, viz., the state of his health a fortnight before the will was made and three weeks after its execution, coupled with the subsequent history of his illness, was to be considered the cause of the litigation which occurred after his death as to the validity of his will. Moreover, the medical evidence given on behalf of the plaintiff went further than deposing to the testator's condition some time before and some time after the execution of the will; the opinion was offered that the testator's condition of insanity had probably not changed very much in the meantime.

Is this case, then, different from a case of unsuccessful opposition to probate? I am not satisfied that it is. When the plaintiff acquiesced in a grant of probate in common form his own information about the condition of the testator's health was what he had been told in the letter of the 5th February 1951. That letter did not inform him that Dr. O'Regan, a fortnight before the will was made, had reached the conclusion that the testator was certifiably insane. Moreover, the plaintiff was resident in the United States.

In these circumstances and in view of the principles as I find them stated in the cases which I have referred to, I think it is proper that the plaintiff should have his costs out of the estate. In reaching this conclusion I am fortified by the course which Gibson, J., indicated he was prepared to take in Smith *v.* M'Cashin—32. I.L.T.R. (1898), 55.

The plaintiff has, however, already received by way of distribution of his share of the residue a sum stated by counsel to be approximately £326. He must repay this money to the executor as a condition of the payment of his costs out of the estate.

The sum of £150 lodged in Court by the plaintiff by way of security for the defendant's costs must be paid out to the plaintiff. It is money paid into Court for a specific purpose; and, much as I might desire that it should reach the hands of the executor in part-repayment of the plaintiff's share of the residue, I do not think I have any power to deal in that way with the money lodged in Court as security for costs.

The defendant must, of course have his costs out of the estate as executor's costs.

(Mulligan *v.* McKeown—(1955) I.R. 112.)

Bill of costs. Signature where solicitor practises under a business name.

The plaintiff, a solicitor practising alone under a business name, delivered to the defendant a bill of costs signed in the business name. In proceedings for recovery of the costs it was pleaded inter alia that the plaintiff had not delivered to the defendant a bill of costs subscribed with the proper hand of the plaintiff as required by the Solicitors (Ireland) Act, 1849 (12 and 13 Vic. C. 53), Section 2. The Circuit Judge held that the Bill was not properly signed and dismissed the action and an appeal was taken to the High Court on Circuit. In the course of his judgment allowing the appeal, Haugh, J., said: The plaintiff, William L. Carroll, is a solicitor carrying on business alone under the name of Carroll & McKenna. The bill of costs was signed Carroll & McKenna, and it was objected on behalf of the defendant that such signature was not sufficient to comply with the provisions of the Solicitors Act, and that Mr. Carroll should have put his signature at the foot of the bill. The point has never been decided in Ireland, but there is a decision of the English Court of Appeal (Goodman *v.* Eban, 1954—L.Q.B. 550), in which it was decided that such a signature was sufficient to comply with the English Act, the Solicitors Act, 1932 (22–23 George V., C. 57, S. 65). The phrasing of the relevant section is different in the two Acts, but I find that in substance the relevant provisions as to the required signature of a solicitor's bill of costs are the same. I propose to follow the decision of the Court of Appeal in England and accordingly I will allow the appeal with costs. In the event of this case being reported I would like to add that I think as a matter of prudence a solicitor practising alone under a firm name should sign in his own name for and on behalf of the firm name.

(Carroll *v.* Ryan, 91 I.L.T.R. 194.)

Exemption from rates—advancement of profession.

The Royal College of Nursing in England claimed to be entitled to a rating relief under Section 8 of the Rating Act, 1955, in respect of their premises on the ground that their main objects were charitable. The main objects of the College were (*a*) to promote the science and the art of nursing and the better education and training of nurses and their efficiency in the profession of nursing; (*b*) to promote the advancement of nursing as a profession in all or any of its branches. It was admitted by the local authority that the objects in (*a*) are charitable.

The Queen's Bench Division dismissed an appeal by the local authority from the London Quarter Sessions, and held that the main objects were charitable. Mr. Justice Donovan, reading the judgment of the Court (the Lord Chief Justice and Donovan and Havers, J.J.), said that the question was whether the main object was charitable or otherwise concerned with the advancement of social welfare. If paragraph (*b*) merely read "to promote the advancement of nursing in all or any of its branches", it would clearly be charitable as a purpose beneficial to the community and analogous to the statute of Elizabeth I. It was the addition of the words, "as a profession" which gave rise to the doubt. Was the second main object the advancement of nursing or the advancement of the interest of nurses? What was meant by the advance of some particular calling "as a profession". If it were said that in the last fifty years there had been a striking advance in the profession of accountancy what idea was conveyed? Presumably that the profession had greatly increased in stature, importance, numbers and general esteem; not merely that the fees had gone up although that might be assumed as a consequence. A profession was advanced in that sense by service. Demands for more pay and better conditions for those engaged, however loud and persistent, and even successful, would not advance the profession in that sense, but improvement in the quality and range of services rendered and the spectacle of constant endeavour to do better would certainly have that effect. If then, one found an organisation one of whose objects was to advance nursing as a profession, there was no great difficulty in interpreting that as meaning to improve the quality and range of the services which nurses gave, and so enhance the stature and importance of the nursing profession and the esteem in which it was held. It might well be that in order to improve nursing services more entrants must be attracted into the profession, which would mean improvements in pay and conditions but such improvements would be means not ends. The learned Judge also pointed out (1) that the respondents were a college giving full-time education in the art and science of nursing, and were not an organisation called into being simply to protect and improve the pay and working conditions of nurses, and (2) that quarter sessions seemed to have found that under sub-paragraph (*b*) their activities were directed to the raising of the standard of nursing rather than the promotion of the interests of nurses as an end in itself. The court held that paragraph (*b*) was directed to the advancement of nursing and not to the advance of professional interest of nurses. That meant that the second main object of the college was charitable and there was no conflict with the recent decision of the Court of Appeal, in general, Nursing Council for England and Wales *v.* St. Marylebone Borough Council (1957) 3 All E.R. 685), where on different facts it was held that the professional benefit of nurses was the main object of the Council.

(Royal College of Nursing *v.* St. Marylebone Borough Council.—(1958) 1 All E.R. 129.)

ORDNANCE SURVEY MAPS

The Ordnance Survey Office wish to draw attention to a scheme whereby solicitors and other persons are permitted to make hand copies of ordnance survey maps subject to the payment of a compounded royalty fee of 5s. per calendar year. Those wishing to avail of the Scheme should apply to the Assistant Director, Ordnance Survey Office, Phoenix Park, Dublin.

EXAMINATIONS

Masters and apprentices are notified that the dates of examinations and dates of entry therefor in 1958 will be as follows:—

Examination	*Date*	*Latest date for entry*
First and second Irish	Jan. 31st and Feb. 1st	January 10th
	June 27th and 28th	June 6th
	Sept. 5th and 6th	August 15th
Preliminary	May 28th and 29th	May 7th
	Sept. 2nd and 3rd	August 12th
First Law	May 27th and 28th	May 6th
	Sept. 1st and 2nd	August 11th
Book-keeping	May 29th	May 8th
	Sept. 3rd	August 13th
Final	May 27th, 28th and 29th	May 6th
	Sept. 1st, 2nd and 3rd	August 11th

SHERIFFS' FEES ORDER, 1958 (S.I. No. 1 of 1958)

The Sheriffs' Fees Order, 1958, came into force on 7th January, 1958, and effects some changes in fees payable to sheriffs. The main changes are:—

(1) If the personal attendance of the Sheriff is required at the site of execution by the party entitled to it, he may henceforth charge 2s. per mile one way per statute mile by the nearest available public road.

(2) the mileage rate one way for Court messengers executing High Court or Circuit Court Orders is now 1s. 6d. per statute mile, instead of 6d. as formerly.

(3) If the Sheriff is required by law to send or give any notice or letter in relation to an execution

order, he may henceforth charge 4s., instead of 1s. as heretofore.

(4) In proceedings in the District Court for recovery of rates, an ensuing execution order shall only be executed if a Court messenger, in addition to the fixed sum of 15s., receives also a sum of 1s. 6d. per statute mile one way, if executed at a place exceeding 5 statute miles from the Sheriff's Office by the nearest public road.

(5) In addition to the fixed amounts which a Court messenger is entitled to in District Court proceedings other than for recovery of rates; he shall also receive a sum of 1s. 6d. per statute mile one way, if executed at a place exceeding 5 statute miles from the Sheriff's Office by the nearest public road.

(6) The expression "sheriff" shall, where necessary, include the County Registrar.

(7) If a sheriff or his Court messenger arrives at the place of seizure, and after entry into possession but before removal of the property, the party against whom the execution order is levied or his agent tenders the amount due on foot of the order, together with appropriate fees relating to lodgment notice, execution and mileage—but refuses to pay the poundage fee on foot of the execution order together with the costs of the conveyances necessary for the purpose of the removal of the property, then the Sheriff or his Court messenger may proceed to remove the property with a view to the realisation of the amount due under the execution order, together with all fees and expenses occasioned by the seizure.

(8) If, in the event of an execution order being carried out, the debtor or his agent, after the sheriff has entered into possession of the property but before its removal, undertakes to pay the amount due, whether by instalments or otherwise, together with all appropriate fees, and the Sheriff accepts, and does not proceed to remove the property, the debtor shall also be liable for poundage fees and for the cost of the necessary conveyances.

(9) If the premises where execution is to be levied are distant more than 5 statute miles by the direct public road from the Sheriff's Office, a mileage rate of 1s. 6d. per statute mile shall thereafter be payable to the Sheriff.

This Order can be obtained from the Government Publications Sale Office, G.P.O. Arcade, Henry Street, Dublin. Price 6d.

STATUTES OF THE OIREACHTAS, 1957.

No.		*Signed by President*
1.	Voluntary Health Insurance Act 1957	5th February, 1957
2.	Central Fund Act, 1957	30th March, 1957
3.	Supplies and Services (Temporary Provisions) Act, 1946 (Continuance) Act, 1957	30th March, 1957
4.	Imposition of Duties (Confirmation of Orders) Act, 1957	3rd April, 1957
5.	Married Women's Status Act, 1957	30th April, 1957
6.	Statute of Limitations Act, 1957	2nd May, 1957
7.	Imposition of Duties Act, 1957	28th May, 1957
8.	Social Welfare Act, 1957	12th June, 1957
9.	Social Welfare (Children's Allowances) Act, 1957	12th June, 1957
10.	Turf Development Act, 1957	12th June, 1957
11.	Small Dwellings Acquisition Act, 1957	26th June, 1957
12.	Defence Forces (Pensions) (Amendment) Act, 1957	9th July, 1957
13.	Industrial and Commercial Property (Protection) (Amendment) Act, 1957	13th July, 1957
14.	Diseases of Animals (Bovine Tuberculosis) Act, 1957	13th July, 1957
15.	Appropriation Act, 1957	18th July, 1957
16.	Health and Mental Treatment Act, 1957	18th July, 1957
17.	Connaught Rangers (Pensions) Act, 1957	18th July, 1957
18.	Bretton Woods Agreement Act, 1957	18th July, 1957
19.	Army Pensions Act, 1957	18th July, 1957
20.	Finance Act, 1957	18th July, 1957
21.	Social Welfare (Miscellaneous Provisions) Act, 1957	20th November, 1957
22.	Rent Restrictions (Continuance and Amendment) Act, 1957	12th December, 1957
23.	Undeveloped Areas (Amendment) Act, 1957	12th December, 1957
24.	Scholarship Exchange (Ireland and United States of America) Act, 1957	12th December, 1957
25.	Local Loans Fund (Amendment) Act, 1957	12th December, 1957
26.	Gas Regulation Act, 1957	17th December, 1957
27.	Tourist Traffic Act, 1957	17th December, 1957
28.	Children (Amendment) Act, 1957	17th December, 1957
29.	Gaeltacht Industries Act, 1957	17th December, 1957

PRIVATE ACT.

1.	Local Government (Provisional) Orders) Confirmation Act, 1957 Confirming the Wicklow County (Extension of Boundaries) Order, 1957.	1st July, 1957

THE REGISTRY

Register A

FOR SALE, Solicitor's practice in progressive Western town. Apply Box No. A173.

ASSISTANT SOLICITOR required for Cork City. Possibilities of a junior partnership. Replies treated in strict confidence. Box No. A174.

SOLICITOR, experienced all branches, required. Give particulars and references. Box No. A175

Register B

SOLICITOR, presently in country practice, seeks partnership in practice in large provincial town preferably convenient to Dublin. Replies treated in strict confidence. Box No. B221.

SOLICITOR seeks engagement, competent, experienced; references available. Box No. B222.

ENGLISH SOLICITOR, passed Final November, 1957, Cambridge Exhibition; due to be admitted March 1st, 1958, seeks temporary position for 6 months in Dublin Solicitor's Office. Salary not important. Reply, Eugene F. Collins & Son, Solicitors, 19 Eustace Street, Dublin.

REGISTRATION OF TITLE ACTS, 1891 AND 1942—ISSUE OF DUPLICATE LAND CERTIFICATES

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of January, 1958.

JOSEPH O'BYRNE,
Registrar of Titles

Central Office,
Land Registry,
Chancery Street,
DUBLIN.

SCHEDULE.

1. Registered Owner, Richard Leonard. Folio Number, 3634, County Limerick. Lands of Clashbane, in the Barony of Clanwilliam, containing 27a. 2r. 13p.

2. Registered Owner, Catherine McGarr. Folio Number, 22263, County Mayo. 9a. or. 8p. of the lands of Caherrevagh and Cloonnameeltoge, 9a. 3r. 12p. of the lands of Carrowmore and 2a. 3r. 0p. of the lands of Caherrevagh and Cloonnameeltoge, all situate in the Barony of Kilmaine.

3. Registered Owner, Thomas Beirne. Folio No., 38, County Leitrim. Lands of Drumduff North, in the Barony of Leitrim, containing 18a. 2r. 35 p.

4. Registered Owner, James Connolly. Folio No., 179, County Louth. Lands of Drumshallon, in the Barony of Ferrard, containing 0a. 3r. 33p.

5. Registered Owner, Rose McKeown. Folio Number, 960, County Cavan. 1a. 3r. 37p. of the lands of Corporation Lands, situate in the Barony of Loughtee and County of Cavan, being the lands formerly comprised in said Folio 960, County Cavan and now comprised in Folio 23907, County Cavan.

OBITUARY

DR. CHARLES J. MURRAY, Solicitor, died on the 18th April, 1957, at the Mater Nursing Home.

Mr. Murray served his apprenticeship with the late Mr. Andrew Devereux, 51, Lower Sackville Street, Dublin, was admitted in Trinity Sittings, 1900, and practised at 16 Dame Street, as senior partner in the firm of Messrs. Charles J. Murray and Son.

DR. THOMAS J. DOWDALL, Solicitor, died on the 23rd December, 1957, following an accident.

Mr. Dowdall served his apprenticeship with the late Mr. Patrick Nooney, Mullingar, was admitted in Hilary Sittings, 1909, and practised at Mullingar under the style of Messrs. Nooney and Dowdall.

MR. JAMES T. LISTON, Solicitor, died on 23rd December, 1957, at his residence, Newline, Charleville.

Mr. Liston served his apprenticeship with the late Mr. Patrick T. Liston, Rathkeale, was admitted in Easter Sittings, 1917, and practised at Charleville, Co. Cork.

MR. JOHN P. CARRIGAN, Solicitor, died on the 30th December, 1957, at his residence "Glengarriff" Thurles, Co. Tipperary.

Mr. Carrigan served his apprenticeship with the late Mr. William Carrigan, Tipperary, was admitted in Hilary Sittings, 1896, and practised at Thurles as senior partner in the firm of Messrs. John P. Carrigan and Son. He was a member of the Council of this Society from the year 1940 to 1949, and Vice-President for the year 1942–43.

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February,
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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
JOHN CARRIGAN

Vice-Presidents
JOHN R. HALPIN,
FRANCIS J. LANIGAN

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

JANUARY 16TH: The President in the Chair. Also present: Messrs. Francis J. Lanigan, John R. Halpin, Niall S. Gaffney, George A. Nolan, John J. Sheil, Francis X. Burke, George G. Overend, Patrick R., Boyd, Derrick M. Martin, Desmond J. Collins, Arthur Cox, James R. Quirke, Cornelius J. Daly, Terence de Vere White, Ralph J. Walker, Eunan McCarron, Charles J. Downing, Peter E. O'Connell, John B. Jermyn, William Dillon-Leetch. Joseph P. Tyrrell, John Maher, William J. V. Comerford, Desmond J. Mayne, John J. Nash, Robert McD. Taylor, James J. O'Connor, Patrick Noonan.

The following was among the business transacted:

Draft Rules as to Costs

SUPERIOR COURTS RULES COMMITTEE

THE consideration of the draft rules was referred to a sub-committee for report.

Uncompleted Business

A MEMBER acted for the purchaser of freehold registered land, the price being £3,050. There was no note as to equities on the folio. The sale was not finally completed as before execution of transfer, but after every other step had been taken, the purchaser found himself in financial difficulties and was unable to complete. Member enquired whether he was entitled to charge the commission scale fee as in his view he had performed substantially the work required in order to earn it. The Council on a report from the committee stated that on the facts submitted the business was uncompleted and that the costs should be charged under the old system as modified by Schedule II.

Costs of Lease

URBAN property was held under a lease dated 19th March, 1842, for a term of 100 years at the yearly adjusted rent of £18 15s. The lessee was entitled to a new lease under Part 3 of the Landlord and Tenant Act, 1931 as amended, and the lease was negotiated for a term of 99 years at the yearly rent of £125, lessee to pay all rates on R.V. £35, to carry out all repairs and to insure for £4,500. The parties asked the Council to decide on which scale the costs should be charged. The Council on a report from a Committee which considered an auctioneer's valuation made for the purpose of the negotiations for the lease stated that on the facts submitted they were of the opinion that the lease is a long lease not at a rack rent.

Gaming and Lotteries Act, 1956

MEMBERS asked the opinion of the Council as to the propriety of accepting instructions for the recovery of gaming debts since the passing of the Act. Section 36 (2) of the Act states that " no action shall lie for the recovering of any money or thing which is alleged to be won or to have been paid upon a wager which has been deposited to abide the event on which a wager is made ". In a recent English case R. *v.* Weisz (1951, 2 A.E.R. 408), Lord Goddard criticised counsel and solicitor who acted in a case for the recovery of a gaming debt in which the cause of action was described as an account stated and settled. It is understood that since the report of this case members of the Bar have been unwilling to sign pleadings. The matter was referred to a committee for a report. Having considered the committee's report the Council decided to advise members as follows: A solicitor is acting unprofessionally if he knowingly institutes proceedings for a client on a non-existent (as distinct from a valid although un-enforceable) contract or cause of action. It is therefore unprofessional to threaten or institute proceedings on behalf of a client for a gaming debt which falls within the prohibition of the statute, even although no attempt is made to disguise the nature of the action.

FEBRUARY 6TH: The President in the Chair. Also present: Messrs. Desmond J. Mayne, James J. O'Connor, John Maher, Joseph P. Tyrrell, Christopher E. Callan, Eunan McCarron, Peter E. O'Connell, Robert McD. Taylor, Patrick R. Boyd, George G. Overend, John J. Sheil, George A. Nolan, Niall S. Gaffney, John R. Halpin, Arthur Cox, Patrick Noonan, Francis J. Lanigan, Cornelius J. Daly, Charles J. Downing, Desmond J. Collins, John J. Nash, James R. Quirke, Terence de Vere White.

The following was among the business transacted:

Undertaking for Return of Title Deeds

A SOLICITOR obtained title deeds from a bank on behalf of a client in exchange for the following receipt and undertaking signed by the solicitor: " Received on loan from the X Bank the documents hereunder specified which I hereby undertake to return on demand and in any event within 30 days. I hereby further undertake to hold the said documents on trust for the said Bank and not to do any act which would enable the property dealt with by them to be mortgaged or assigned without the said Bank's consent or their lien thereon to be in any way postponed or prejudiced. In default I hereby undertake to pay to the bank the full amount of their claim against such documents." The documents included an original land certificate which had been deposited with the bank as security for the client's liabilities and the object of their delivery to the solicitor was that a portion of the lands comprised in the folio might be sold.

Nothing was said as to the disposal of the proceeds of the sale. The dealing was duly registered on the folio and the land certificate for the balance of the holding was returned by the solicitor to the bank. The bank enquired about the disposal of the proceeds of sale and were informed by the solicitor that the amount had been paid direct to the client. The Council were asked to state whether on the facts submitted it was the duty of the solicitor to pay the proceeds of sale to the bank. The Council, on a report from a committee stated that in their opinion it was the duty of the solicitor, having regard to the terms of the undertaking, to pay the proceeds of sale to the bank, unless he had obtained the consent of the bank to disposing of them otherwise.

Mr. C. G. Vanston

THE Council passed a vote of sympathy with the family of the late Mr. Cecil G. Vanston. Mr. Vanston was one of the Society's representatives on the District Court Rules Committee.

LAND REGISTRY

SALE OF POSTAGE STAMPS IN FOUR COURTS

AT the Society's request the Revenue Commissioners have agreed to maintain a supply of 1s. postage stamps at the Stamp Office in the Four Courts to facilitate practitioners in stamping copies of Land Registry folios.

ORGANIZATION FOR EUROPEAN ECONOMIC CO-OPERATION

VACANCY for a principal administrator (Grade II), as Assistant Legal Adviser in Paris.

Members interested in above may obtain particulars from the Secretary of the Society. Closing date, 14th March.

SOLICITORS' BENEVOLENT ASSOCIATION

THE 94th Annual General Meeting of the Association was held on Friday, 30th January, 1958, at the Solicitors' Buildings, Four Courts, Dublin. The Chairman was Mr. R. A. O'Brien.

The Chairman, in the course of his address moving the adoption of the annual report, congratulated Mr. John Carrigan on his appointment as President of the Incorporated Law Society of Ireland. He mentioned that while membership still fell far short of what it should be, there had been a gratifying increase since last year of over 100 members.

The Report disclosed a welcome increase of nearly £100 in annual subscriptions, but otherwise the receipts differed little from those of last year, the Association's income being gross £2,352 3s. 2d. and nett, available for relief, £2,038 8s. 7d. The sum of £2,153 10s. 6d. was granted in relief, being the second largest pay-out for relief in any one year in the history of the Association, and the number of applicants for relief was considerably up on last year.

The Chairman stressed the valuable work being done by the Association and its secretary Mr. McCarron, and strongly appealed to the profession for their support to our only professional charity. The need for the Association was more than ever apparent.

Mr. Carrigan, in seconding the adoption of the, report, strongly endorsed Mr. O'Brien's appeal to the profession. The Report was duly adopted.

The Chairman announced that Mr. Henry P. Mayne wished to resign from the office of Vice-Chairman. He paid tribute to the services rendered by Mr. Mayne to the Association as one of its oldest members. Mr. Dinnen B. Gilmore was elected Vice-Chairman and agreed to continue in the capacity of honorary Secretary.

BAR ASSOCIATIONS

County Galway Solicitors' Bar Association

THE following officers and Council were elected for the year 1958 at the Annual General Meeting of the above Association, held in January :—President, James P. Glynn ; Vice-President, William B. Gavin; Hon. Secretary, Sean F. MacGiollarnáth ; Hon. Treasurer, William B. Allen. Council : Edward C. Cooke, Christopher P. Crowley, Dominick H. Kearns, Thomas A. O'Donoghue, Seán Ó hÓráin, Daniel G. Shields.

Dublin Solicitors' Bar Association

A Meeting of the Council was held on Wednesday, 5th February, 1958.

The Meeting learned with great regret of the recent death of Mr. Cecil Vanston, who had been a president of the Association, and at the time of his death was a member of the Council, and of the Circuit and District Court and Hire Purchase Rules Sub-committees. The Council tendered their, deepest sympathy to Mr. Vanston's widow.

The Council observed a great improvement in the speed with which Grants of Probate and Administration are now issued, and acknowledged the success tul efforts of the Probate Officer in this connection.

The President reported that he and the Vice-President had attended a very enjoyable function as guests of the Southern Law Association.

Progress was reported on various other matters and the next meeting was fixed for Wednesday, 5th March, 1958.

DECISIONS OF PROFESSIONAL INTEREST

Umpire's discretion in award of costs upheld.

Mr. Justice Diplock dismissed a motion by buyers. Heaven and Kesterton Ltd., to set aside an award, by an umpire, Mr. Norman A. G. Davies, in which he awarded the buyers £73 but ordered them to pay the total costs of the arbitration amounting to £179 10s.

By a contract dated March 8, 1957, the buyers ordered from the sellers various quantities and descriptions of timber. When the goods were delivered a claim was made by the buyers relating to defects in quality in a number of the sizes of wood, which was quantified at some £450. There was also a claim to reject quantities of two particular sizes for failure to comply with contract specifications, and that part of the claim amounted to some £573. Arbitrators were appointed, and having failed to reach agreement they appointed Mr. Davies as umpire.

It was alleged that the umpire had misconducted himself in that, in dealing with the costs of the reference, he did not exercise his discretion in a proper judicial manner.

Mr. Justice Diplock said that he had no doubt that an arbitrator in an arbitration of the present kind had power to deprive a successful claimant of his costs, and indeed to order him to pay the other side's costs in appropriate circumstances, and the mere fact that on the face of the award the buyers had succeeded in the sum of £73 and yet had been ordered to pay the costs would be no ground for setting aside the award.

It was clear from the authorities cited to the Court first, that a court had jurisdiction where it appeared on the material before it that an arbitrator had exercised his discretion in a non-judicial manner, to set aside an order as to costs ; secondly, that it mattered not whether the material on which the Court came to the decision appeared on the face of the award or from affidavits. While therefore it might be that, had the umpire not put in an affidavit and not given his reasons the buyers would not have been able to urge that the order for costs should be set aside, as the umpire had given his reasons his Lordship was entitled to look at those reasons and to ascertain whether he had exercised his discretion judicially or not.

The umpire stated in his affidavit that in coming to his decision on costs he had regard to all the facts and circumstances of the case including (*a*) that he

had found against the claimants on their claim for rejection; (*b*) in respect of their total claim for damages amounting to £686 4s. 4d. he only found them entitled to recover £73; (*c*) he formed the view that the buyers had presented an exaggerated claim; and (*d*) if the buyers had only put forward a claim for a sum approximately equivalent to that which the umpire awarded it was unlikely that the substantial costs of the arbitration would have been incurred. Taking the view which the umpire took, as to failure of the claim of a right to reject the goods and as to the amount of damages, he was entitled to make the order for costs which he did in fact make. His Lordship did not say that it was an order which he would have made, but the umpire had a discretion, and his Lordship did not think that there were sufficient grounds for saying that he should interfere.

But Mr. Kerr said that it was apparent from the material before the Court that the arbitrator was wrong in law in deciding that there was no right to reject. It did seem fairly clear that the umpire had made an error of law as regards one of the sizes of timber, and Mr. Kerr said that if the error of law was corrected then the umpire's four reasons for finding against him on the question of costs would go. Mr. Littman, on the other hand, said that an umpire was entitled to make mistakes in fact and law and in considering whether there was a proper exercise of his discretion this Court had to put itself in the same position as the umpire at the time when he made the award.

If the only issue which had been before the umpire had been that of rejection and the arbitrator had made the same mistake as he had now made, his Lordship found it very difficult to see how he would have jurisdiction to set aside the award as to costs when he would not have jurisdiction to set aside the award as to substance, because there was nothing to amount to misconduct but merely a mistake on the part of the umpire.

His Lordship thought that he was not entitled to say that the umpire had made a mistake as to the law and that mistake had made him wrongly exercise his jurisdiction. His Lordship thought that he had to put himself in the same position as the umpire and, on the fact and the law as he understood them. His Lordship could not see that he had exercised his discretion unjudicially.

(Heaven & Kesterton Ltd. *v.* Sven Widaeus A.B.) ((1958) 1. All. E.R. 420)

A Taxing Master's certificate is not complete unless he reaches definite conclusions and states them in his certificate.

Pursuant to an order dated May 18, 1956, and made in an action between two plaintiffs and six defendants, the first defendant lodged a bill of costs in three parts, of which Part 2, the major part of the bill as a whole, was a lump sum bill. On June 20, 1957, the taxing master, on a preliminary appointment, ruled that the work to which Part 2 of the bill referred was contentious business and directed that the bill be redrawn in detailed form. On July 1, 1957, the first defendant carried in objections to the taxing master's diredtion, the heading to the objections being: "Objections taken by the first defendant to the preliminary taxation by (the taxing master) . . ." On July 15, 1957, the taxing master gave his answers and disallowed the objections. On July 30, 1957, the taxing master signed a certificate, stating: "In pursuance of the order . . . of May 18, 1956 . . . whereas I should have proceeded to tax the bills of costs as by the . . . . order directed, but . . . the (first defendant) having carried in objections to my direction dated June 20, 1957 . . . to bring in details in lieu of a lump sum charge in his bill of costs, I have considered such objections and disallowed the same and at the request of the (first) defendant I make this my separate certificate so that the (first) defendant may take the opinion of the court on the principle on which the . . . bill should be taxed in relation to the said lump sum charge." On a summons by the first defendant asking that his objections of July 1, 1957, to the "preliminary taxation" of costs under the order dated May 18, 1956, should be allowed and that the taxing master's certificate should be varied accordingly, none of the other parties appeared before the judge.

Held by Roxburgh, J., that the taxing master's certificate of July 30, 1957, was not a certificate of taxation or allocatur within the meaning of R.S.C., Ord. 65, r. 27 (39), (40) and (41), because under these rules it was the duty of the taxing master to reach conclusions and to state his conclusions and his reasons in a certificate, and in the present case the taxing master had not made a certificate in which conclusions were stated and reasons were given; therefore, R.S.C., Ord. 65, r. 27 (41) did not apply, the jurisdiction of the court to review taxation had not arisen, and the summons would be dismissed.

Re Donaldson ((1884), 27 Ch. D. 544), distinguished.

Per curiam: Leave to amend the summons would have been given if the court had had opportunity to hear argument on both sides.

Per Roxburgh, J.: "The first defendant carried in a bill of costs which is divided into three parts. Part 1 is an itemised bill amounting in all to £2 0s. 4d. Part 2 is a lump sum bill, except that it does contain certain disbursements. That lump sum bill occupies

about eighteen pages, and, with the exception of the disbursements, no separate charge is assigned to any item in those pages. It is very difficult to follow the description of the items in Part 2 of the bill. The total sum of disbursements which appear in Part 2 amount to £9 19s., but the unitemised charge is £94 10s. Then comes Part 3, which is an itemised bill amounting in all to about £14. Thus the major part of the bill as a whole is the lump sum bill."

It is plain from the words "whereas I should have proceeded to tax" that the taxing master has not proceeded to tax the bills of costs.

I object to that form of certificate for many reasons. It is not, I understand, the practice for directions of this sort to be put in writing, and I understand that in this case the direction was not put in writing, but the recital of the direction in the master's certificate seems to leave out something which may or may not be important, but which certainly occurs in his own record of the occasion. It cannot be a convenient practice that somebody should be entitled to challenge a direction, and that the judge should hen have to send for the taxing master to find out what the direction was which was being challenged. It is to be noted that the taxing master has not set out the whole of his direction in the certificate, and I do not suggest that he purported to do so. Therefore, I am in the position of hearing an appeal concerning a direction and having no certain knowledge what it was. That is my first objection to this procedure.

The second is this. I do not know why the taxing master should be allowed to form an opinion on the point whether, if he taxes the bill, the questions which will arise on that taxation will be questions of principle. That is why I referred to the question how far these matters are contentious. It may well be that no question of principle arises. It depends entirely on what these various items relate to, and it is essentially his business to make up his own mind on these matters. Then, if he likes to say what his mind is, this court, under the Rules of the Supreme Court to which I will refer in a moment, can investigate the question whether he has rightly appreciated the principles involved. I think that it is his duty to give his decision on the point in the certificate, and that it is his decision stated in the certificate which would be the proper matter to come before the court.

Thirdly, I think that the whole of this particular process is at variance with the relevant rule, which is R.S.C., Ord. 65, r. 27.

That presupposes that the taxing officer has gone through the bill and indicated, before drawing up any certificate, that he is going to allow or disallow particular items, in whole or in part—it must be an allowance or disallowance "in any bill of costs . . . of the whole or any part of any items": if he does that, then, as I understand, it is his duty to listen to the objections. The parties may then apply to the taxing officer "to review the taxation in respect of the same."

Then there is a provision that, pending the consideration of the objections, the taxing master may issue a certificate on other items, but that does not affect the present case.

Then comes R.S.C., Ord. 65, r. 27 (40), which reads:

> "Upon such application the taxing officer shall reconsider and review his taxation upon such objections . . ."

Let it be noted that it is "his taxation", and the taxing officer agrees that he has not proceeded to taxation in this case. Rule 27 (40) continues:

> ". . . and he may, if he shall think fit, receive further evidence in respect thereof, and, if so required by either party, he shall state either in his certificate of taxation or allocatur, or by reference to such objection, the grounds and reasons of his decision thereon, and any special facts or circumstances relating thereto . . ."

That makes it quite plain that it is the taxing officer, and not the judge, who has to reach a decision. R.S.C., Ord. 65, r. 27 (41), reads:

> "Any party who may be dissatisfied with the certificate or allocatur of the taxing officer, as to any item or part of an item which may have been objected to as aforesaid, may . . . apply to a judge at chambers for an order to review the taxation as to the same item or part of an item . . ."

Again, that seems to me to make it quite plain that the duty of the taxing master is to make up his mind, stating his conclusions in the certificate and giving his reasons, as provided for in R.S.C., Ord. 65, r. 27 (40), and then the judge has a limited jurisdiction to upset his decision. I would point out that it is a limited jurisdiction, not a complete jurisidction such as exists, for instance, between a Chancery judge and a Chancery Master. It is by no means a complete jurisdiction.

It seems to me that the certificate in the present case is not such a certificate as is contemplated by the rules, and it is not a certificate on which any party can apply to the eourt for the reasons which I have given.

The objection, however, is not to the preliminary taxation. There is no such thing. The objection is to the taxing master's direction that the first defendant should file what he calls a proper bill of costs. That direction, however, is not a "preliminary taxation". By no manner of means can it be

included in the words " preliminary taxation ". The summons then asks " that it may be referred back to the taxing master to vary his certificate accordingly ". I really do not know what that was intended to mean because, if I had to deal with this question —which I probably should have done if a sufficient number of the parties had appeared before me to argue it—I should have made some sort of declaration of principle, but I should not have needed to vary the certificate, for the simple reason that the taxing master has not certified anything which is material to anybody, so far as I can see, except that he says there is a question of principle. That is not a decision on a question of principle. It is true that the taxing master said that he disallowed the objection, but he has to go further than disallow the objection. He has to make a certificate which gives effect to the disallowance, and that he has never done. I would have given both sides. In my view, the summons in its present form is impossible for the reasons which I have stated. I propose to dismiss the summons with no order as to costs.

(*Re* Fraser deceased—Leach *v.* Public Trustee—(1958) 1 All. E.R. 26.)

Costs where lodgment in court not beaten, although not apportioned among several causes of action pleaded.

The requirement of R.S.C., Ord. 22, r. 1 (2), that a notice of payment into court in satisfaction of several causes of action should specify what sum is paid in respect of each cause of action is directed to cases where the several causes of action give rise to independent claims for damages, not to cases where satisfaction of one cause of action ends the whole claim; they are only alternative in that one award of damages is possible; so that satisfaction of one cause of action ends the whole claim.

The plaintiff, an assisted person, brought an action against his employers for damages for personal injuries sustained by him when working at a machine in the course of his employment. The claim was based on alleged negligence and breach of statutory duty. Before any defence was delivered the defendants paid £1,000 into court, stating in their notice of payment in that this sum was " enough to satisfy the plaintiff's claim ". The notice did not specify what sum was paid in respect of which cause of action. At the trial the plaintiff succeeded on both causes of action, and recovered one sum of £760 damages.

Held by Donovan J. that: The defendants were entitled to their costs of the action after the date of payment in because the two causes of action, viz., the alleged negligence and the breach of statutory duty, did not give rise to independent claims for damages but entitled the plaintiff to only one award. The costs so awarded should come out of the damages awarded. (Nolan *v.* C. & C. Marshall, Ltd. (1954) 1 All. E.R. 328, followed.)

Per Donovan J.: " Consequent on my award of £760 damages as compared with a payment into court by the defendants of £1,000 the defendants ask that they shall have the costs of the action as from the date of such payment in.

The application is resisted on behalf of the plaintiff on the ground that the payment in must be regarded as a nullity, since it did not comply with the terms of R.S.C., Ord. 22. R.S.C./Ord. 22, r. 1 (1), provides, missing out irrelevant words:

> " In any action for a debt or damages . . : the defendant may at any time after appearance upon notice to the plaintiff pay into court a sum of money in satisfaction of the claim or (where several causes of action are joined in one action) in satisfaction of one or more of the causes of action . . . "

The plaintiff did not take out this sum and the action proceeded to trial with the result already stated. It is now said for the plaintiff that the notice should have specified the cause of action in respect of which the payment was made, that is, either breach of statutory duty or negligence at common law, or partly the one and partly the other, and that in the absence of such specification the payment in must be disregarded, so as to entitle the plaintiff to his full costs. Accordingly, to deprive such a defendant of his costs for failure to make such a specification would be wholly unjust, and I ought to avoid such a result if some other construction of R.S.C., Ord. 22, r. 1 (2) is reasonably possible. I think that it clearly is.

It should be remembered that the writ in this case was issued on Dec. 5, 1956, and the statement of claim was delivered on the same day. The payment in of £1,000 was made on Dec. 28, 1956, before any defence was delivered.

The plaintiff considered it was not enough. Rightly or wrongly I have held that it was more then enough. So the whole costs of the action since Dec. 28, 1956, have been occasioned by the plaintiff's view, now held to be wrong. In these circumstances I can see no ground for making the defendants pay the expense of the proceedings after payment in, or to deprive them of their own costs of resisting such proceedings.

Where a litigant is assisted by public funds a particular duty lies on him not to refuse a reasonable offer, and certainly not to trade on his privileged position in the matter of costs to decline to accept a payment in which he might well accept if not so privileged. I am not saying that this is such a case, but if I were to treat the award of damages in the

present case as inviolate, as I am asked to do, I think I should be setting an unfortunate precedent because there are no special facts about the present case to justify such special treatment.

Having said that I hope I may still say that I am very sorry for this particular plaintiff. Through not accepting the £1,000, he gets £760 less costs which will substantially diminish the award; but I can see no ground on which I can give him relief. If the defendants feel it right not to enforce the order regarding costs, or to make some concession regarding that, that of course is a matter entirely for them.

My order must be that the plaintiff have the costs of the action up to the date of payment in, and the defendants have the costs thereafter and that any excess of the latter costs over the former be paid to the defendants out of the £1,000 in court; the balance to be paid out to the plaintiff.

(Graham *v.* C. E. Heinke & Co. Ltd.—(1958) 1 All. E.R. 365.)

An order that two actions be listed and tried together does not convert those two actions into one set of proceedings; the Court therefore has no jurisdiction to order a party to only one of the two actions to pay costs incurred by the other party in proceedings to which that person was not a party.

Rules of the Supreme Court, Order 65, rule 1, which provides that "the costs of and incident to all proceedings in the Supreme Court . . . shall be in the discretion of the Court" gives the court a discretion to order the costs of and incident to all proceedings to be paid by the parties to those proceedings, or any of them as the court in its discretion thinks right, but does not empower the court to order a person to pay costs incurred by another party in proceedings to which that person was not a party.

An Australian mercantile company ("W. Ltd.") procured an English company ("E. Ltd."), carrying on business in Australia as advertising practitioners, to go into voluntary liquidation at a time when the newspaper proprietors ("F. Ltd.") had not been paid for the advertisements. E. Ltd. commenced an action against W. Ltd. alleging, inter alia, that E. Ltd. acted as principal and not as agent in executing the advertising, and claiming the sums agreed to be paid by W. Ltd. for the advertisements. By consent proceedings were agreed to be brought in England on behalf of representative claimants of the newspaper proprietors against W. Ltd., and the existing action by E. Ltd. against W. Ltd. and the new action were to be ordered to be listed and tried together. The newspaper proprietors ("F. Ltd.") accordingly commenced an action against W. Ltd., claiming that E. Ltd. had ordered the advertisements as agents for W. Ltd., and that W. Ltd. was therefore liable to F. Ltd. for the price of the advertisements. The two actions were ordered to be listed and tried together. At the trial judgment was given for E. Ltd. against W. Ltd. in the action between them, and for W. Ltd. in the action brought by F. Ltd., the court holding in each action that E. Ltd. had acted as principals and not as agents for W. Ltd. W. Ltd. thereupon applied in the action brought by F. Ltd. for the costs of the action brought by E. Ltd. to be paid by F. Ltd. On appeal by W. Ltd. against the determination of the trial judge that he had no jurisdiction to make such an order.

Held by the Court of Appeal (Jenkins, Parker and Pearce, LJJ., affirming Gorman J.) that the order that the two actions be listed and tried together did not convert the two actions into one set of proceedings, and so did not make F. Ltd. a party to the action by E. Ltd., and the court therefore had no jurisdiction to order F. Ltd. to pay the costs of that action.

Appeal dismissed.

Per Jenkins, L.J.—In the present case, as has appeared from what I have already said, there was no consolidation. The difficulties in the way of consolidation were obvious in that the two actions were actions in which the interests of the respective plaintiffs were diametrically opposed. However, assuming that, in theory, consolidation would have been practicable, there was none. These two actions, still bearing their original character as separate and distinct actions, were, for convenience, listed and heard together; but that does not make them anything else than two actions, and I think that the learned judge's discretion as to the costs of either action must be confined to the parties to that action. For the reasons which I have endeavoured to express, I think that the learned judge came to a right conclusion in holding he had no jurisdiction to make the order sought.

Per Parker, L.J.—I agree. Under the Rules of the Supreme Court, Order 65, rule 1: ". . . the costs of and incident to all proceedings in the Supreme Court . . . shall be in the discretion of the court or judge . . ." "Proceedings" there must mean proceedings properly brought before the court in the prescribed manner (see Order 1, rules 1 and 2). It is also clear that A cannot be ordered to pay the costs of B incurred in proceedings to which A was not a party. I am satisfied that the order does not have the effect of turning separate proceedings into one set of proceedings. Nothing short of consolidation can do that under the existing rules, and in this case not only was there no order for consolida-

tion, but on the facts it is clear that consolidation was impracticable.

The truth of the matter is that this order, which is not an uncommon order to make, is eminently one of convenience in that it enables all the evidence to be called at once before the court; but it does not, under the rules as at present constituted, enable the judge at the trial of the proceedings listed and tried together to make what I may call a global order in regard to costs. For my part, I confess that, in cases where consolidation is not possible, it is not only convenient that this order should be made, but it may be that, in the interests of justice, the court should have power to deal with all the costs of the proceedings tried together. However, under the rules, I am quite satisfied that that cannot be done at present.

For those reasons I would dismiss this appeal.

Pearce, L.J.—I agree.

(John Fairfax & Sons Pty., Ltd. *v.* E. C. De Witt & Co. (Australia) Proprietary, Ltd.—(1957) 3 All E.R. 410.)

SOLICITORS AND AUCTIONEERS

The Council have been in correspondence with the Irish Auctioneers and Estate Agents' Association on the subject of the respective fields of professional activity of solicitors and auctioneers. In a recent issue of the *Gazette* members were informed that proceedings had been instituted by the Society, against a house agent who had drawn up an agreement for the letting of a furnished flat, his remuneration consisting of the usual commission on the making of the letting. As the house agent refused to give an undertaking to discontinue this practice proceedings were instituted against him by the Society and were subsequently withdrawn on his giving the desired undertaking and indemnifying the Society against the costs of the proceedings. The Council wrote the Irish Auctioneers and Estate Agents' Association to notify them of the proceedings and asking them to advise their members thereof, which the Association agreed to do. The Association have drawn the Council's attention to their view that solicitors should not undertake work which the Council of the Association consider to be the proper responsibility of the auctioneers and estate agents. They referred particularly to the practice of solicitors advertising properties for sale and letting by private treaty and also undertaking work normally dealt with by estate agents. The Council have replied stating that they would be unable to find themselves in agreement with the Association if it were suggested that solicitors should not undertake land agency and rent collection work which has always been part of the normal practice of solicitors, although they cannot claim an exclusive right in it any more than auctioneers, accountants, or members of the public.

With regard to the question of advertisements by solicitors offering property for sale or letting, the Council of the Society are in agreement with the Association that in the interest of the respective bodies and their members, solicitors should not hold themselves out as undertaking such work. It has, however, been pointed out to the Association that there is no legal prohibition which would prevent solicitors or any other persons from advertising property for sale or letting on the instructions of clients, and that cases do occur in which clients may direct solicitors to perform this work. The Council have stated that members of the Society if so instructed by clients could not legitimately refuse to accept instructions having regard to the particular relations which exist between solicitors and their clients. Subject thereto, the Council wish to recommend to members of the Society that solicitors should not undertake the work of advertising property for sale or letting without direct instructions from clients. The Association have already at the Society's request sent out a circular drawing the attention of their members to the fact that it is illegal for an unqualified person to draw up a contract for sale, lease or other document relating to real or personal estate directly or indirectly in expectation of fee or reward.

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SUBJECT MATTER AND REFERENCE NUMBERS

Cork Harbour Rates increased on New Motor Cars and Motor Vehicles assembled for Export after 27th January, 1958 7/1958.
Exceptions and Exemptions of Discharge of Oil under the Oil (Pollution of the Sea) Act 1956—205/1957.
Discharge of Heavy Diesel Oil into the Sea an Offence under Oil (Pollution of the Sea) Act, 1956—204/1957.
Galway Harbour Rates increased after 16th September 1957—183/1957.
Lee Hydro-Electric Scheme—E.S.B. relieved from erecting Bridge in lieu of a submerged one—35/1958.
Lee Hydro-Electric Scheme—Diversion of public road over River Dripsey on North Bank of River Lee no longer necessary 34/1958.
Merchand Shipping (Fees) (Amendment)—200/1957.
Oil Pollution of the Sea Act 1956 in force from 1st November, 1957—203/1957.
Oil Pollution of the Sea Act 1956—Records to be kept by Irish registered ships for specified purposes—206/1957.
Oil Pollution of the Sea Act 1956—Records of Transfers of Oil of certain Vessels within Territorial Waters—207/1957.
Oil Pollution of the Sea Act 1956—Oil-fuelled Irish registerd Ships must be fitted to prevent Oil Fuel from leaking or draining from Machinery Spaces into Bilges—208/1957.
Wexford Harbour Rates Amendment—45/1958.

HEALTH

SUBJECT MATTER AND REFERENCE NUMBERS

Area ceded to County Wicklow by the Wicklow County (Extension of Boundary) Provisional Order 1957, attached to Bray No. 1 Dispensary District from 1st November, 1957—225/1957.
Specialist Services and X-Rays—Charges fixed under Health Acts—198/1957.
Wicklow County and Rathdown Public Assistance District (Dispensary Districts) Order 1957—225/1957.

JUSTICE, EXTERNAL AFFAIRS AND DEFENCE

SUBJECT MATTER AND REFERENCE NUMBERS

Defence Forces—Supplementary Retired Pay for Officers who were awarded Service Medals—194/1957.
Gárda Síochána Allowances—52/1958.
Gárda Síochána Pensions—231/1957.
Gárda Síochána Pay—51/1958.
Gárda Síochana Promotion Regulations—276/1957.
Gárda Síochána Retirement Regulations—50/1958.
Sheriffs' Fees increased after 7th January, 1958—1/1958.
Solicitors' Accounts Regulations 1957—252/1957.
Solicitors' Remuneration General Order, 1957—193/1957.
Solicitors' Remuneration General Order, 1957 (Disallowance) Order, 1957—232/1957.

MISCELLANEOUS

SUBJECT MATTER AND REFERENCE NUMBERS

Business Radio Licences—Temporary Licences may be issued at a lower scale of Fees—181/1957.
Children Act 1941 (Section 21) Regulations 1958— /1958.
Drapery and Footwear Shops in Ballinasloe, Co. Galway, may remain open until 8.30 p.m. on 24th December, 1957—262/1957.
Factories Act—Special Regulations for Building Operations postponed to 1st October, 1958—260/1957.
Irish Seamen's Union—High Court Deposit reduced by 75%—235/1957.
Offences Against the State (Amendment) Act 1940 (Detention) (Amendment) Regulations 1958—16/1958.
Payments to be made from 1st April, 1958, by Local Authorities to Managers of Certified School for the Maintenance of Children and Youthful Offenders committed therein — /1958.

Platform Machines and Weighbridges not in full conformity with the Weights and Measures Regulations 1928, may continue to be used until the end of 1959—271/1957.
Savings Gift Tokens may be accepted in Post Offices as Deposits in the Post Office Savings Bank—237/1957.
Scholarship Exchange (Ireland and the United States of America) Act 1957 in force from 23rd December, 1957—270/1957.
Street Trading allowed in Henry Street, Dublin, in December, 1957—240/1957.
Trade Union Act 1952 (Section 3) (No. 2) Order 1957—235/1957.
Vocational Education—Payments of Additional and Supplementary Grants to Vocational Education Committees in 1957–58—227/1957.
Vocational Education Committees—Age Limits for Officers fixed at 65 years—56/1958.

SOCIAL SERVICES

SUBJECT MATTER AND REFERENCE NUMBERS

Social Welfare (Miscellaneous Provisions) Act 1957, in force from 1st January, 1958—269/1957.
Social Welfare (Unemployment Benefit) (Additional Condition) Regulations 1957—239/1957.
Unemployment Assistance—Date of Publication of Result of 1956 Census relating to Urban Districts certified as 5th November, 1957—257/1957.

TRANSPORT AND TRAFFIC

SUBJECT MATTER AND REFERENCE NUMBERS

Broadstone Branch of Royal Canal, Dublin, need no longer be kept open by C.I.E.—241/1957.
Cork Taximeter Area Fare Bye-Laws 1957—259/1957.
Cork Traffic (Amendment) Bye-Laws 1958—28/1958.
Dublin Taximeter Area Fare Bye-Laws 1957—258/1957.
Great Northern Railway Board (Dundalk—Clones, Glaslough—Cavan and Ballyhaise—Belturbet Railway Lines (Termination of Passenger Services) Order 1957)—188/1957.
Great Northern Railway Company (Ireland) Winding-Up—55/1958.
Road Vehicles (Index Marks) Regulations 1958—14/1958.
Road Vehicles (Registration and Licensing) Regulations 1958—13/1958.
Road Vehicles (Registration and Licensing) Order 1958—15/1958.

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OBITUARY

MR. JAMES MALSEED, Solicitor, died on 11th September, 1957.

Mr. Malseed served his apprenticeship with the late Mr. Joseph Fegan, Cavan, was admitted in Hilary Sittings, 1924, and practised at Letterkenny, Co. Donegal.

MR. ALOYSIUS J. REDDY, Solicitor, died on 22nd January, 1958, at his residence, 88 Upper George's Street, Dun Laoghaire, Co. Dublin.

Mr. Reddy served his apprenticeship with the late Mr. Charles J. Reddy, 35 Westland Row. Dublin, was admitted in Trinity Sittings, 1917, and practised at 14 Westland Row under the style of Messrs. C. J. Reddy & Son.

MR. CECIL G. VANSTON, Solicitor, died on 2nd February, 1958, at his residence, 31 Crannagh Road, Rathfarnham, Co. Dublin.

Mr. Vanston served his apprenticeship with Mr. William H. Fry, 14 Lower Mount Street, Dublin, was admitted in Easter Sittings, 1930, and practised at 22 Kildare Street, under the style of Messrs. Crookshank, Leech & Vanston.

THE SOLICITORS' BENEVOLENT ASSOCIATION

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

Last year over £2,000 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

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

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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
JOHN CARRIGAN

Vice-Presidents
JOHN R. HALPIN,
FRANCIS J. LANIGAN

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETING OF THE COUNCIL

FEBRUARY 27TH: The President in the Chair. Also present: Messrs. John R. Halpin and Francis J. Lanigan, Vice-Presidents; Desmond J. Collins, James J. O'Connor, Thomas A. O'Reilly, Ralph J. Walker, Patrick R. Boyd, George G. Overend, Cornelius J. Daly, John Maher, Peter E. O'Connell, Joseph P. Tyrrell, Eunan McCarron, William Dillon Leetch, Derrick M. Martin, Edward Treacy, Arthur Cox, George A. Nolan, John J. Shiel, Niall S. Gaffney, Terence de Vere White, Robert McD. Taylor, Patrick O'Donnell, Patrick Noonan, Dermot P. Shaw, John J. Nash, William J. V. Comerford, James W. O'Donovan.

The following was among the business transacted:

Land Commission Costs

THE Council heard a report from a deputation which met officials of the Land Commission to discuss the question of costs. The deputation had submitted *inter alia* that the scale of costs under the Provisional Rules 1924, which now stand at 25 per cent. above the 1939 level of costs, is inadequate and pressed for an increase. The officials had agreed that a case had been made for an increase, but the deputation had to report that no satisfactory progress had been made although the matter has been under discussion since 1956. It had been pointed out in the course of the discussion that the official cost-of-living index figure average for 1957 showed an increase of 150 per cent. over 1939, and that civil-service salaries as a whole had risen by 139 per cent., and that it was self-evident that an increase of 25 per cent. could not compensate solicitors for Land Commission work. It was decided that further representations should be made.

New Schedule II

THE Council considered and approved a draft of a new General Order to be submitted to the Statutory Body under the Solicitors Remuneration Act, 1881.

Taxation of Costs. Change of Solicitor. Acting for client of opposing Solicitor

MEMBER acted for the successful litigant in certain proceedings in which his client was awarded costs. He was subsequently informed that the opposing solicitor would not be appearing for the other party on the taxation of his party and party costs. He was subsequently approached by the unsuccessful party and requested to appear on the taxation of the solicitor and own client bill of costs received by

that party from his own solicitor in the proceedings, and enquired whether in the Council's view he could do so with propriety. The Council, on a report from the Committee, stated that member should not in the circumstances accept instructions.

County Registrar. Disposal of Practice

THE Council expressed the opinion that where a practising solicitor is appointed County Registrar there is no objection to his continuing the practice, for a short period, with the permission of the Department of Justice, pending its disposal.

Delays in executing decrees

IN a case in which there appeared to be unreasonable delay in executing decrees it was decided to forward the correspondence to the Department of Justice with a request for a more satisfactory staffing arrangements.

LANDLORD AND TENANT (REVERSIONARY LEASES) ACT, 1958

THE Landlord and Tenant (Reversionary) Leases Act, 1958, has now become law. This Act implements the recommendations of the Conroy Report on Reversionary Leases. Copies of the Bill as passed by both houses can be obtained from the Government Publications Office in the Arcade, Henry Street, Dublin. Price, 1/6, by post 1/9.

SOLICITORS' GOLFING SOCIETY

The Captain's (Mr. James O'Connor) Prize, the Golfing Society's Challenge Cup, the St. Patrick's Plate and other Prizes will be competed for at the Spring meeting of the above Society to be held after Easter. The date, venue and full details will be circularised to members in due course as usual. New members will be warmly welcomed. Enquiries to Gerard M. Doyle, Honorary Secretary, 50 Lower O'Connell Street, Dublin.

EXAMINATION RESULTS

AT examinations held on 31st day of January, 1958, under the Solicitors' Act, 1954, the following passed the examinations :—

First Examination in Irish :

Henry C. P. Barry, Edward R. A. Glover, Mary Grace Hanna, Mary Claire Hughes, Hilary Lawton, Donnchadh D. Lehane, George W. McCormack, Margaret J. O'Callaghan, Cahir D. O'Riordan, Dorothy Ann Rogan.

15 candidates attended; 10 passed.

Second Examination in Irish :

Laurence F. Branigan, Thomas C. Buckley, John C. Cashman, Conal J. Clancy, Thomas F. Cusack, Donal J. Ellis, Michael J. Fitzsimons, Michael J. Hogan, Edward M. Masterson, Dominic Mockler, Patrick G. McMahon. John A. O'Dwyer, George J. P. O'Sullivan, Thomas D. Shaw, John K. Temple Lang, Gerrard A. Walsh, Cathal N. Young.

19 candidates attended; 17 passed.

MEDICO-LEGAL SOCIETY OF IRELAND

AN interesting and informative paper entitled, "Medical Evidence and Personal Injury Legislation" was delivered on 30th January, 1958, to the Society by Mr. Brendan McGrath, Solicitor. The lecturer emphasised that in personal injury cases the jury were usually the sole arbiters of fact and assessed the damages. Conclusions as to liability for negligence could usually be arrived at by a judge or jury without the aid of expert or technical evidence; but, in order to determine the amount of the damages, medical evidence relating to the injuries, their causal connection with the accident, their probable duration

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and the effect of any residual disability would be considered. The nature of the injuries should as far as possible be conveyed in a non-technical manner that is easily understood. It is often difficult for a judge or jury to determine a conflict of medical opinion particularly when they are sharply divided; this is due to such factors as competence and skill, partisanship and bias. In jury trials, competence as a witness is equally important. There is a tendency to give the injured party the benefit of all possible leniency, as well as a tendency to exaggeration by way of advance preparation against hostile cross-examination which will tend to make the doctor tone down his first judgment. Mr. McGrath concluded by giving full details of the New York Medical Expert Testimony Project sponsored by the American Bar Association in 1952; the basic idea was to set up panels of neutral, outstanding physicians in various branches of medicine.

This paper was followed by a lively discussion which was opened by Mr. Herman Good, solicitor. Mr. Good said he thought it was desirable that Courts assessing damages in personal injuries litigation should be aided by assessors. Mr. McCarthy, S.C., retired Circuit Judge, paid tribute to the Dublin juries for their painstaking labour and approach to legal problems when dealing with civil litigation. Dr. Martin Dyer, Chairman of the Executive Council of the Irish Medical Association, asserted that doctors in a case were primarily there to see that social justice was done, and that other inducements were only minor considerations.

On Thursday, 27th March, 1958, a Symposium on the subject of "Infectious Carriers with special reference to Section 38 of the Health Act, 1947" will be held at 8 p.m. in the Royal Hibernian Hotel. It will be recalled that Section 38 gives stringent powers to detain and isolate persons who are probable sources of infection. The main speakers will be Mr. Arthur Cox, Solicitor; Mr. T. A. Doyle, S.C.; Dr. P. Flynn, M.O.H., Co. Westmeath; and Dr. Thomas Murphy, Professor of Social and Preventive Medicine, U.C.D.

Mr. Dermot P. Shaw was instrumental in arranging a largely attended meeting on the 12th February, 1958, in the Shamrock Lodge Hotel, Athlone, when local solicitors, barristers and doctors decided to form a Midlands Regional Branch of the Society. Dr. Frank McLaughlin, a Committee member, attended a meeting in Waterford on 25th January, 1958, for the purpose of establishing a Branch there; he subsequently delivered a paper on "The Wolfenden Report."

The Council of the Society has set up a Sub-committee to examine the problem of "Unnatural Offences" in this country. The Council, following the findings of the Wolfenden Committee in Britain, considered this problem to be important, and accordingly instructed the Sub-committee to make a general survey of the position here, and to make recommendations. This Sub-committee consists of: Mr. J. McCarthy, S.C. (chairman); Mr. Niall McCarthy, Barrister-at-Law; Professor E. Exshaw, Barrister-at-Law; Mr. Herman Good, Solicitor; Dr. F. McLaughlin; Dr. J. Eustace and Dr. F. Bourke.

DECISIONS OF PROFESSIONAL INTEREST

Taxing master disallows fee for leading counsel—court unable to interfere.

Lord Justice Parker and Lord Justice Sellers dismissed this appeal by the plaintiff from a decision of Mr. Justice Donovan in chambers on 19th December, 1957, dismissing an appeal from the taxing master's disallowance of the fee for leading counsel, in a trial relating to damages only for personal injuries to the plaintiff; liability had been admitted. There was controversy as to whether symptoms from which the plaintiff was suffering related to the injury, and there was two medical witnesses on each side. £350 was paid into Court, and in the result the plaintiff was awarded £650, including £400 general damages.

Lord Justice Parker, giving judgment, said that the master stated that he was of opinion that the circumstances of the case did not justify the briefing of two counsel; that no question of principle was involved as to the allowance or disallowance of two counsel and that it was a matter entirely for his discretion.

Before the Judge and in this Court it was argued for the plaintiff that the master erred in principle. It was at one time suggested that Mr. Justice Donovan took the view that the question whether there should be two counsel or one was not a matter of principle at all, but only quantum, and that therefore he had no jurisdiction. He (his Lordship) thought it was quite clear that all Mr. Justice Donovan did was to say: "If I had been deciding this matter I might well, indeed I would, have come to a different conclusion." But this was a matter prima facie for the discretion of the Master. Mr. Thompson admitted that he had to show that the master went wrong in principle.

In matters such as the question whether there should be two counsel allowed or one, it was impossible to say that there was no principle involved. Mr. Thompson argued that it had now become, if not the rule, at any rate the prevailing practice that

two counsel would be allowed on taxation, except in very special circumstances. Therefore the master must have gone against principle in this case, there being no special circumstances. It was perfectly true and he (his Lordship) hoped it might continue, that in general it was proper that two counsel should be in Court. But to say that, because leading counsel was disallowed in any case, therefore the master must have erred in principle was a very different matter.

Finally, Mr. Thompson had referred to the master's reference to there being no question of principle involved. That as a general principle was wrong, although it might well be that, in relation to the facts of this particular case, there was no principle involved. The master's reference to it being a matter entirely for his discretion was perhaps not very happily worded. It was a matter for his discretion, but not entirely for his discretion, because if he erred in principle his discretion could be set aside. He (his Lordship) could not see in this case that the master had erred in principle and accordingly he agreed with the Judge that whatever one might have decided oneself, hearing the case *de novo*, this Court could not interfere and the appeal would be dismissed accordingly.

Lord Justice Sellers delivered a concurring judgment.

(Gorfin *v.* Odhams Press Ltd.)—[1958] I All E.R. 578.

In an action of sub-rogation, the plaintiff's insurers are entitled to recover in damages from the defendant the amount for which they had been liable to pay in respect of the injuries which the defendant caused to his father in a motor accident.

While backing his lorry in the yard of a slaughter-house to which he had been sent to collect waste, the defendant, a lorry-driver employed by the plaintiffs, negligently ran into and injured his father, who was also employed by the plaintiffs on the same work. The father obtained judgment for damages for negligence against the plaintiffs. The plaintiffs' insurers, acting in the plaintiff's name by virtue of a term (condition 2) in the contract of insurance but without consulting the plaintiffs, brought an action claiming damages for negligence or breach of contract against the defendant, the writ being issued a week before judgment was obtained by the father against the plaintiffs. A preliminary objection that the writ was premature having been taken by the defendant, a second action was allowed to be brought and consolidated with the first action.

Held by the Court of Appeal (Birkett and Romer, L.JJ.) (Denning, L.J., dissenting) that the plaintiffs were entitled to recover in damages from the defendant the amount for which they had been made liable to his father because—

(i) The defendant was in breach of an implied term in his contract of service with the plaintiffs that he would drive with reasonable care and skill and the damages were not too remote.

(ii) Although the plaintiffs and the defendant were joint tortfeasors as against the defendant's father, the plaintiffs' claims were not defeated by the principle of the common law that there was no contribution between joint tortfeasors, since the plaintiffs gave neither authority nor assent to the defendant's negligence and did not share in its commission; moreover, since the negligence was the defendant's own negligence, there was no ground for the Court to grant (in the second action) the defendant immunity from liability to contribution under the Law Reform (Married Women and Tortfeasors) Act, 1935.

(iii) Although in so far as the first action was based on a claim for contribution under the Act of 1935 it was premature, yet the first action was not premature in so far as it was founded on breach of contract, since the cause of action arose on the commission of the breach of contract and the fact that the writ was issued by the insurers before the liability of the plaintiffs to the defendant's father was established did not defeat the action as the insurers were entitled to issue the writ by virtue of condition 2 of the contract of insurance independently of the doctrine of sub-rogation.

(iv) Section 35 (1) of the Road Traffic Act, 1930, did not prevent the plaintiffs from maintaining their claims against the defendant because, on the footing that the yard in which the accident happened was not a road to which the public had access within s. 121 of that Act, the accident did not arise out of the use of the lorry on a road within s. 35 (1).

(v) There was no such implied term in the contract of service with the defendant as would place on the plaintiffs the duty of insuring the defendant against liability for injury such as had occurred to his father in this case; nor was any term to be implied in that contract that that defendant should not be sued by the plaintiffs for damage arising from his negligence if they were insured in respect of such damage, for a servant was as much liable to his master for negligence as was anyone else.

The appeals from the decision of Ormerod, J. were dismissed.

Per Denning, L.J.: Two men named Lister, father and son, were employed by the Romford Ice and Cold Storage Co., Ltd., the plaintiffs. Their task was to collect waste and take it to the factory. On 26th January, 1949, the son, the defendant, drove the lorry from the plaintiffs' premises to a slaughter-house in Oldchurch Road, Romford. The father went with him. The defendant drove the lorry through the main gates into the yard of the slaughter-house. His father got off to go to the office. The defendant backed the lorry to get it into position and unfortunately ran into his father and injured him. The reason was partly because the engine was defective, so that the defendant had to keep it going fast and, therefore, reversed more quickly than he need have done; partly because the son did not take sufficient steps to see that all was clear: partly because the father did not keep a proper look-out. The father sued the plaintiffs for damages for negligence. The case was tried by McNair, J., on 29th January, 1953. He found that the father was one-third to blame and the plaintiffs two-thirds. He assessed the total damages for the injuries at £2,400 and gave judgment for the father for £1,600 and costs.

The plaintiffs were insured against this liability and the insurers have paid the father the £1,600 and costs. Now the insurers seek to recover that sum from the son, the defendant. To do this, they have brought an action in the name of the plaintiffs against him. The Romford Ice and Cold Storage Co., Ltd., are only nominal plaintiffs. The managing director of the plaintiff company came to the court and gave evidence. He said that the plaintiffs were not consulted about this action. The insurers bring it under their right of sub-rogation or under the clause in the policy authorising them to use the name of the company.

Let me put aside for the moment the question of insurance and treat the case as if the Romford Ice and Cold Storage Co., Ltd, were the real plaintiffs. Even so, there was until very recently never a case of this kind recorded in our books. Many a master has been made responsible for the mistakes of his servants, but never has he sought to get contribution or indemnity from his servants. One obvious reason is that it is not worth while. The master is not allowed to make any deduction from his servant's wages: and it would seem the extreme of harshness to seize his savings or to make him bankrupt. The other reason is no doubt the reluctance of a good master to visit the risk of accidents on to his servants' The risks should be borne by the undertaking as a whole rather than on the poor unfortunate servant who happens to make a mistake in a moment of temporary inadvertence. It seems that these reasons no longer commend themselves to the insurers of employers, and we have to consider whether the claim is good in law.

When a man holds himself out as a skilled man, he thereby impliedly warrants that he is competent at his work and will exercise his skill on his employer's behalf, but he does not warrant that he will never make a mistake and I know of no case where it has been so held. If a lorry-driver has an accident owing to a moment's inadvertence or a slight error of judgment, and a third person is injured, his employer must pay damages. The law imposes a very high standard of care in such cases.

Another objection to the implied contract is that it would mean that the master could sue his servant for negligence although the master suffered no damage. That cannot be right.

It is one thing to say that, as between strangers, insurance is irrelevant, but quite another thing to say that as between master and servant it is irrelevant. If the master relies on an implied contract to make the servant liable, the servant may well rely on an implied term to exempt himself.

This shows that there is an implied term in these cases whereby, if the employer is insured, he will not seek to recover contribution or indemnity from the servant. I cannot help thinking that the insurers undertook the risk on the very same understanding. The premium was fixed no doubt on the basis that they would foot the bill themselves. No allowance would be made for the possibility of any contribution being obtained from the plaintiffs' servants. Yet, if this action is well founded, it means that in every one of these cases, the insurance company can turn round and bring an action in the name of the employer against the servant. Nothing could be more detrimental to good relations between an employer and his servants. Nothing would be further from the contemplation of the parties.

Per Birkett, L.J.: It was by virtue of this clause that the writ was issued, and it was issued without consultation with the plaintiffs. By entering into a policy of the kind we are considering, containing the condition which I have recited, the master delivers himself into the hands of the underwriters completely. His servant may have been in his employment for many years and rendered him loyal and devoted service; yet, if he were to be found guilty of negligence, for which the master was in law responsible, and the underwriters had paid the damages under the master's policy, the underwriters could sue the servant in the master's name, although the master himself would never have dreamt of doing so; and the underwriters could recover

damages which might conceivably ruin the servant completely. The underwriters would then have received the premium on the policy from the master, and the damages which they had paid on the master's behalf from the servant. I cannot but think that, when the premium on the policy was fixed, it was fixed without any thought of obtaining damages from the servant. This view some support receives from the fact that until recently no such action as the present one appears in the law reports.

Condition 2 of the policy, which I have recited, gives to the underwriters a contractual right as there set out, and in those circumstances the underwriters do not need to rely on their rights, other than the contractual rights under the policy.

In my opinion, the plaintiffs are not precluded from maintaining their action in this case against the defendant merely because in law they are regarded as joint tortfeasors, so that the third party can sue them as being vicariously responsible for the acts of their servant. This question relating to joint tortfeasors loomed large in the discussion of the rights of the plaintiffs in this case, but the question whether it was competent to the plaintiffs to bring an action founded in contract was scarcely more than mentioned.

I do not think that the damages claimed are too remote; they are the direct consequence of the negligence of the defendant, and were caused by the breach of contract to which I referred earlier. I cannot think that, because the plaintiffs were insured in this case, that operated as a complete immunity to the defendant from being sued when his own breach of contract had occasioned the damage; and equally I cannot think that there was any implied term of the contract of service which would place on the plaintiffs the duty of insuring the defendant against liability for injuries such as arose in this case when the defendant's father, a fellow servant, was injured in the way described.

Per Romer, L.J.: There is no doubt that these actions have been brought at the instance of the underwriters to the employers' liability policy which is held by the plaintiffs, and that the underwriters have at all times been and still are in control of the actions. This fact has given rise to the first preliminary objection which was taken by the defendant before the learned judge and which was relied on when the matter came on before us on appeal from the order made in the first action. This objection is that the underwriters are suing by sub-rogation to the plaintiffs and that they are precluded from doing so by the fact that they had not paid anything to the defendant's father at the date when the writ in this action was issued. I will assume that this objection is open to the defendant notwithstanding that the apparent plaintiffs are the Romford Ice and Cold Storage Co., Ltd., and that, if the action failed, the defendant would have no rights whatever against the underwriters, but he would have, against the plaintiffs, all the rights and remedies which our procedural law gives to a successful defendant against plaintiffs, whose action is dismissed with costs. Even so, it does not appear to me that the objection should prevail. The underwriters admittedly had not paid any money to the defendant's father when these proceedings were instituted, because the liability of the plaintiffs to this employee had not then been established; and accordingly they could not claim to be sub-rogated to such rights as the plaintiffs possess against the present defendant. It is not necessary, however, for the underwriters to depend in any way on the principle of sub-rogation, because they have contractual right under the policy itself to sue in the plaintiffs' name, and so far as I know they have brought this action in pursuance of that right and of that alone. In my opinion, therefore, this preliminary objection fails.

If A makes an agreement (whether express or implied) with B and breaks it, then normally A can be sued by B for such damages as have naturally flowed from the breach; and I can see no reason why B should be deprived of this remedy either on the ground that A is his servant or on the ground that A's promise of is a particular character, namely, to perform his work with reasonable care and skill.

It was said that the damages claimed were too remote. I do not think they were, for they flowed directly from the defendant's breach of his obligation. to carry out his duties with reasonable care and skill. It was alternatively contended that it was on implied term of the defendant's employment that he should not be sued by the plaintiffs for damage arising from his negligence if they were insured in respect of such damage. There is no question but that a man can sue a servant who, by his negligence, causes damage to the master.

(Romford Ice Co., Ltd. *v.* Lister—(1955) 3 All E.R. 460.)

The House of Lords (Lords Simonds, Morton, Radcliffe, Tucker and Somervell) affirmed the decision of the majority of the Court of Appeal, but Lord Radcliffe and Lord Somervell were of opinion that the respondents were not entitled to recover any damages from the appellant the amount for which they had been made liable to his father.

The House of Lords' decision is reported in 1957 (1 All E.R. 125).

Costs: View by counsel disallowed.

Although the application for a review of taxation in Stockton Co-Operative Society, Ltd. *v.* M. Robinson and Sons, Ltd., which came before Roxburgh, J., on 17th January, met with scant success, it nevertheless serves to draw attention to a number of points of practical importance. The original proceedings had concerned a right of way. In the party and party taxation of the plaintiffs' costs the taxing master had disallowed a number of items. The plaintiffs had consequently brought in objections —four in all. After considering these objections, the taxing master had changed his mind with regard o the disallowance of approximately £30 in respect of the attendance of the country solicitor at the trial, but rejected the other three objections.

As a general principle, points which have not been raised in the written objections before the taxing master cannot be raised on the summons to review. Two of the remaining three objections related to questions of quantum. Although the relevant rule with regard to review (R.S.C., Ord. 65, r. 27 (41)) is expressed in wide terms, the court will not normally interfere with the decision of the taxing master on a question of quantum. To adopt the realistic phraseology of the learned judge in the course of the proceedings referred to, if you wish to appeal on a question of quantum, you generally "doll it up as a question of principle: you either wrap it up, or you do not bring a summons."

At the outset of the application, counsel for the plaintiffs agreed that the authorities clearly showed how extremely difficult it was to appeal from a taxing master's decision on a question of quantum, and conceded that, as the two objections were directed merely to quantum, he could not usefully put forward any arguments against the taxing master's disallowance in that respect.

But the remaining objection concerned the disallowance by the taxing master of the fees for junior counsel's visit to Stockton-on-Tees to view the premises. According to this objection, the view by junior counsel was expressed to have been "essential" for the purpose of the action. The learned judge, however, pointed out that "essential" put the claim too high, for it was requisite to show that the view was "necessary or proper" (these being the words used in Ord. 65). The taxing master had treated it as if "necessary or proper" had been used, and the learned judge indicated that he would do likewise.

In his judgment, Roxburgh, J., said that when he was a junior counsel, he always advised a view in this type of case, though he would warn the instructing solicitors that it might not be allowed on taxation: a view was, for reasons which need not be particularised, helpful. "I am still of that opinion," the learned judge added; but he went on to point out that helpfulness was not *per se* a ground for allowing it on taxation. He explained that he was not the taxing master and had only limited powers: the question was, not whether he would himself have allowed it, but whether he should over-rule what the taxing master had done.

The case of Leeds Forge Co., Ltd. *v.* Deighton's Patent Flue and Tube Co., Ltd. (1903) 1 Ch. 475 establishes that the costs of a view by counsel are within the discretion of the taxing master. The ordinary practice (as set out in the Masters' Practice Notes, Nos. 38 and 136) is that, generally, a view by counsel will be disallowed. Counsel for the plaintiffs contended that, having retracted to the extent of allowing the attendance of the country solicitor, the taxing master had shown that he had been under a misapprehension, and that he should have gone further and allowed the view by counsel.

But the learned judge pointed out that nowhere had it been suggested that there had been a wrong exercise of his discretion by the taxing master. He thought that the taxing master, having elected in favour of the country solicitor, was entitled, following the normal rule, to make use of that for not thinking it proper for counsel to go to Stockton-on-Tees. And Roxburgh, J., emphasized that in the reply to the objection the taxing master had said that there were excellent plans and photographs, the costs of which he had allowed; that counsel had received a very full brief; and, furthermore, that he had allowed exceptionally the costs of attending the trial of the country solicitor who had conduct of the case.

The plaintiffs accordingly failed in their application for a review and their summons was dismissed.

But the question of the costs of arguing this question of costs had then to be dealt with. The defendants asked the court (1) to give them costs of the application to review as between solicitor and client instead of as between party and party on the ground that the court, in matters of equitable jurisdiction, has a general and discretionary power to give a successful party costs on this basis, and in court the plaintiffs had in effect abandoned two of their three objections and had entirely failed on the third, and (2) that, because the costs of a review commence with the summons to review and do not, without express order, include the costs of the proceedings before the taxing master, the costs of the application to which they were entitled should be expressed also to include the costs of the objec-

tions. On the first of these matters, Roxburgh, J., said that in the normal way a summons which failed was dismissed "with costs", which meant with party and party costs, and he did not think there was any good reason for departing from the normal practice. On the second point: after the plaintiffs had pointed out that they had succeeded on one of the objections before the taxing master, the learned judge said that, if pressed, he would make a strict order for apportionment of the costs of the objections and provide for a set-off: under this the plaintiffs would have to pay the costs in respect of the items on which they had failed, which amounted to something over £500, and would succeed as to the £30 which the taxing master had ultimately allowed for the country solicitor's attendance. In view of these figures, the plaintiffs did not resist the inclusion of the defendants' costs of the objections in their costs of the review without any provision for apportionment and set-off.

(*The Solicitors' Journal*, 1st March, 1958.)

THE ROAD VEHICLES (REGISTRATION AND LICENSING) REGULATIONS, 1958
S.I. No. 13 of 1958

THE Road Vehicles (Registration and Licensing) Regulations 1958 replace, with amendments:

(*a*) The Road Vehicles (Registration and Licensing) Regulations, 1921, and a considerable number of orders and regulations which amended the same;

(*b*) The Road Vehicles (Trade Licences) Regulations, 1923;

(*c*) Article 12 of the Road Traffic (Third Party Risks) Regulations, 1933 (S.R. & O., 1933 No. 130);

(*d*) The Road Vehicles (Miscellaneous Licensing Provisions) Regulations, 1952 (S.I. No. 357 of 1952).

They set out the procedure to be followed on the licensing and registration of motor vehicles and ancilary matters, the procedure regarding trade licences and the conditions under which they may be issued, the rates for part-year licences, and the methods of calculating cylinder capacity, horse-power and seating capacity for motor taxation.

The amendments of substance are as follows:—

(1) The owner of a fleet of vehicles may licence them with one licensing authority (Article 2).

(2) A declaration made on application for a licence is presumed to be made by the holder of the licence or his agent until the contrary is shown (Article 2).

(3) New provisions are made regarding the exhibition of licences on bicycles with sidecars and pedestrian-controlled vehicles (Article 4).

(4) The method of calculating the amount of extra duty on a change of user etc. of a vehicle is set out (Article 7).

(5) A new registration procedure applies on the change of ownership of a vehicle (Article 10), and on the permanent export of a vehicle (Article 11).

(6) Wheree a licence becomes void, it must be surrendered to the licensing authority (Article 13).

(7) More specific indication is given as to the licensing authority with whom a vehicle is registered for the time being (Article 16), and as to who is the registered owner of a vehicle (Article 18).

(8) A certificate of an authorised officer of a licensing authority as to the registration and licensing of a vehicle is to be proof of the facts certified until shown to be incorrect (Article 17).

(9) Index marks will in future be issued under separate regulations (Article 19)—*see* The Road Vehicles (Index Marks) Regulations, 1958 (S.I. No. 15 of 1958).

(10) Identification marks may be shown on the vehicle instead of on plates (Article 20).

(11) The procedure regarding the registration of exempt vehicles is amended (Article 22).

(12) Minor relaxations are made in the conditions governing the use of trade plates (Articles 23 and 24).

(13) Only plates issued by a licensing authority may be used as trade plates (Article 23).

(14) Trade licences may not be defaced etc.; a duplicate trade licence may issue where necessary (Article 25).

(15) A new list of forms for applying for a licence etc. is set out in the Second Schedule.

LIST OF LIBRARY ACQUISITIONS
as at 1st March, 1958.

A.—BOOKS PURCHASED.

All England Reports, Index, 1936–1956; Allen (C. K.)—*Law and Orders*, 2nd Edn., 1957; *Belfast and Northern Ireland Directory*, 1957; Bell (W.) on *Sale of Food and Drugs*, 13th Edn., 1956; Benas (B.) and Essenhigh—*Precedents of Pleadings*, 2nd Edn., 1957; Brighouse (W.)—*Short Forms of Wills*, 7th Edn., 1958; Bromley (P.)—*Family Law*, 1957; Butterworth—*The* (English) *Solicitors Act* 1957; Cairns (J.)—*County Court Pleader*, 3rd. Edn., 1956; Carver (T.)

—*Law of Carriage of Goods by Sea*, 10th Edn., 1957; *Catholic Directory*, 1958; Chalmers (M.)—*Sale of Goods Act*, 13th Edn., 1957; Cockle (E.)—*Cases and Statutes on Evidence*, 9th Edn., 1957; Cresswell (W.)—*Law Relating to Building and Engineering Contracts*, 6th Edn., 1957; Crossley-Vaines—*Personal Property*, 2nd Edn., 1957; Cross (R.)—*The Law of Evidence*, 1958; Current *Law Citator*, 1947–1956; Current *Law Yearbook*, 1956; Dail Eireann—*Standing Orders relating to Public Business*, 1956; Davies (M.)—*The Law of Road Traffic*, 2nd Edn., 1957; Donaldson (A. G.)—*Some Comparative Aspects of Irish Law*, 1957; Dymond (M.)—*Law relating to Death Duties*, 12th Edn. (2nd Supplement), 1957;

Eddy (M.)—*The Law of Copyright*, 1957; *English and Empire Digest*—Replacement Volume 14 Criminal Law and Procedure (Part I); Replacement Volume 15 Criminal Law and Procedure (Part II); Replacement Volume 23 Executors and Administrators; Replacement Volume 24 Extradition and Fugitive Offenders, Factories and Workshops, Family Arrangements, Ferries. *English and Empire Digest*—Third Cumulative Supplement, 1957; Erskine-May (J.)—*The Law, Privileges, Proceedings and Usages of Parliament*, 16th Edn., 1957; Foa (E.)—*General Law of Landlord and Tenant*, 8th Edn., 1957.

George (E. F.)—*The Sale of Flats*, 1957; Gower (L. C. B.)—*Modern Company Law*, 2nd Edn., 1957; Griffith (J. A.) and H. Street—*Principles of Administrative Law*, 2nd Edn., 1957; Grogan (V.)—*Irish Income Tax*, 2nd Edn., 1952 (Replacement); Halsbury (Earl of)—*The Laws of England*, 3rd (Simonds) Edn., Cumulative Supplement, 1957; Halsbury (Earl of)—*The Laws of England*, 3rd (Simonds) Edn., Volume 18 Friendly Societies to Guarantee and Indemnity; Volume 19 Highways to Husband and Wife; Volume 20 Income Tax; Volume 21 Industrial and Provident Societies to Inns and Innkeepers. Hanbury (H. G.)—*Modern Equity*, 7th Edn., 1957; Hill (J.) and W. Redman—*Law of Landlord and Tenant*, Second Cumulative Supplement, 1958; Ireland—*Finance Accounts*, 1956–57; Ireland—*Licensing Commission Report*, 1957; Ireland—*Statutes* 1956 (Bound Volume); *Irish Catholic Directory*, 1958; Jervis (H.)—*The Law relating to Coroners*, 9th Edn., 1957; Josling (J.)—*Execution of Judgments*, 2nd Edn., 1957; Josling (J.)—*Summary Judgment in the High Court*, 2nd Edn., 1957; Keeton (G.)—*Law of Trusts*, 7th Edn., (with Irish Supplement by L. A. Sheridan), 1957; Kemp (J.) and S. Kemp—*The Quantum of Damages*; 1956 Supplement. *Law in Action*, Broadcast Talks, Vol. 2, 1957; *Law List*, 1957; *Law Quarterly Review* Index, Vols. 1–72, ed. Alsopp, 1957; Lloyd (N.) and J. Montgomerie—*The Law relating to Business Lettings*, 1956; MacDermott (Lord)—*Protection from Power under English Law*, 1957; Maxwell (L. F.)—*Legal Bibliography of Irish Law*, 2nd Edn., 1957; Megarry (R. E.) and C. Wade—*Real Property*, 1957; Newsom (A.)—*The Discharge and Modifications of Restrictive Covenants*, 1957; Northern Ireland—*Public General Acts*, 1956.

Odgers (W. B.)—*Principles and Practice of Pleading*, 16th Edn., 1957; O'Connor (M. J.)—*Electricity Regulations in Ireland* (Pamphlet); O'Connor (M. J.)—*Trade Disputes Act* 1906 (Pamphlet); O'Connor (M. J.)—*Restrictive Trade Practices:* The 1953 Act explained (Pamphlet); O'Connor (M. J.)—*Rights and Liabilities of a Trade Association* (Pamphlet); O'Connor (M. J.)—*Short Guide to Factories Act* 1955 (Pamphlet); Park (W. D.)—*Hire-Purchase and Credit Sales*, 1957; Parry (C.)—*Nationality and Citizenship Laws of the Commonwealth and of the Republic of Ireland*, 1957; Pratt (W.) and C. Mackenzie—*The Law of Highways*, Second Cumulative Supplement to 19th Edn., 1957.

Preston (W.) and A. Newsom—*Restrictive Covenants affecting Freehold Land*, 1955; Russell (W.)—*Law of Arbitration*, 16th Edn., 1957; Salmond (Sir John)—*The Law of Torts*, 12th Edn., 1957; Schwarzenberger (G.)—*International Law as Applied by International Courts*, 3rd Edn., Vol. I, Part I, 1957; Sheridan (L. A.)—*Fraud in Equity*, 1957; Speller (J.)—*Law relating to Hospitals*, 3rd Edn., 1957; Smith (J. C.) and J. A. Thomas—*A Casebook of Contract*, 1957; Stanford (D. R.)—*Tax Planning and the Family Company*, 1957.

Tax Cases—Index of Vols. 1–35 (1875–1955); Taylor (W.)—*Principles and Practice of Medical Jurisprudence*, 11th Edn. (2 Vols.), 1957; Tolley (M.)—*Synopsis of Taxation in the Republic of Ireland*, 1957–58; Treagus (R.) and J. W. Rainbird—*The Law of Costs*, Fifth Cumulative Supplement, 1957; Tristram (W.) and J. C. Coote—*Probate Practice*, 20th Edn., Second Cumulative Supplement, 1958; Walford (R.)—*Law relating to Contracts and Conditions of Sale of Land*, 2nd Edn., 1957; Wilson (H. A.) and F. N. Kelly—*Irish Income Tax and Corporation Profits Tax*, 1957; Wilkinson (P.)—*Road Traffic Offences*, 2nd Edn., 1957; Whittaker's *Almanack*, 1958; *Who's Who*, 1957; Wilberforce (R. O.), A. Campbell and N. Elles—*The Law of Restrictive Trade Practices and Monopolies*, 1957; Woodfall (S.)—*Law of Landlord and Tenant*, Second Permanent Supplement—Vol. I, Business Tenancies, 1957.

B.—DONATIONS AND EXCHANGES.

MAURICE LUSH, London: Griffiths—*Guide to Practice of the Crown Office*, 1947; Topham—*Real Property*, 1908; Redgrave—*Factories and Truck Acts*,

15th Edn., 1938; Seton—*Treatise on Judgments and Orders*, Vols. I and III, 1901; Dicey—*Introduction to the Law of the Constitution*, 2 Vols., 1915; Matthews—*Law of Money-Lending*, 1906; "Law Notes"—*Rent Acts*, 15th Edn.

MISCELLANEOUS EXCHANGES. National University of Ireland *Calendar*, 1957; University College, Dublin, *Calendar*, 1957–58; University College, Cork, *Calendar*, 1957–58; University College, Galway, *Calendar*, 1957–58; Dublin University (Trinity College), *Calendar*, 1957–58; Queen's University, Belfast, *Calendar*, 1957–58; University of Wales *Calendar*, 1957–58; Society of Public Teachers of Law *Directory*, 1958; London Institute of Advanced Legal Studies Report, 1957; Glasgow University *Calendar*, 1957–58; Edinburgh University *Calendar*, 1957–58; Manchester University *Calendar*, 1957–58; Scottish *Law List*, 1957.

DENIS GREENE, DUBLIN. Butterworth's *Empire Law List*, 1956; *Bar Register*, 1956; Kime's *Directory*, 1956; *International Law List*, 1957.

JOHN P. KING, DUBLIN. Canadian *Law List*, 1956; Australian and New Zealand *Law List*, 1956.

LAW SOCIETY, LONDON, PAMPHLETS. Dew on *Divorce Law*; Diamond on *Contract and Mercantile Law*; Fletcher on *Landlord and Tenant*; Griffith on *Tort*; Brown on *Monopolies and Restrictive Practices*; Peppiatt on *Exchange Control*.

MISCELLANEOUS DONATIONS. American National Association of Claimants' Compensation Attoreys NACCA *Law Journal*, Vol. 15 (1955); Ireland—*Statutory Instruments*, 1953 (2 Vols.); *International Law List*, 1958; Royal Institute of Architects of Ireland *Yearbook*, 1956; Scottish Law Agents Society *Memorandum Book*, 1958; *Empire Law List*, 1958; Norway (Ministry of Justice)—*Administration of Justice in Norway*, 1957; Incorporated Law Society *Calendar*, 1958; Incorporated Law Society *Bye-Laws of* 1887 and 1915; Cusack and Hinton, Dublin—*Handbook of Irish Securities*, 1956 and 1957; Philadelphia Bar Association—*Proceedings to commemorate* 100*th Anniversary* (1902) *and* 150*th Anniversary* (1952).

JOSEPH F. O'CONNELL, BOSTON. American Bar Association—Annual Report, Vol. 76, 1951—(includes paper on "The Legal Profession in Ireland" by Roger Greene).

C. GAVAN-DUFFY, DUBLIN. American Jurisprudence Reader, 1956; Maxwell—*Legal Bibliography of Scottish Law and of Roman Law Books in English*, 1956; Maxwell—*Legal Bibliography of Canadian and British-American Colonial Law*, 1956; Grünhut—*Penal Reform*, 1948; Radzinowicz—*The Modern Approach to Criminal Law*, 1945; Gavan-Duffy—*A Chapter of Accidents* (Replacement); Commonwealth of Australia—*Report of Committee on Australian Universities*, 1957; Schwartzman and Stein—*Law of Personal Liberties*, 1955: Newman—*Law of Civil Rights and Civil Liberties*, 2nd Edn., 1957; Delany—*The Maitland Reader*, 1957; Hall—*The Hamilton Reader*, 1957; American Law Library *Journal*, Vol. 50, 1957; Yale *Law Journal* (from Vol. 65, No. 5—April, 1956); *Franks Report on Administrative Tribunals*, 1957

OBITUARY

DR. MARTIN J. CROTTY, Solicitor, died on 26th February, 1958, at his residence, 6 Patrick Street, Kilkenny.

Dr. Crotty served his apprenticeship with the late Mr. Michael Buggy, Kilkenny, was admitted in Trinity Sittings, 1912 and practised at Kilkenny as senior partner in the firm of Messrs. M. J. Crotty and Son.

THE REGISTRY

Register A

FOR SALE old established Solicitor's Practice in Provincial Town in North Leinster. Box No. A 176

Register C

THOMAS MURPHY resided at Birmingham for some years and died later at Annagh, Killylea, County Armagh on the 22nd May 1955. Any Solicitor holding a will of the deceased kindly communicate with Patrick Tallan and Co., Solicitors 106 West Street, Drogheda Co. Louth.

REGISTRATION OF TITLE ACTS, 1891 and 1942

Notice

FOLIO 11540, COUNTY MEATH.
Registered Owner: JOHN SHEERIN.

The registered owner has applied for a duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The duplicate will be issued unless notification is received in this Registry within twenty-eight days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such Notification should state the grounds on which the Certificate is retained.

Dated this 28th day of March, 1958.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of John Sheerin to 24a. 3r. 19p. of the lands of Ballymagillin situate in the Barony of Deece Upper and County of Meath, being the lands comprised in said Folio.

Notice

FOLIO 2799, COUNTY WEXFORD.
Registered Owners : Revd. P. A. Doyle, Revd. M. Hughes and Revd. J. Roche.

The registered owners have applied for a duplicate of the Certificate of Title specified in the Schedule hereto which is stated to have been lost or inadvertently destroyed.

The Duplicate will be issued unless notification is received in this Registry within 28 days from the date of this Notice that the said Certificate of Title is in the custody of a person not the Registered Owner. Such notification should state the grounds on which the Certificate is retained.

Dated this 28th day of March, 1958.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

Land Certificate of Revd. Philip Anthony Doyle, Revd. Malachy Hughes and Revd. John Roche to 3a. or. 7p. of the lands of Balloughton situate in the Barony of Bargy and County of Wexford being the lands comprised in said folio.

THE SOLICITORS' BENEVOLENT ASSOCIATION

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

Last year over £2,000 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

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

Membership subscription, £1 1s. 0d. (or 10s. 6d. if admitted less than 3 years) a year. £10 10s. 0d. life membership.

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THE GAZETTE

of the

INCORPORATED LAW SOCIETY OF IRELAND

President
JOHN CARRIGAN

Vice-Presidents
JOHN R. HALPIN,
FRANCIS J. LANIGAN

Secretary
ERIC A. PLUNKETT

FOR CIRCULATION AMONG MEMBERS

MEETINGS OF THE COUNCIL

MARCH 20TH: The President in the Chair. Also present: Messrs. Halpin, Cox, Nolan, Lanigan, Walker, Daly, Nash, Maher, O'Connell, Callan, McCarron, Hayes, O'Connor, Quirke, Nolan O'Reilly, Taylor, Martin, de Vere White, Sheil, Collins, Overend, Downing, Burke, O'Donnell, Boyd, Shaw, Gaffney, Treacy, Tyrell, and Noonan.

The following was among the business transacted:

District Court Rules Committee

MR. EDWARD H. BYRNE was appointed as one of the Society's representatives on the Committee in place of the late Mr. Cecil G. Vanston.

Irish Banks Joint Standing Committee

THE Council heard a report from a deputation which attended a further conference with the Standing Committee. The report was approved. Further consideration was adjourned until the next meeting of the Council.

Dublin Solicitors' Bar Association

THE Council considered a report from the Committee which recommended that the Dublin Solicitors' Bar Association should have the right to nominate three extraordinary members of the Council. This would require an amendment of the Charters. The Council approved of the recommendation in the report.

APRIL 10TH: The President in the Chair. Also present: Messrs. Halpin, Burke, Overend, Gaffney, Lanigan, Walker, O'Connor, Daly, O'Reilly, Shaw, Noonan, Doyle, Nolan, Collins, Quirke, McCarron, O'Connell, Maher, Tyrell, Comerford, Dillon-Leetch, Sheil, Taylor, Nolan, Nash, Mayne.

The following was among the business transacted:

Taxation of Executor's Costs. Right of Residuary Legatee.

MEMBERS inquired whether there is any, and if so what authority for a claim by a sole residuary legatee to have delivered to him particulars of the costs of administration of an estate for which the executor-trustees are responsible and to which they have agreed. The estate in question has been administered and the residue been ascertained and paid. If the legatee is entitled to particulars, must he pay the costs of copying and furnishing the bill? On a report from the Committee the Council stated that in their opinion a Court has power under

Section 4 of the Solicitors (Ireland) Act, 1849 to direct executors' costs to be taxed on the requisition of the beneficiary even after payment of the costs. In re Carthew (27 Ch.D. 485) it was held that where a bill has been paid by trustees and executors out of the estate the residuary legatee is entitled to have a copy of the bill delivered on payment of the costs of it, and the bill was ordered to be taxed although there was not such pressure or allegation and proof of overcharge as are usually relied on in applications after payment. See also re Blackmore (13 Beav. 154) and the references in Henry on Solicitors' Remuneration, Vol. 1, pages 45-49.

Solicitor practising as accountant

A MEMBER asked for a ruling from the Council whether there is any objection to a solicitor's qualifying and practising as an accountant. Member wished to study for the examinations held by one of the accountancy bodies. Several questions arose viz.,

(*a*) merely obtaining the accountant's qualification,
(*b*) practising as an accountant separately,
(*c*) practising as an accountant in conjunction with his practice as a solicitor.

On a report from a Committee the Council stated that :—

(*a*) there is no objection to member's obtaining the accountant's qualification.
(*b*) there is no objection to member's practising separately as an accountant.
(*c*) member should not practise both as a solicitor and an accountant.

Client's privilege against disclosure

A MEMBER acted for the purchaser of a building plot for £115. The contract provided that the purchaser should pay the vendor's costs. On completion of the matter he paid the sum of £20 to member. Member paid the vendor's costs £10 19s. 9d., and retained £9 0s. 3d. for himself. Litigation has now taken place between the purchaser and another party. Member is no longer acting but he has been informed by one of the solicitors acting in the matter that the purchaser (his former client) has stated in a letter that he paid £61 in legal costs to member. In effect this, if true, would mean that he paid £53 0s. 3d. costs for the purchase of a plot for £115. Member expects to receive a subpoena to attend the hearing and wishes to know whether his evidence with respect to the costs would be privileged and whether he could disclose it without his former client's consent. On a report from a Committee the Council stated that member should attend Court in compliance with the subpoena with his files and records. If the letter mentioned is put to him in evidence he is entitled to say that he is willing to state the amount which he received for costs but as the matter was a solicitor and client transaction he cannot answer without the client's consent unless directed by the Court. The privilege between a solicitor and client communication belongs to the client. The solicitor cannot disclose any information unless the client waives the privilege or unless the Court directs. The privilege continues even after the retainer has ended.

Conflicting interests

ABOUT ten months ago member obtained a decree for a sum of money for X against Y. The decree is still unsatisfied. About one month ago member received tentative instructions from Y to proceed against Z for money due and owing by Z to Y. He has not received final instructions. Within the past month member was again approached by X who informed him that he wished to be appointed receiver over a sum which he knew Z owed to Y. This is the debt for which Y instructed member to sue Z. Member enquired whether he may apply to have X appointed as a receiver over this sum without using any information obtained from Y. On a report from a Committee the Council stated that in their opinion member should not act in the matter for any of the parties.

Retirement Benefits. Income tax on contributions by solicitors

THE Council heard a report from a deputation which was received by the Minister for Finance. The deputation included a member of the Institute of Chartered Accountants and dealt with the memorandum submitted last year on behalf of the General Council of the Bar, the Accountancy bodies and the Society. The deputation stated that they had stressed the case for the allowance of contributions by self-employed persons towards retirement benefits as a deduction for income tax purposes. They stated that the Minister appeared to be sympathetic to the representations made but of course could not give any indication in advance of the contents of the next budget.

The Border

THE Council on a report from a Committee decided to make representations to The Incorporated Law Society of Northern Ireland with a view to the making of regulations by the respective Societies which would prevent a solicitor in either area acting in connection with sales by public auction in a place which is not covered by a practising certificate.

Formation of limited companies by Chartered Accountants

THE Committee of the Council reported that a case has been sent to Senior Council for advice on the question whether the preparation of the memorandum and articles of an association is contrary to the provisions of the Solicitors Act 1954.

Enforcement of Court Orders

THE Council considered and approved a report from a Committee dealing with the effect of the Sheriff's Fees Order 1958. The effect of the order as stated in the explanatory note, printed at the foot thereof, is to provide for firstly, an increase in the mileage fee chargeable by Sheriffs and County Registrars in the execution of court orders. The increase is from 6d. to 1s. 6d. per mile one way and the application of this fee is being extended to cover ejectment and recovery of specific property in cases where no mileage has hitherto been charged. Secondly the fee for a letter or notice required by law to be issued by a Sheriff or County Registrar before executing an execution order is being increased from 1s. to 4s. Finally, the law in relation to a Sheriff's or County Registrar's right to poundage is, for the purpose of clarification, set out in provisions which are merely declaratory of the existing law. Members of the Committee stated that the mileage fee is now apparently payable in advance by the solicitor for the plaintiff. In some districts in the past the fee has not been payable in advance and apparently was not charged if a return of nulla bona was made. The Committee recommended that the Society should take advantage of the occasion of the making of this order to raise the following points with the Department of Justice :—

(i) A large number of executions levied throughout the country result in a return of nulla bona. In the majority of cases execution is levied only for the purpose of proceedings under the Enforcement of Court Orders Acts. The law should be amended to provide that an application for an examination order may be made, and the order obtained, without the prior execution of the decree on an affidavit by the execution creditor or his solicitor or other satisfactory evidence that execution is likely to result in a return of nulla bona. Having regard to the heavy expenses now attendant on levying execution the present procedure is wasteful.

(ii) In a number of counties the local authorities have not provided pounds and the execution of decrees have become impossible for this reason.

(iii) The practice of centralising court messengers who usually reside near the County Registrar has made the collection of small debts almost impossible in some cases owing to the distance to be travelled for the purpose of executing decrees. The former practice of having a number of court messengers at different points in the county should be restored.

(iv) There should be a strict observance of the requirement that the Under-Sheriff or County Registrar should make a return within a reasonable time.

(v) The position with regard to mileage when the court messenger makes one journey for the purpose of executing a number of decrees should be clarified.

(vi) In some cases the new Sheriff's Fees Order has not yet been printed on the backs of the decree forms and it was stated that for this reason decrees have not been executed.

DISCIPLINARY JURISDICTION

Decision of the Supreme Court

THE decision of the Supreme Court in the appeal taken by two solicitors against the orders of the Disciplinary Committee is probably the most far-reaching decision on the interpretation of the Constitution since the foundation of Saorstat Eireann in 1922. It appears to affect not only the jurisdiction of the Disciplinary Committee but by necessary implication a number of professional bodies and government institutions exercising quasi-judicial powers. Applications under the Solicitors Act 1954 had been made to the Disciplinary Committee against both appellants and after an inquiry under section 16 of the Act the Committee made orders directing that their names should be struck off the roll of solicitors. The solicitors appealed against these orders on the ground amongst others that the sections of the Statute under which the Committee purported to Act are repugnant to the Constitution in so far as they purport to authorise the Disciplinary Committee, which consists of persons who are not judges under the Constitution, to exercise judicial power.

Article 34. 1. of the Constitution is as follows : " Justice shall be administered in Courts established by law by judges appointed in the manner provided by this Constitution, and, save in such special and limited cases as may be prescribed by law, shall be administered in public."

Article 37 is as follows : " Nothing in this Constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature,

in matters other than criminal matters, by any person or body of persons duly authorised by law to exercise such functions and powers, not withstanding that such person or such body of persons is not a judge or court appointed or established as such under the constitution."

The Court had to decide two questions in this appeal, namely :

(i) Was the exercise of the power to strike off the roll, or to order payment of costs, an administration of justice?

(ii) If it was an exercise of the administration of justice, was it an exercise of limited functions or powers of a judicial nature within the meaning of Article 37?

The Chief Justice as the judge of first instance on the appeal from the orders made by the Committee, held that the Committee in ordering that the appellants' names to be struck off the roll were purporting to exercising judicial power. He also held, that, having regard to the nature and scope of the powers conferred upon the Committee and to the restriction upon their exercise imposed they were powers of a limited nature within Article 37 of the Constitution.

An appeal to the Supreme Court was taken by the solicitors against the order of the Chief Justice. The Supreme Court (Lavery, Kingsmill Moore, O Dalaigh, Maguire and Murnaghan, JJ.) held that the exercise of the statutory powers conferred on the Disciplinary Committee was an exercise of the administration of justice of the State. In the view of the Court the decisive test lies in the orders which by section 18 the Committee was authorised to make. The Committee might remove or strike off the roll the name of a solicitor, award costs, and might order the making by the solicitor of restitution or satisfaction to any aggrieved party.

The jurisdiction to order restitution or satisfaction did not arise in the case before the Court as an order to that effect had not been made by the Committee. It seemed to the Court that the power to strike off the roll when exercised was an administration of justice, both because the infliction of such a severe penalty on a citizen is a matter which calls for the exercise of the judicial power of the State and because to entrust it to persons other than judges is to interfere with the necessities of the proper administration of justice. The Court quoted with approval a statement by Kennedy, C.J. in Lynam's Case : " Whenever the tribunal is required to decide questions of conduct, whether under existing law or under its own decree, its functions are, to that extent at least, judicial." The Court were also of the opinion that the powers and functions conferred by the Act on the Committee are of such a far reaching nature that their exercise amounts to an administration of justice.

Turning to the question of Article 37 of the Constitution, the Court said that the test as to whether a power is or is not " limited " lies in the effect of the assigned powers when exercised. If the exercise of the assigned powers and functions is calculated ordinarily to affect in the most profound and far-reaching way the lives, liberties, fortunes or reputations of those against whom they are exercised they cannot properly be described as " limited ". For this reason the Court were of the opinion that the sections of the Act challenged are not protected by Article 37 of the Constitution and declared the orders made by the Commttee to be invalid.

The Solicitors (Ireland) Act 1898 was repealed in a schedule to the Solicitors Act 1954 and there is accordingly no statutory disciplinary jurisdiction in respect of solicitors at the present time. This position is obviously unsatisfactory in the interests of the public and the profession and the Council have made representations to the Department of Justice with a view to having the necessary legislation drafted.

SOLICITORS' GOLFING SOCIETY

THE Captain's Prize (Mr. J. J. O'Connor, Thurles) will be competed for at the Summer Meeting of the Society which will be held on Saturday 31st May 1958 at Thurles Golf Club. There are many other trophies and prizes including the Golfing Society's Challenge Cup ; the Veterans' Challenge Cup ; and the St. Patrick's Plate. A dinner will be held after the Outing.

Annual Subscription £1 os. od. (now due) payable to John J. O'Dwyer, Hon. Treasurer, 15, D'Olier Street, Dublin.

Further enquiries : Gerard M. Doyle, Hon. Sec., 50 Lower O'Connell Street, Dublin.

DUBLIN SOLICITORS' BAR ASSOCIATION

A MEETING of the Council was held on Wednesday the 5th of March 1958.

A letter was read from the Revenue Commissioners agreeing to sale of one shilling postage stamps in the Four Courts Stamp Office.

The Meeting was informed that the Dublin Corporation's arrangements for lending title deeds had been extended as far as possible.

A Sub-Committee was appointed to interview the Caterers with the object of improving the Restaurant in the Four Courts.

Progress was reported on other matters and the next meeting was fixed for Wednesday the 2nd of April 1958.

A MEETING of the Council was held on Wednesday 2nd April 1958.

The Law Agent to the Dublin Corporation has suggested that if in cases in which the Corporation is mortgagee, a copy of the Lease were lodged as well as the original, then he can lend out the original when any subsequent transfer is going through. Thus, the difficulty of not being able to obtain the original lease, and the possible delay in having the original lease specially copied, will be obviated.

As a result of representations made by the Association, the Legal Diary is now appearing with a smaller and clearer type face, and should be able to contain longer lists, especially those relating to the Dublin Circuit Court.

The attention of members is drawn to the recommended standard procedure for house purchase mortgages. Paragraph 6 of that procedure, and paragraph 4 of the hints annexed should be read as though they did not contain any reference to the marking good of cheques.

The Council has also considered the upkeep and cleanliness of certain Court Rooms, the operation of the Four Courts Restaurant, and the relative inaccessibility of Court Number 9 in Chancery Place.

The next meeting was fixed for Wednesday 7th May 1958.

COUNSEL'S FEES. PROFESSIONAL LIABILITY OF SOLICITORS

THE Council have decided to publish the following statement for the guidance of practitioners.

The matter falls under two heads (*a*) the disciplinary rule and (*b*) the rule of etiquette. As regards (*a*) where a solicitor has received counsel's fees from the client or a third party, failure to pay the fees to counsel when due may amount to misconduct. As regards (*b*)

(i) the rule of etiquette is an obligation of honour and applies whether or not counsel's fees have been received by the solicitor but it must be construed in the light of the circumstances and of any understandings between counsel and solicitor in the course of practice.

(ii) a solicitor is personally responsible to counsel for the proper professional fees.

(iii) if on the acceptance of the briefs a fee has been marked on the brief and agreed with counsel that fee is the proper professional fee.

(iv) if the fee has not been marked and agreed as aforesaid the proper professional fee means a reasonable fee, and, prima facie, the test is the amount allowed or which would be allowed on taxation of the solicitor's costs.

(v) having regard to the fact that counsel has no legal remedy for recovery of fees a solicitor should as a matter of etiquette with counsel furnish his bill of costs and obtain payment of the fees from the client within a reasonable time unless he elects to pay the fees personally before reimbursement by the client.

TRUSTEE (AUTHORISED INVESTMENTS) ACT, 1958

THE provisions of this Act will come into force three months after the passing of the Act, i.e., on the 1st July, 1958 (Sect. 7 (3)). The act makes important changes in the law relating to trustee investments and should be studied by members.

COSTS OF LEASE

URBAN property was held under a lease dated 19th March, 1842, for a term of 100 years at the yearly adjusted rent of £18 15s. 0d. The lessee was entitled to a new lease under Part 3 of the Landlord and Tenant Act, 1931 as amended, and the lease was negotiated for a term of 99 years at the yearly rent of £125, lessee to pay all rates on R.V. £35, to carry out all repairs and to insure for £4,500. The parties asked the Council to decide on which scale the costs should be charged. The Council on a report from a Committee which considered an auctioneer's valuation made for the purpose of the negotiations for the lease (in which it was stated that a yearly rent of £180 could have been obtained if Part III of the Act had not applied) stated that on the facts submitted they were of the opinion that the lease is a long lease not at a rack rent.

DECISIONS OF PROFESSIONAL INTEREST

Instructions for brief where liability admitted late.

The case of A v. B (kindly supplied by a member) was an action brought for damages for breach of statutory duty by, and the negligence of, the defendents in their factory in Finglas, when the plaintiff was injured and had to have three fingers of his left had amputated as a result of the user of insecurely-fenced machinery in the factory.

The plenary summons was issued in February 1956, the statement of claim was delivered in June 1956, the defence delivered in December 1956, and the action set down for trial in January 1957. The defendants at first pleaded that the plaintiff was guilty of negligence, contributory negligence, breach of statutory duty, common employment, and "violenti non fit injuria" but in February 1957, the defendants withdrew all these issues for trial other than the amount of damages. Meanwhile senior counsel for

the plaintiff had tendered his advice of proofs required on the trial of all the matters then in issue. In June 1957 on consent of both parties, Haugh, J. gave judgment for the plaintiff for £2,000 and costs, and ordered that the £2,000 lodged in Court with the defence with a denial of liability, be paid out to the plaintiff in satisfaction of his claim. The plaintiff's bill of costs came first before the Taxing Master in August 1957, when the Master allowed some items which the defendant's solicitors contended should not have been allowed, and asked the Taxing Master in October 1957 to review the taxation. A fee for senior counsel to settle a reply was allowed as being "of an unusual nature". A fee of £180 for instructions by plaintiff's solicitor was allowed, on the ground that plaintiff's solicitor, from service of Notice of trial until the 16th February, had to and did do work to prepare for a trial on all the issues mentioned. He received counsel's directions for proofs on 2nd February and sent his briefs to counsel before 16th February, in the reasonable belief that all the issues would be contested by the defendants. He submitted that the admission of negligence by the defendant's solicitors came too late to have the action treated for the purposes of costs in effect as an action for an assessment of damages. The defendant's solicitors then moved on 22nd November, 1957 before Murnaghan, J. for an order to review the taxation of the plaintiff's costs and to overrule the report of the Taxing Master, but Murnaghan, J. refused the application and made no order as to costs.

Woman Entitled to Damages of £2,000 for negligence of solicitors 12 years ago.

The Master of the Rolls, Lord Justice Parker and Lord Justice Sellers dismissed this appeal by Messrs. Donald, Darlington and Nice, solicitors, of Clement's Inn, London, against the judgment of Mr. Justice Lloyd-Jacobs, sitting as an additional Judge of the Queen's Bench Division (*The Times*, May 22nd, (1957), awarding £2,000 damages to Mrs. Kitchen, of Kent. The solicitors were advising Mrs. Kitchen on her claim against the West Kent Electricity Company Ltd., arising out of the death of her husband on May 22nd, 1945, from electrocution from a faulty installation.

Section 26(b) of the limitation Act, 1939, provides that where a right of action was concealed by fraud the period of limitation should not begin to run until the plaintiff discovered or could with reasonable diligence have discovered the fraud.

The Master of the Rolls, giving judgment, said that in May, 1945, the plaintiff's husband, a leading aircraftsman in the R.A.F., was home on leave. They had then two small daughters, and the plaintiff was expecting a third child. At about 8 o'clock on the morning of May 22nd the husband went to the kitchen to get his wife a cup of tea. He turned on the main switch in the control box; he was electrocuted and died almost at once. No one could fail to feel the deepest sympathy with the plaintiff. After the accident her case was forwarded to the R.A.F. Association. The association, having been informed of the circumstances of Mr. Kitchen's death, availed themselves of the fact that a number of firms of solicitors, members of which had served in the R.A.F., had offered to assist the association as occasion arose and so in November, 1945, the Association forwarded the information about Mr. Kitchen's death to the appellants. By June or July, 1946, the solicitors not only had done nothing for Mrs. Kitchen but they had made it virtually impossible ever to do anything for her. They had allowed time for proceedings under the Fatal Accidents Act to run out. They had disregarded any separate claim under the Law Reform Act. They had told the West Kent Electricity Company Ltd. that Mrs. Kitchen had no claim, but they had asked the company for an ex gratia payment which had been refused. Mrs. Kitchen, however, had written to the company in October, 1945, as a result of which in effect (though it was not realized at the time by her) she got the sum of £100 from the company, less 5 guineas deducted for the appellants.

In one of her letters, Mrs. Kitchen wrote: "I suppose I was just another charity case." "I cannot resist the conclusion," said his Lordship, "that sad and ironical though it is, there is truth in what Mrs. Kitchen has said. This is not perhaps the first time where disaster has been the product of amiable intention and where benevolence has not been backed by effort." It seemed tragically clear that the solicitors had not applied their minds to their obligations in the way they would have done had they been instructed in the ordinary professional course. The course they chose was that of least resistance or effort.

His Lordship agreed with the Judge that the case of negligence by the solicitors was made out. The solicitors, however, had pleaded the Statute of Limitations, which they were entitled to do. The onus rested on Mrs. Kitchen to show that the solicitors were disentitled to rely on it, and this she sought to do by relying upon paragraph (*b*) of section 26 of the Act of 1939.

In October and November, 1946, the solicitors wrote to the electricity company suggesting that any grant made by the company would be reciprocated by an undertaking to accept it in full and final

settlement of Mrs. Kitchen's claim. When the company sent £100 to the R.A.F. Association to be used for Mrs. Kitchen's benefit (less the five guineas deducted for the solicitors) there was careful non-disclosure to Mrs. Kitchen of the source of the money. If the appellants were acting as solicitors for Mrs. Kitchen then what was the effect of the concealment of this payment? They clearly should have informed Mrs. Kitchen. The necessary consequence was the concealment from Mrs. Kitchen also of the real effect of their having thrown away any case that she might have possessed under the Fatal Accidents Act in the previous May.

Did that concealment amount to fraud? There was here no finding and no justification of any finding of dishonesty as that word was ordinarily understood, but it was now clear that the word "fraud" in the section was not limited to the same significance as "deceit", and it was equally clear that no degree of moral turpitude was a necessary ingredient to the fraud. In this case, assuming that Mrs. Kitchen was their client, she was entitled to rely upon them to look after her interests, and it was in breach of that confidence that they did what they did in October and November. His Lordship had come to the conclusion that there was just enough established by Mrs. Kitchen to enable her to say that there was concealment by fraud which deprived the solicitors of the right to set up the defence of the Statute of Limitations. (Kitchen v. Donald Darlington and Nice—"The Times", 2nd April, 1958).

Counsels' fees disallowed in taxation. Appeal on matter of principle.

On 23rd April, 1956, trustees of a will took out an originating summons to obtain directions enabling them to widen the range of investments of the trust moneys. The Attorney-General, representing the charity beneficially interested under the will, was the only respondent. The matter came before Roxburgh J., in chambers on 4th June, 1956, and after an hour's hearing the judge stood the summons over. On 29th October, 1956, the matter came before Vaisey, J., and took some twelve minutes. Counsel's opinion was obtained in November, 1956. On 13th May, 1957, the matter was heard in chambers before Wynn Parry, J., and an order was obtained in which a direction for taxation of the trustees' costs was given in the form of the Practice Direction dated 17th October, 1953 ((1953) 1 W.L.R. 1365). On taxation the fee which the trustees had paid to counsel in respect of the hearing before Roxburgh, J., of £16 5s. was taxed down to £11; the fee of £11 paid to counsel on the hearing before Vaisey, J., was taxed taxed down to £5 10s.; that paid for the opinion of counsel was taxed from £11 to £5 10s., and the fee paid on the final hearing before Wynn Parry, J. (which was to different counsel as the other counsel had taken silk more than a year before), of £16 5s. was taxed down to £5 10s. Objections were taken on behalf of the trustees that, having regard to s. 30 (2) of the Trustee Act, 1925, and the Practice Direction, the master should have allowed the trustees all expenses properly incurred in relation to the proceedings and no item should have been disallowed. In his reply the master stated that it would be wrong to allow higher fees than those he had allowed to be paid out on the trust fund, that those allowed were fair and reasonable in the circumstances, and that those charged were excessive and should only be paid under R.S.C., Ord. 65, r. 27 (29), if at all, by the trustees personally and not out of the trust fund. The trustees now sought an order that their objections be allowed.

Danckwerts, J., said that the trustees had rightly contended that the distinction between a trustee and a person instructing his own counsel and solicitor was that the latter might pay whatever he liked; but in the case of a trustee, he must use his judgment to try and save the estate money which should not be unneceessarily paid out. It was quite wrong to look at the event afterwards and, counsel's fees having been incurred and having been demanded by counsel's clerk on the basis that that fee was asked for having regard to the complexity of the matter and the standing of counsel in question, to say that counsel has been paid too much. It would undo the whole effect which was intended by the Practice Direction if the master were entitled to tax fees to counsel, or other expenses that had been paid in good faith by the trustees, on the basis that they were payable by them. The trustees could not get out of paying them merely because the master thought that counsel might have been paid a somewhat smaller sum. It was a wrong adoption of the standard laid down by Ord. 65, r. 27 (29), which did not really apply in this case; it was not a case of undue generosity—the standard was whether it was proper or improper. In those circumstances, therefore, it was plain that the taxing master went wrong in principle, and that his order must be set aside, and the items actually paid by the trustees in good faith must be allowed. Objections allowed. (In re Grimthorpe, deceased—The Solicitors' Journal, March 29th, 1958) and ([1958] I.W.L.R. 381.).

EXAMINATIONS—CHANGE OF DATE

THE date of the 1st and 2nd Irish Examinations has been changed to the 4th day of July, 1958. Last day

for entry for the examinations will be 13th day of June, 1958.

OBITUARY

MR. PATRICK J. CONNELLAN, Solicitor, died on 9th April, 1958, at the Pembroke Nursing Home, Dublin.

Mr. Connellan served his apprenticeship with Mr. Andrew J. O'Flynn, formerly of Loughrea, was admitted in Easter Sittings, 1932, and practised at Longford.

THE REGISTRY

Register B.

SOLICITOR presently in practice seeks partnership in well-established firm in good town, preferably Leinster. Replies treated in strict confidence. Box No. B.224.

REGISTRATION OF TITLE ACTS, 1891 AND 1942—ISSUE OF DUPLICATE LAND CERTIFICATE

APPLICATIONS have been received from the registered owners mentioned in the Schedule annexed hereto, for the issue of Certificates of Title in substitution for the original Certificates issued in respect of the lands specified in the said Schedule, which original Certificates, it is alleged, have been lost or inadvertently destroyed.

A duplicate Certificate will be issued in each case, except a case in respect of which notification is received in this Registry within 28 days from the publication of this notice, that the Certificate of Title is still in existence, and in the custody of some person other than the registered owner. Any such notification should state the grounds on which such Certificate is being held.

Dated the 28th day of April, 1958.

JOSEPH O'BYRNE,
Registrar of Titles.

SCHEDULE.

1. Registered Owner, James Lee. Folio Number, 1121, County Kings. Lands of Ballycowan in the Barony of Ballycowan, containing 18a. or. 0p.

2. Registered Owner, Patrick Downey. Folio Number, 406, County Kilkenny. Lands of Glenmagoo or Firoda Lower in the Barony of Fassadinin, containing 34a. 1r. 38p.

THE SOLICITORS' BENEVOLENT ASSOCIATION

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

Last year over £2,000 was distributed in relief. Additional subscriptions, donations and bequests are urgently needed to continue and extend the Association's work.

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

Membership subscription, £1 1s. 0d. (or 10s. 6d. if admitted less than 3 years) a year. £10 10s. 0d. life membership.

Address:

SECRETARY,
SOLICITORS' BENEVOLENT ASSOCIATION,
18, HUME STREET,
DUBLIN.

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