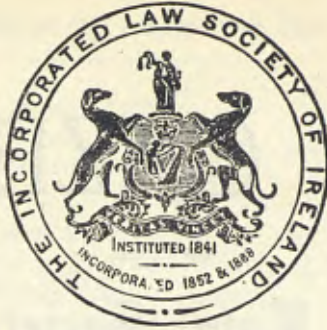


W. F. Aylward

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Box 2802  
Green B. 28





# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 1.]

May, 1918.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS.

	PAGE
Annual Subscription ... ..	2
Half-yearly General Meeting ... ..	2
Meetings of the Council ... ..	2
Council Meetings ... ..	3
Committee Meetings ... ..	3
High Court Sittings, 1918 ... ..	3
Obituary ... ..	3
Roll of Honour ... ..	3
Recent Decision Affecting Solicitors ... ..	4
Trinity Sittings Lectures, 1918 ... ..	4

# THE GAZETTE

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## Incorporated Law Society of Ireland.

Vol. XII, No. 1.]

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### Annual Subscription.

MEMBERS are reminded that their annual subscription to the Society became due on the first day of May, as follows:—

Town Members and Country Members of more than three years' standing entitled to vote at election of ordinary members of Council .. .. .	£1	0	0
Other Country Members .. .. .	0	10	0
Members who have been admitted to the profession under three years .. .. .	0	10	0
Press rent ... .. .	0	5	0

### Half-yearly General Meeting.

THE Half-yearly General Meeting of the Society will be held in the Hall of the Society, Solicitors' Buildings, Four Courts, on Wednesday, the 15th May, 1918, to elect Auditors, to nominate Scrutineers of Ballot for Council, to be held on 21st November, 1918, and to transact such further business as may come before the Meeting.

The chair will be taken at two o'clock, p.m.

### Meetings of the Council.

10th April.

#### Conveyancing.

A report was submitted of a case heard before the Recorder of Galway, at Tuam, in which proceedings under 27 Victoria, Cap. 8, had been instituted by the Society, in the name of their Secretary, against a person who had been a law clerk, for recovery of a penalty for illegal conveyancing for remuneration. A decree for £5 penalty was obtained.

24th April.

#### Costs Committee.

A report from the Costs Committee on two queries submitted for decision was adopted.

*Query 1.*—Lease for 21 years of premises in the City of Dublin, rent £213, with clause of liberty to surrender at end of each three years. The premises were previously held by same lessee for 21 years at £120 per annum. Portion of the demised premises were sub-let by the lessees during their previous tenancy at a rent of £200 per annum, and the same portion has again been sub-let by the lessees to the same sub-tenants for £300 per annum.

- (1) Under what scale should costs be drawn?
- (2) Who should pay for counterpart of lease?
- (3) Who should pay for two powers of attorney under which executions of the lease by two lessors were obtained? (1) The costs of the lease should be drawn under the scale

of charges applicable to leases at rack rent. (2) The lessee should pay the costs of the counterpart. (3) The lessor should pay the costs of the powers of attorney.

*Query 2.*—Lease for 500 years of a plot of ground in the City of Dublin, rent £35, option to lessee to purchase before 25th March, 1928, at 20 years' purchase of the rent. The valuation was made a number of years ago when the premises were all inhabitable, the premises are now in ruin. No covenant to build or repair. (1) Under which scale of costs applicable to leases should the costs of lease be drawn? (2) Is the Surveyor's fee of seven guineas for maps, etc., on lease and counterpart a reasonable amount to charge the lessee? (1) The costs of the lease should be drawn under the scale of charges applicable to leases at rack rent. (2) Four guineas would be the maximum reasonable fee chargeable against the lessee.

#### Council Meetings.

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

May 29th.  
June 12th and 26th.

#### Committee Meetings.

THE following Committee Meetings were held during April, 1918:—

Privileges, 9th.  
Gazette, 15th.  
Statutory, 16th and 30th.  
Costs, 18th.  
House, Library and Finance, 19th.

#### High Court Sittings, 1918.

EASTER SITTINGS will terminate on Wednesday, 15th May. Trinity Sittings will commence on Wednesday, 29th May, and will terminate on Wednesday, 31st July.

#### Obituary.

MR. JOHN R. COLFER, Solicitor, died upon the 4th April, 1918, at his residence, Ardross, New Ross.

Mr. Colfer was apprenticed to the late Mr. Patrick Nolan, Merchants' Quay, Dublin, was admitted in Michaelmas Term, 1872, and practised (in partnership with his son, Mr. Thomas A. Colfer, under the style of Messrs. Colfer and Son) at New Ross.

MR. MICHAEL L. HORAN, Solicitor, died upon the 12th April, 1918, in Dublin.

Mr. Horan was apprenticed to the late Mr. William P. McEvoy, 12 Dame Street, Dublin, was admitted in Michaelmas Sittings, 1884, and practised at 12 Dame Street, Dublin.

MR. HENRY BRENNAN, Solicitor, died upon the 24th April, 1918, at his residence, 41 Kenilworth Square, Rathgar, Dublin.

Mr. Brennan was admitted in Easter Term, 1871, and practised at Ballyragget, Co. Kilkenny, up to the year 1911, when he retired.

MR. CHARLES F. DOWNING, Solicitor, died upon the 26th April, 1918, at his residence, Oak Park, Tralee.

Mr. Downing served his apprenticeship with his father, Mr. Francis C. Downing, Tralee, was admitted in Hilary Sittings, 1892, and practised (in partnership with his brother, Mr. Francis H. Downing, under the style of Messrs. F. C. Downing and Sons) at Tralee.

#### Roll of Honour.

LIEUTENANT MARCUS R. RUSSELL, Hussars, was killed in action on the 22nd March, 1918.

Lieutenant Russell served his apprenticeship with Mr. Lewis Goodbody, Solicitor, Tullamore, and passed the Final Examination in January, 1912.

### Recent Decision Affecting Solicitors.

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

CHANCERY DIVISION (ENGLAND).

(Before EVE, J.).

*In re* BROWN—WACE *v.* SMITH.

April 11, 1918.—*Will—Solicitor—Trustee—Power to charge—Profit—Costs—Legacy—Insufficient estate—Abatement.*

By her will, made in 1916, the testatrix appointed the plaintiffs her executors and trustees, one of whom, W. D., was a Solicitor, and she gave a large number of pecuniary legacies with a direction that they should be paid in full, with all duties thereon, out of her residuary estate in priority to any other legacies given by her will. She then gave a number of charitable legacies, also free of all duties, which were to be paid out of the residuary estate, and finally, a gift of £10,000 to the trustees of Westfield College, upon certain trusts, and the residue of her estate to Westfield College. The will contained a declaration by the testatrix that every trustee of her will who might happen to be a Solicitor should be entitled to make and be paid all usual professional charges for advice given and business done in reference to her will. The total estate of the testatrix amounted approximately to £56,000, and the total legacies, including that of £10,000, to £63,000, so that an abatement became necessary. A summons was issued by the trustees asking, *inter alia*, whether the charitable legacies and duties and the sum of £10,000 to the trustees of Westfield College, and the profit costs payable to the plaintiff, W. D., under the power to charge, abated proportionally and *pari passu*. The question as to the abatement of the profit costs of the Solicitor was the main question argued.

Eve, J., after holding that the legacy duties must be added to the charitable legacies and all abate rateably, said that the point as to

the abatement of the profit costs of the Solicitor was concluded by authority. The effect of declaration in the will enabling the Solicitor to charge for professional services was a bequest to him of a legacy conditional upon his doing the work, the amount of the legacy would be ascertained when the work had been done and the profit costs arrived at. It was nothing more or less than a bequest to the Solicitor of that sum, ultimately to be ascertained. His Lordship did not consider that in the case of an insufficient estate such a legacy stood on a different footing from other legacies in the same degree. Therefore, having regard to the principle underlying the decision *In re White* [1898], 1 Ch. 297, he must hold that this legacy abated proportionally with the charitable legacies.

(*The Weekly Notes*, 118 [1918].)

### Trinity Sittings Lectures, 1918.

LECTURES will be delivered to the Senior Class upon the following dates:—

June 4, 7, 11, 14, 18, 21, 25, 28.

Lectures will be delivered to the Junior Class upon the following dates:—

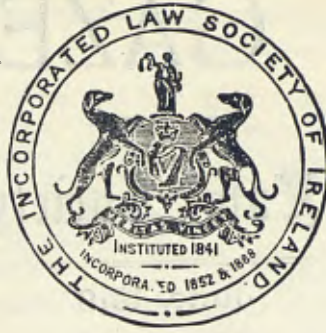
June 3, 6, 10, 13, 17, 20, 24, 27.

## Calendar of the Incorporated Law Society, 1918.

THE Calendar and Law Directory, published by the Society for 1918, can be obtained in the Secretary's Office, price 3s., or by post 3s. 5d.

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





# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 2.]

June, 1918:

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS.

	PAGE
Half-yearly General Meeting	6
Solicitors' Remuneration	9
Meetings of the Council	14
Council Meetings	14
Committee Meetings	14
New Members	14
Obituary	15
Roll of Honour	15
Results of Preliminary Examinations	15
Intermediate Examination	15
Irish Land Commission Sittings	15

# THE GAZETTE

## Incorporated Law Society of Ireland.

Vol. XII, No. 2.]

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[ FOR CIRCULATION  
AMONGST MEMBERS.

### Half-Yearly General Meeting.

THE Half-yearly General Meeting of the Society was held on Wednesday, 15th May, in the Solicitors' Buildings, Four Courts, Dublin. Mr. William V. Seddall, President, occupied the chair. The following members were present:—

Henry Shannon (Vice-President), Basil Thompson (Vice-President), Sir A. F. Baker, James Henry, W. J. Shannon, A. E. Bradley, C. St. G. Orpen, H. Synnott, J. W. Richards, P. J. Brady, M.P.; E. H. Burne, J. H. Callan, E. N. Edwards, W. H. Fry, C. G. Gamble, M. L. Hearn, M.P.; J. E. MacDermott, J. B. McCutcheon (Belfast), James Moore, T. G. Quirke, Patrick Rooney, Peter Seales, W. T. Sheridan, J. H. Walsh, R. G. Warren, R. B. White, H. D. Draper, John O'Sullivan, E. S. Lowe, W. J. Brett, H. C. Neilson, W. J. Ryan, J. T. Hamerton, Wm. Hunter, G. H. Lyster, F. V. Gordon, C. Friery, E. J. Kenny, M. J. O'Neill, H. G. Morris, S. G. Rutherford, B. M. O'Grady, S. M. Bell, Chas. Corcoran, D. Ampleford, James Brady, R. A. Howe, E. Condell, N. L. Moran, G. A. Byrne, H. M. P. Hare, E. J. O'Farrell, C. J. Law, R. C. Joy, A. D. Orr, R. W. MacNeice, John Foley (Bagenalstown), C. W. Russell, D. O'Grady, H. D. Vaughan, J. G. Lidwell, J. W. Davis, Henry Rooke, H. R. Maunsell, T. L. Rooke, M. Dawson, T. C. Perrott, W. T. Phibbs, F. C. D. Joynt, C. L. Smith, T. A. Ireland, J. R. Peart, R. N. Keller, G. A. Howe, Fras. Kennedy (Wicklow), W. H. Geoghegan, B. R. W. Doran,

F. D. Darley, G. H. Parkes, H. P. Mayne, R. Powell, L. F. Kenny, C. J. Rutherford, F. E. Bermingham, M. A. Smyth, Q. W. Kennedy, J. Pride, G. M. Collins, E. J. French.

The Secretary (Mr. W. G. Wakely) read the notice convening the meeting, and also the minutes of the Half-yearly General Meeting held in November last, which latter were confirmed and signed.

The President nominated the following members to act as Scrutineers of the ballot for election of Council, to be held next November:—Mr. E. F. Collins, Mr. M. Dawson, Mr. J. W. Dyas, Mr. W. Geoghegan, and Mr. H. P. Mayne.

Mr. H. Shannon, V.P., moved, and Mr. Basil Thompson, V.P., seconded, and it was resolved that the following be appointed Auditors of the Accounts of the Society for the year ending 30th April, 1918:—Mr. W. W. Carruthers, Mr. David B. Dunne, and Mr. T. A. Ireland.

### President's Address.

THE PRESIDENT addressing the meeting, said:—

Gentlemen, six months have elapsed since our last meeting, and still the war, which has drenched Europe in blood and has impoverished the nations of the world, instigated by the Prussian greed for territory and aggrandisement, rages. At this moment the British and their gallant Allies are engaged in a desperate struggle in the

interests of freedom and democracy and for the existence of small nationalities. We can only hope and pray that before we meet again the satanic power of the Kaiser will finally be crushed, and that the world may be able once more to draw the breath of freedom.

I am proud to say the Profession to which we all have the honour to belong has not held aloof from this titanic struggle. No less than 139 Irish Solicitors and 80 Solicitors' apprentices have, up to the present, joined His Majesty's Forces since the war broke out.

No doubt there are others who, but for family ties and other strong reasons, would have before now made a similar sacrifice. Of those Irish Solicitors and apprentices who have volunteered their services to their country I regret to say that no less than 32 have been killed in action or have died on active service. On the other hand, many have gained distinction, and are, I am glad to say, still alive to enjoy the fruits of their gallantry. At our meeting in November last my predecessor, Mr. Richards, read out a long list of Military Distinctions conferred upon members of the profession and apprentices who have joined the Army. Since then four other awards for gallantry have been conferred on Officers of His Majesty's Army who are members of our profession or apprentices. Lieut. Claud Furlong, Solicitor, was awarded a Military Cross; Capt. Mackay, an apprentice, has been awarded the Military Cross and also the Croix de Guerre; Lieut. Percival Brown and Lieut. John Gillespie, both apprentices, have been awarded the Military Cross. You will also, I am sure, be glad to hear that Captain Henry, son of our old friend and colleague, Mr. James Henry, has within the last week or two been awarded the Military Cross and special promotion to the rank of Major for exceptionally gallant conduct. I think most of us are already aware of the distinction gained by Captain Ion Wakely, a member of the Bar and son of our esteemed Secretary, who has been recently wounded, but I am

glad to say is making a rapid and, I hope, complete recovery.

It would not be right that I should leave this subject without paying a tribute to the patriotism of the Law Clerks. Large numbers of them have joined the colours. I have not got particulars as to numbers, but I am aware that a very large number of clerks of military age gave their services to their country, and I know that out of my own small staff of four male members at the outbreak of the war three have joined up.

I regret to say that since our last meeting the angel of death has laid his hand heavily upon the members of our profession. Since November last no less than 16 of our colleagues have passed away, including some who were well known to you and who are deeply regretted by all of us. These include Mr. John R. Cooper, Crown Solicitor for Wexford; Mr. Michael Lane Horan, of Dublin, one of the veterans of the profession; Mr. John R. Colfer, of New Ross, and Mr. Charles F. Downing, of Tralee, two of the most respected Solicitors in the South of Ireland.

It has been a satisfaction to us all that Mr. Michael J. O'Connor, who was for some years a member of the Council of this Society, and is most popular with every member of the profession with whom he came in contact, has been selected to fill the post of Crown Solicitor, left vacant by the lamented death of Mr. Cooper.

It has been a source of gratification and pride to us that within the last month or so two distinguished members of the Bar, who had previously been members of our profession, have been appointed to positions of high honour. I refer to the Right Honourable James O'Connor, who has been appointed to the position of one of His Majesty's Judges; and Mr. John Blake Powell, K.C., Solicitor-General for Ireland. In this connection I would like to remind you that the Lord Justice Swinfen Eady, who has been elevated to the high position of Master of the Rolls in England, was also a Solicitor before he was called to the Bar.

I am sure there is no member of the profession who did not hear with regret of the resignation of Mr. Justice Barton, whose unflinching courtesy we will always recollect with feelings of pleasure.

It is not often that civil honours are conferred by the Government upon Solicitors, and therefore it is with special gratification I refer to the fact that Mr. John Garvey, D.L., Crown Solicitor for Mayo, and Mr. William Geoghegan, Solicitor of this City, have recently had conferred upon them the Order of the British Empire.

During the period which has elapsed since our last meeting, your Council has not been idle in endeavouring to promote the interests of our profession. There are very many matters, more or less of detail, which I cannot enter into without making my speech unduly prolonged, and the particulars of which no doubt most of you have read in the GAZETTES published by the Society and circulated each month among the members. I think any of you who have read these GAZETTES will admit that the Council have not been unmindful of your interests and not altogether without some good results. I will merely refer, however, to a couple of the more important matters which have been dealt with by the Council since our last meeting.

You are all aware of the great dissatisfaction which was felt, not only by the members of the profession but by the public, at the great inconvenience caused by the delay in the taxation of costs owing to the non-appointment of a third Taxing Master in the place of the late Master Culhane. Shortly after my election as President the Council took up a very firm attitude in this matter, and a strong deputation waited upon the Lord Chancellor, and pressed upon him the importance, both from the point of view of the profession and of the public, of having a third Taxing Master appointed, with the result, as you are aware, that Mr. R. A. Macnamara, an able and popular ex-President

of this Society, was appointed. I am sure every member present would wish to join with me in congratulating Mr. Macnamara on his appointment, and in expressing our entire satisfaction at his selection to fill that important office. I am glad to inform you that as a result the arrears have already been cleared off, and Solicitors can now have their costs taxed without any undue delay.

At the November meeting of the Society my predecessor referred to a question which affects us all very materially, viz: while Solicitors' establishment charges have increased tremendously there has been no corresponding increase in Solicitors' remuneration. My predecessor stated he was sure the matter would be taken into consideration by the new Council which was then elected. The Council lost no time in acting upon this suggestion, and one of their first acts was to appoint a Committee to formulate proposals for a reasonable increase in Solicitors' remuneration to meet the exigencies of the times. These proposals, when approved of by the Council, were submitted to the Lord Chancellor, who summoned a meeting of the Rule Recommending Authority, of which your President is a member, to consider them. This meeting was held on the 27th February last, when I attended and laid the views of the Council before the meeting. The Rule Recommending Authority received the proposals of the Council most favourably, but suggested that certain modifications of the original proposals would be desirable, and adjourned the meeting in order that the Council might have an opportunity of considering their suggestions. The Committee, having considered the suggestions made, modified their demands so far as possible to meet the views of the Rule Recommending Authority, and the recommendations of the Committee, having been approved of by the Council, were submitted to the Lord Chancellor. At a further meeting of the Rule Recommending Authority held on the 7th day of this month, these proposals were further considered and, subject to some slight modifications, were approved of. The

result is, as I think you will agree, a substantial benefit to the members of our profession, while the increased fees sanctioned could not be in any way considered a hardship on our clients or the public. The Orders bringing these increases into operation appear in last night's *Dublin Gazette*, and will be in our GAZETTE for June. I take this opportunity of thanking the Lord Chancellor, the Lord Chief Justice and the other Judges for their great courtesy to me in discussing this important question, and for the fair and equitable spirit with which they met our reasonable demands.

The Council have had under consideration various questions submitted to them by members of the profession relating to costs and other matters of importance to Solicitors, and have endeavoured to deal with these questions to the best of their ability and, they trust, with satisfaction to those who have sought their advice and assistance.

I will conclude as I began, by hoping that by the time we meet again in November next the war will have terminated in a successful and triumphant issue for the British Empire and her Allies.

THE PRESIDENT, again rising, stated that the following notice of motion had been received from Mr. John Foley:—

“That in the opinion of this Council the application of the Military Service No. 2 Act to the Kingdom of Ireland is detrimental to the well-being of the profession generally.”

The notice of motion was not sent to the Secretary until 11th May; and accordingly did not appear upon the notice convening the meeting.

The President stated that having considered the matter he was of opinion that the motion was out of order, being contrary to the provisions of the Defence of the Realm Act, and for other reasons which he need not go into in detail.

The proceedings then terminated.

### Solicitors' Remuneration.

THE following are the Orders referred to by the President at the General Meeting of the Society on 15th May, and which appeared in the *Dublin Gazette* of 14th May:—

By the Lord Lieutenant and Privy Council,  
in Ireland.

### FRENCH.

WHEREAS by “The Supreme Court of Judicature Act (Ireland), 1877,” Section 61, it is, amongst other things, enacted that the Lord Lieutenant may, at any time after the passing, and before the commencement of the said Act, by Order in Council made upon such recommendation as is therein mentioned, make Rules, to be styled Rules of Court, for carrying the said Act into effect, and in particular for all or any of the matters in the said section mentioned, and from and after the commencement of the said Act, the Lord Lieutenant may, at any time, with the concurrence of a majority of the Judges of the Supreme Court present at a meeting for that purpose held (of which majority the Lord Chancellor should be one) by Order in Council, alter and annul any Rules of Court for the time being in force, and have and exercise the same power of making Rules of Court as was thereby vested in the Lord Lieutenant on the recommendation hereinbefore specified before the commencement of the said Act:

And whereas the said Act commenced on the 1st day of January, 1878:

And whereas certain Rules of Court have from time to time been made since the commencement and in pursuance of the said Act, and it is expedient that the Rules specified and set out in the Schedule hereto should be made:

And whereas by the 12th Section of the Supreme Court of Judicature (Ireland) (No. 2) Act, 1897, it is, amongst other things, enacted that the persons upon whose recommendation the Lord Lieutenant may make, alter, or

annul rules, under Section 61 of the principal Act, shall include the President of the Incorporated Law Society of Ireland and two persons (one of whom shall be a practising Barrister), to be appointed for the purpose by the Lord Chancellor :

And whereas by the Rules Publication Act, 1893, Section 2, it is provided that where a Rule-making Authority certifies that on account of urgency or any special reason any Rule should come into immediate operation, it shall be lawful for such authority to make any such Rules to come into operation forthwith as Provisional Rules, but such Provisional Rules shall only continue in force until Rules shall have been made in accordance with the foregoing provisions of the said Rules Publication Act :

And whereas a majority of the Judges of the Supreme Court of Judicature in Ireland, and the other persons, pursuant to Section 12 of the Supreme Court of Judicature (Ireland) (No. 2) Act, 1897, upon whose recommendation the Lord Lieutenant may make, alter, or annul Rules of Court under the said Principal Act, present at a meeting for that purpose held (of which majority the Lord Chancellor of Ireland was one), have passed the resolution set out in the Schedule hereto :

Now, We, the Lord Lieutenant-General and General Governor of Ireland, by and with the advice and consent of His Majesty's Privy Council in Ireland, in pursuance and by virtue of the Supreme Court of Judicature Act (Ireland), 1877, and of the Rules Publication Act, 1893, and of all other powers Us thereunto enabling, and with the concurrence of a majority of the Judges of the Supreme Court of Judicature in Ireland, and the other persons, pursuant to Section 12 of the Supreme Court of Judicature (Ireland) (No. 2) Act, 1897, upon whose recommendation the Lord Lieutenant may make, alter, or annul Rules of Court, under the said principal Act, present at a meeting for that purpose held (of which majority the Lord Chancellor of Ireland was one), do order and declare that the Rule of Court set forth in the Schedule

hereto shall take effect and be in force as a Rule of Court, and do hereby certify that on account of urgency the said Rule shall come into immediate operation, and do make the said Rule to come into operation as from the date hereof as a Provisional Rule, and to continue in force until a Rule shall have been made in accordance with the provisions in that behalf of the said Rules Publication Act.

Given at the Council Chamber, Dublin Castle, this 14th day of May, 1918.

Ignatius J. O'Brien, C. Edward Shortt.

#### SCHEDULE.

WE, being a majority of the Judges of the Supreme Court of Judicature in Ireland; and the other persons, pursuant to the 12th Section of the Supreme Court of Judicature (Ireland) (No. 2) Act, 1897, upon whose recommendation the Lord Lieutenant may make, alter, or annul Rules of Court under the 61st Section of the Supreme Court of Judicature Act (Ireland), 1877, present at a meeting for that purpose held (of which majority the Lord Chancellor of Ireland is one), do hereby, pursuant to the said 61st Section, and of all other powers Us thereunto enabling, express our concurrence in an Order being made by the Lord Lieutenant of Ireland in Council, making the alterations in the Rules of Court hereinafter expressed and set forth, and certify that on account of urgency the said Rules as amended should come into immediate operation as Provisional Rules.

Dated this 7th day of May, 1918.

Ignatius J. O'Brien, C.  
James H. Campbell, L.C.J.  
S. Ronan, L.J.  
T. F. Molony, L.J.  
J. G. Gibson.  
W. H. Dodd.  
Jonathan Pim.  
William Moore.  
Herbert Wilson, K.C.  
W. V. Seddall,

Pres., I.L.S., Ireland:

The following Rule shall be added to and form part of the Rules of the Supreme Court (Ireland), 1905 :

*Order LXV.*

Rule 19. (a). The costs and fees payable to Solicitors in respect of business transacted by them in or before the High Court or Court of Appeal, or any divisional or other Courts thereof, or the offices thereof, as prescribed by Appendix S, shall be increased in respect of business transacted on or after the 7th day of May, 1918, by the addition thereto of an amount equal to twenty-five per cent. of the amount of such prescribed costs and fees, such increase to be in force during the continuance of the present War and for a period of six months thereafter.

FOUR COURTS,  
DUBLIN.

THE RULES PUBLICATION ACT, 1893.

NOTICE is hereby given, in accordance with the provisions of the Rules Publication Act, 1893, that the Rule-making Authority prescribed by the County Officers and Courts (Ireland) Act, 1877, proposes to make the Rule set out hereunder, the same to come into immediate operation as a Provisional Rule and to continue in force until Rules shall have been made in accordance with the provisions of the said Rules Publication Act.

And notice is hereby further given, that copies of the said Rule as a draft Rule may be obtained on application to the Office of the Lord Chancellor's Permanent Secretary:

Dated this 13th day of May, 1918.

*Gerald Horan*, Clerk of the Crown and Hanaper and Permanent Secretary to the Lord Chancellor of Ireland:

WHEREAS by "The County Officers and Courts (Ireland) Act, 1877," it was enacted that the Lord Chancellor, with the concurrence of the County Court Judges and Chairmen of Quarter Sessions in Ireland, or any five of them to be selected or nominated

as in said Act is provided, should frame, and from time to time amend a scale of fees, costs and charges to be paid to Counsel and Attorneys in suits and proceedings in the Civil Bill Courts, and that such scale or amended scale, certified under the hands of the Lord Chancellor and any five of such Chairmen, should, from and after such day as should be fixed thereby be in force in every Civil Bill Court.

And whereas a meeting of the said Chairmen having been duly convened for the purpose the following five of them were selected to frame such scale of fees, costs, and charges as aforesaid, that is to say:—His Honor Judge Bréretton Barry, K.C.; His Honor Judge Todd, K.C., Recorder of Londonderry; His Honor Judge Charles Doyle, K.C.; His Honor Judge Johnston, K.C.; and His Honor Judge Brown, K.C.

And whereas a scale of certain fees, costs, and charges in suits and proceedings in the said Civil Bill Courts, dated the 24th December, 1877, was duly framed and certified as in the said Act provided, and it is now expedient and necessary to frame a further or supplemental scale in manner hereinafter appearing.

Now, I, The Right Honourable Sir Ignatius J. O'Brien, Bart., Lord High Chancellor of Ireland, with the concurrence of the said Judges, so selected as aforesaid, and in pursuance of the powers given by the said recited Act, have amended the scale of costs and charges, as shewn in the Schedule hereto, as the scale of costs and charges to be paid to Solicitors in such proceedings in the Civil Bill Courts, and I, the said Right Honourable Sir Ignatius J. O'Brien, Bart., Lord High Chancellor of Ireland, with the concurrence of the said Judges, as testified by their signature hereto, in pursuance of the powers given by the said Act and of all other powers thereunto us enabling, do hereby certify the said further or supplemental scale of costs and charges, and do hereby further certify that on account of urgency the said

scale shall come into immediate operation, and do make and frame the said scale to come into operation forthwith as Provisional Rules.

Dated this 7th day of May, 1918.

Ignatius J. O'Brien, C.  
R. Brereton Barry.  
Andrew Todd.  
Charles F. Doyle.  
W. J. Johnston.  
W. Herbert Brown.

SCHEDULE ABOVE REFERRED TO.

1. In all ordinary Civil Bills where the decree pronounced exceeds the sum of £2, or Dismisses where the amount claimed exceeds the sum of £2, there shall be paid to Solicitors an increase of 25 per cent. to the costs and charges set forth in the Order dated the 24th day of December, 1877.

2. The above increase shall continue to be paid during the continuance of the present War and for six months thereafter.

FOUR COURTS,  
DUBLIN.

THE RULES PUBLICATION ACT, 1893.

NOTICE is hereby given, in accordance with the provisions of the Rules Publication Act, 1893, that the Rule-making Authority prescribed by the Local Registration of Title (Ireland) Act, 1891, proposes to make the Rule set out hereunder, the same to come into immediate operation as a Provisional Rule and to continue in force until Rules shall have been made in accordance with the provisions of the said Rules Publication Act.

And Notice is hereby further given, that copies of the said Rule as a Draft Rule may be obtained on application to the Office of the Lord Chancellor's Permanent Secretary.

Dated this 13th day of May, 1918.

Gerald Horan, Clerk of the Crown and  
Hanaper and Permanent Secretary  
to the Lord Chancellor of Ireland.

HIGH COURT OF JUSTICE IN IRELAND.  
CHANCERY DIVISION—LAND JUDGE.

LAND REGISTRY OF IRELAND.

Local Registration of Title (Ireland) Act, 1891.

ORDER AND RULES, 1910—ORDER  
XII., COSTS.

*The 4th of May, 1918.*

IN pursuance of the powers contained in Section 94 of the above Act and of all other powers thereunto Us enabling, it is hereby ordered that the following Order and Rule shall be made; and We hereby certify that on account of urgency the said Rule shall come into immediate operation forthwith as a Provisional Rule:

*Order XII.*

Rule 4 (3a). The remuneration of Solicitors in respect of business transacted by them on or after the 7th day of May, 1918, shall be increased as hereunder:—

SCHEDULE OF COSTS.

*Part IIIA.—Dealings with Registered Land.*  
Twenty-five per cent. on the remuneration prescribed where the value does not exceed £100;

Twenty per cent. on the remuneration prescribed where the value exceeds £100 but not £1,000;

Fifteen per cent. on the remuneration prescribed where the value exceeds £1,000.

*Part IIID.—Discharge of Equities.*

Twenty-five per cent. on the remuneration prescribed where the value of the land does not exceed £300;

Twenty per cent. on the remuneration prescribed where the value of the land exceeds £300 but not £500;

Fifteen per cent. on the remuneration prescribed where the value of the land exceeds £500 but not £2,000;

Ten per cent. on the remuneration prescribed where the value of the land exceeds £2,000.

*In all other proceedings*

for which the remuneration is prescribed by the existing General Orders under the Act, twenty-five per cent.



(3b) Such increases shall be in force during the continuance of the War and for a period of six months thereafter.

(Signed), JOHN ROSS,  
*Land Judge.*

Approved—  
IGNATIUS J. O'BRIEN,  
*Lord Chancellor.*

FOUR COURTS,  
DUBLIN.

THE RULES PUBLICATION ACT, 1893.

NOTICE is hereby given, in accordance with the provisions of the Rules Publication Act, 1893, that the Rule-making Authority prescribed by the Solicitors Remuneration Act, 1881, proposes to make the Rule set out hereunder.

Dated this 13th day of May, 1918.

*Gerald Horan*, Clerk of the Crown and Hanaper and Permanent Secretary to the Lord Chancellor of Ireland.

WE, The Right Honourable Sir Ignatius J. O'Brien, Bart., Lord High Chancellor of Ireland; The Right Honourable Sir James Henry Mussen Campbell, Bart., Lord Chief Justice of Ireland; The Right Honourable Charles Andrew O'Connor, Master of the Rolls, and William V. Seddall, Esquire, President of the Incorporated Law Society of Ireland (being the persons in that behalf authorized by the statute, 44 & 45 Vic., c. 44), do hereby in pursuance and execution of the powers given to us by the said statute, and of all other powers and authorities enabling us in that behalf, order direct in manner following:—

(1) The following increases in the remuneration prescribed by the General Order and Schedules dated the 16th day of April, 1884, shall apply.

(2) This Order is to take effect from the 1st day of July, 1918, and shall continue in operation during the present War and for a period of six months thereafter:—

*Schedule I., Part I., and Rules thereunder.*

(Sales, Purchases, Mortgages).

Twenty-five per cent. on the remuneration prescribed for the first £1,000;

Twenty per cent. on the remuneration prescribed for the second and third £1,000;

Ten per cent. on the remuneration prescribed for each subsequent £1,000.

*Schedule I., Part II., and Rules thereunder.*

(Leases, or Conveyances reserving rent).

TABLE I.

Twenty-five per cent. on the remuneration prescribed where the rent does not exceed £100;

Fifteen per cent. on the remuneration prescribed where the rent exceeds £100 but does not exceed £500;

Ten per cent. on the remuneration prescribed where the rent exceeds £500.

TABLE II.

Twenty-five per cent. on the remuneration prescribed where the rent does not exceed £5;

Twenty per cent. on the remuneration prescribed where the rent exceeds £5 but does not exceed £50;

Fifteen per cent. on the remuneration prescribed where the rent exceeds £50 but does not exceed £150.

Ten per cent. on the remuneration prescribed where the rent exceeds £150.

SCHEDULE II.

(Other business to which Schedule I. does not apply).

Twenty-five per cent. on the remuneration according to the system in existence at the date of the General Order, as altered by Schedule II.

Dated this 7th day of May, 1918.

Ignatius J. O'Brien, C.  
James H. Campbell, L.C.J.  
Chas. A. O'Connor, M.R.  
W. V. Seddall,  
Pres., I.L.S., Ireland.

Copies of each of the four above-mentioned Orders were, upon the 28th day of May, 1918, laid upon the tables of both Houses of Parliament.

### Meetings of the Council.

May 8th.

#### Solicitors' Remuneration.

The President informed the Council that Orders had been signed on the previous day under the Supreme Court of Judicature (Ireland) Acts, the County Courts (Ireland) Act, the Solicitors Remuneration Act, and the Registration of Title (Ireland) Act, increasing the remuneration of Solicitors, for the duration of the war and for six months after.

#### War-Hospital Supply Depot.

##### National Waste Paper Department.

A letter was read from Hon. Organiser of the Irish War Hospital Supply Depot, requesting that the attention of members of the profession be invited to the National Waste Paper Department, which Department collects waste paper in order to sell it for the benefit of the Depot. Solicitors who may desire to send their waste paper to the Depot should send a postcard to the Hon. Organiser, 65 Merrion Square, requesting that sacks be sent for the purpose. The sacks will be sent free of charge, and the filled sacks will be collected when notice is received that they are ready for collection.

May 29th.

#### Solicitors' Remuneration.

Letters were read from three County Court Sessions Bars in reference to the Order of 7th May increasing the remuneration for Civil Bill Decrees and Dismisses. These letters were referred to the County Courts Committee and letters in reply were directed to be written, suggesting steps to be taken by the County Court Sessions Bars.

#### Measuring Costs.

A letter was read from a member drawing attention to an Order made by a Judge of the King's Bench Division, on a motion to dismiss an action for want of prosecution. The Order directed Plaintiff to serve notice of trial within one month, or in default the action to stand dismissed with costs, the Plaintiff "in any event" to pay Defendant three guineas for costs of motion. The Defendant's Counsel objected to the measuring of the costs of motion, but the Judge intimated that costs of such motions were always measured at three guineas. The matter was referred to the Costs Committee.

#### Council Meetings.

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

June 12th and 26th.

July 10th and 24th.

#### Committee Meetings.

THE following Committee Meetings were held during May:—

Costs, 2nd and 13th.

Court of Examiners, 7th and 28th.

Gazette, 9th.

Statutory, 14th.

#### New Members

THE following joined the Society during May, 1918:—

T. Dawson Cotton, 7 Chichester Street,  
Belfast.

Henry J. Kenny, Carrick-on-Suir.

William J. McMillan, 45 Arthur Street,  
Belfast.

**Obituary.**

MR. FRANCIS C. DOWNING, Solicitor, died upon the 9th May, 1918, at his residence, Lohercannon, Tralee.

Mr. Downing served his apprenticeship with his father, the late Mr. Francis H. Downing, Tralee, was admitted in Easter Term, 1860, and practised at Tralee up to 1900, in which year he was appointed Clerk of the Crown and Peace for the County of Kerry, which position he occupied up to the year 1916, when he retired.

MR. FRANCIS L. HUGHES, Solicitor, died upon the 11th May, 1918, at Belfast.

Mr. Hughes served his apprenticeship with the late Mr. David McGonigal, Belfast, was admitted in Easter Sittings, 1904, and practised at Belfast.

**Roll of Honour.**

CAPTAIN HUGH M. BAILLIE, Royal Irish Rifles, was killed in action recently.

Captain Baillie was apprenticed on the 7th December, 1912, to the late Sir Alexander McDowell, 51 Royal Avenue, Belfast.

**Results of Preliminary Examination.**

At the Preliminary Examination, held upon the 16th and 17th days of May, the following passed the Examination, and their names are arranged in order of merit :—

1. Leo F. Trainor.
2. Robert B. Wolfe.
3. John A. A. Russell.

John Gillespie passed the modified Preliminary Examination, for which he had liberty to present himself.

The remaining candidates are postponed.

**Preliminary Examinations Prizes, 1917-18.**

None have been awarded.

**Intermediate Examination.**

THE July Intermediate Examination will be held on Monday, 1st July, at 10 o'clock a.m. Notices from Apprentices intending to present themselves for the examination should be lodged in the Secretary's Office on or before 15th June.

**Irish Land Commission.**

CHIEF COMMISSION SITTINGS ARRANGED  
24th MAY, 1918.

Place of Sitting	Date of Sitting	Counties Listed
	1918.	
Four Courts	Monday, 24th June at 11.30 a.m.	Louth, Meath
Galway ..	Wednesday, 26th, at 11.30 a.m.	Galway
Ennis ...	Thursday, 27th, at 1.0 p.m.	Clare
Limerick ...	Friday, 28th, at 11.30 a.m.	Tipperary
Killarney ...	Monday, 1st July, at 10.0 a.m.	Kerry

**"Irish Life."**

THE Society's copy of the above weekly illustrated paper will be sent by post six days after date of issue, weekly for one year from date of purchase, to any member desirous of having it, for the sum of one pound, on application to the Secretary.

**Calendar of the Incorporated Law Society, 1918.**

THE Calendar and Law Directory, published by the Society for 1918, can be obtained in the Secretary's Office, price 3s., or by post 3s. 6d.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin. Advertisements should be sent to Hely's Ltd., 28 Dame Street, Dublin.

Examination  
 Examination will be  
 held on the 15th of  
 the month of July at  
 the University of  
 Dublin for the  
 degree of Bachelor  
 of Laws. The  
 examination will be  
 held in the  
 Law School, Dublin.



1912

The Journal of the Historical Law Society of Ireland  
 is published quarterly by the Society.  
 The Society was founded in 1881  
 and has since that time  
 been engaged in the study  
 and publication of the  
 history of the law in  
 Ireland.

1912

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 3.]

July, 1918.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS:

	PAGE
Meetings of the Council ... ..	18
Council Meetings ... ..	18
Committee Meetings ... ..	18
Obituary ... ..	18
Roll of Honour ... ..	19
Military Honours ... ..	19
Honour to Solicitor ... ..	19
Land Commission Costs ... ..	19
Solicitors' Remuneration ... ..	20
Index to War Orders and Proclamations ... ..	20
Recent Decisions Affecting Solicitors ... ..	20
Board of Trade Inquiry ... ..	21
Results of Final Examination ... ..	21
Summer Assizes, 1918 ... ..	22

# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 3.]

July, 1918.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*June 12th.*

#### Address to H.E. the Lord Lieutenant.

It was resolved that an address be presented to His Excellency the Lord Lieutenant, and the proposed address was prepared and adopted.

#### Local Bankruptcy Courts.

It was resolved that an application be made for an Order in Council increasing by twenty-five per cent. Solicitors' remuneration in proceedings in the Local Bankruptcy Courts.

*June 26th.*

#### The Late Sir Walter Boyd, Bart.

The Council passed a resolution expressing their regret on the occasion of the death of the Right Hon. Sir Walter Boyd, Bart., and their sympathy with Lady Boyd and the family.

#### Sir Ignatius O'Brien, Bart.

A letter in reply was read from the Right Hon. Sir Ignatius O'Brien, Bart., thanking the Council for their letter expressing their appreciation of the unvarying and courteous attention given by him to their representations in reference to professional matters during his tenure of the office of Lord Chancellor.

### Council Meetings.

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

July 10th and 24th.

October 2nd, 16th and 30th.

### Committee Meetings.

THE following Committee Meetings were held during June:—

Gazette, 4th.

Land Acts, 7th.

Costs, 11th and 19th.

Statutory, 20th.

House, Library and Finance, 21st.

County Courts, 27th.

### Obituary.

MR. JOHN KILKELLY, Solicitor, died upon the 12th June, 1918, at his residence, 46 Upper Mount Street, Dublin.

Mr. Kilkelly served his apprenticeship with his father, the late Mr. James Kilkelly, 3 Mountjoy Square, South, Dublin, and was admitted in Hilary Term, 1860, and practised at 46 Upper Mount Street, Dublin.

Mr. Kilkelly was appointed to the office of Crown Solicitor for the County of Armagh in the year 1867, which position he occupied up to the time of his death.

MR. MORTIMER C. DYAS, Solicitor, died upon the 19th June, 1918, at Dublin.

Mr. Dyas served his apprenticeship with the late Mr. Joseph Galloway, 55 Upper Sackville Street, Dublin, was admitted in Trinity Sittings, 1893, and practised at 79 Lower Gardiner Street, Dublin and Kells, up to the year 1914, when he retired.

MR. FRANCIS J. SCALLAN, Solicitor, died upon the 27th June, 1918, at his residence, Ludford Park, Dundrum, County Dublin.

Mr. Scallan served his apprenticeship with Mr. John L. Scallan, 17 Bachelor's Walk, Dublin, was admitted in Hilary Sittings, 1883, and practised (in partnership with Mr. John L. Scallan, under the style of Messrs. John L. Scallan & Co.) at 25 Suffolk Street, Dublin.

#### Roll of Honour.

LIEUTENANT RICHARD T. SCALLAN, Royal Garrison Artillery, Solicitor, was accidentally killed on active service in France, on the 30th May, 1918.

Lieutenant Scallan served his apprenticeship with his father, the late Mr. Francis J. Scallan, 25 Suffolk Street, Dublin, and was admitted on the 22nd July, 1915.

#### Military Honours.

The Military Cross has been awarded to LIEUTENANT HERBERT M. MCKEE, Royal Irish Rifles.

Lieutenant McKee was apprenticed on the 6th January, 1911, to Mr. Samuel Ross, Solicitor, 10 Arthur Street, Belfast.

#### Honour to Solicitor.

MR. R. BARRY MEGLAUGHLIN, Solicitor, Dungannon, has been appointed a member of the Order of the British Empire.

#### Land Commission Costs.

IN reply to the request of the Council that the Solicitors' remuneration prescribed by Rules under the Land Law (Ireland) Acts and the Land Purchase (Ireland) Acts should be increased by 25 per cent. for the duration of the war and for six months after, the following letter has been received :—

The Irish Land Commission,  
Dublin, 24th June, 1918.

SIR,

With further reference to your letter of the 10th ultimo on the subject of increasing the existing remuneration of Solicitors prescribed for work done under the Land Law and Land Purchase Acts, I am directed by the Irish Land Commissioners to transmit herewith, for the information of your Council, the accompanying copy of a Rule made by them this day, increasing during the continuance of the present war and for a period of six months thereafter, the Solicitors' remuneration in proceedings under the Land Law Acts by an amount equal to twenty-five per cent., and in proceedings under the Land Purchase Acts by an amount equal to twenty per cent., the increases to be in respect of all business done on or after the 7th day of May, 1918.

I am, Sir,

Your obedient Servant,

T. GEO. H. GREEN.

W. G. Wakely, Esq.,

Secretary,

Incorporated Law Society of Ireland,

Solicitors' Buildings,

Four Courts, Dublin.

The Irish Land Commission hereby directs that (1) all Solicitors' fees and costs payable in proceedings under the "Land Law Acts," as prescribed by the Rules of the Irish Land Commission dated the 2nd day of January, 1897 (as distinct from payments), shall be

increased in respect of all business done on or after the 7th day of May, 1918, by the addition thereto of an amount equal to twenty-five per cent. of the amount of such prescribed fees and costs, and that (2) all Solicitors' fees and costs payable in proceedings under the "Land Purchase Acts," as prescribed by Order XXI. of the Rules of the Irish Land Commission, dated the 2nd day of July, 1910, shall be increased in respect of business done on or after the 7th day of May, 1918, by the addition thereto of an amount equal to twenty per cent. of the amount of such prescribed fees and costs, such increases to be in force during the continuance of the present war and for a period of six months thereafter.

#### Solicitors' Remuneration.

THE Council, in consultation with the Taxing Masters, have arranged that

- (1) Party and party costs, and costs payable under orders, will be accepted for taxation with an additional item at the end of the bill claiming the amount of the increased remuneration on the professional charges; and that
- (2) In the case of costs taxable under requisitions, including ordinary Solicitor and client bills, each item of the professional charges should be separately increased by the amount of the authorised increase.

#### Index to War Orders and Proclamations.

THE "Solicitors' Journal and Weekly Reporter" publishes from time to time an Index to War Orders and Proclamations, giving the title of the Order or Proclamation and the page in the journal on which each Order or Proclamation is to be found. The most recent index, covering the period from October 20th, 1917, to June 1st, 1918, is to be found in the issue of June 8th.

#### Recent Decisions Affecting Solicitors.

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

COURT OF APPEAL (ENGLAND).

(Before Pickford, Warrington and Scrutton, L.JJ.)

JONES AND SON v. WHITEHOUSE.

April 15th, 16th, 1918.—Solicitor—Costs—Action on bill—Bill delivered more than twelve months before action—Application for judgment under Order XIV.—Leave to defend—Objection to a few items—Right to taxation.

The plaintiffs, by a specially endorsed writ, sought to recover some £64, the amount of a bill of costs. The signed bill of costs was delivered to the defendant on November 27th, 1916, and the writ was issued on February 13th, 1918, no application to tax the bill having then been made. The plaintiffs applied under Order XIV. for leave to sign final judgment for the amount of the bill. Before the Registrar the defendant's Solicitor asked that the bill should be referred for taxation. The Registrar refused, and gave leave to sign judgment. Before the Judge in Chambers the defendant made an affidavit, in which he alleged that the charges were excessive and unreasonable, and in particular he objected to three items of ten guineas or under. The Judge dismissed the appeal. The defendant appealed. There was an absence of special circumstances entitling the defendant to taxation under Sec. 37 of the Solicitors Act, 1843 (6 and 7 Vic., c. 73), to which Sec. 2 of the Attornies and Solicitors (Ireland) Act, 1849 (12 and 13 Vic., c. 53) corresponds.

Their Lordships dismissed the appeal. They held that the items objected to were in fact reasonable in amount. If the appellant had shown a reasonable ground of objection to a few of the items of the bill, the Court would have given him leave to defend as to those items, but the appellant would not have been entitled to taxation of the whole bill.

(Reported *The Law Journal*, Vol. LIII, p. 156).



## COURT OF APPEAL (IRELAND).

(Before Sir Ignatius O'Brien, Bart., L.C.;  
Ronan and Molony, L.JJ.)

GORDON v. KIRK.

May 14th, 1918.—*Practice—Costs—Order of Court for payment of—Enforcement of order—Courts (Emergency Powers) Acts, 1914 and 1917.*

The Courts (Emergency Powers) Act, 1914, is applicable to costs which are the subject of an order dismissing an action with costs, and leave to proceed to execution on, or otherwise for the enforcement of, such an order is necessary to be obtained.

*Dobb v. Dobb*, 118 L. T. R. 244, followed.  
(Reported 1918. 1 Ch. 443.)

## COURT OF APPEAL (IRELAND).

(Before O'Connor, M.R., Ronan and  
Molony, L.JJ.)

H. BEEMAN HUGHES (Duroline Oil Co.) v.  
D. H. McDONNELL & Co.

June 28th, 1918.—*Practice—Costs—Order of Court for payment of debt and costs on foot of post-war contract—Enforcement of judgment as regards the costs—Courts (Emergency Powers) Acts, 1914 and 1917.*

The Courts (Emergency Powers) Act, 1914, is applicable to the costs which are the subject of a judgment on foot of a contract, although the contract has been entered into after the 4th August, 1914, and leave to proceed to execution on, or for the enforcement of such a judgment, so far as it relates to the recovery of the costs, is necessary to be obtained.

(Not yet reported).

## Board of Trade Inquiry.

A BOARD OF TRADE INQUIRY, presided over by Mr. Stuart Deacon (Stipendiary Magistrate), was held in Liverpool, into the circumstances attending the deaths of four

men who were gassed on board ship at North Wall, Dublin, in February last. Judgment was delivered in Liverpool by the presiding Magistrate upon 25th June. The Court, in its judgment, dealt with the claims in the case, and made certain suggestions for the prevention of the recurrence of such a fatality. Having regard to the fact that the casualty occurred in Dublin, and that the Inquiry was held in Liverpool, the Court ordered that the Board of Trade do pay to Mr. J. Blood Smyth, Solicitor, of Dublin, who represented the dependents of the deceased men at the Inquiry in Liverpool, and also represented a man injured, and whose clients at his request were added as parties to the Inquiry, the sum of fifty guineas to cover the whole of his expenses and those of his witnesses; and the Court recommended that the application for his expenses of Mr. J. Russell Stritch, Solicitor, of Dublin, who watched the proceedings at the Inquiry on behalf of a stevedore, should receive the consideration of the Board.

## Results of Final Examination.

At the Final Examination, held upon 22nd, 23rd and 24th May, the following passed the examination, and their names are arranged in order of merit:—

1. Philip H. I. O'Reilly.
2. James Reilly.
3. William D. Mockler.
4. James G. O'Connor, B.A., N.U.I.
5. Richard D. F. Johnson, B.A., N.U.I.
6. James A. Binchy, B.A., N.U.I.
7. William F. Quinlan.
8. John W. Callan.
9. Patrick J. Ruttledge.
10. Herbert C. Scott.
11. Albert Woodcock.

The Council awarded Silver Medals to Philip H. I. O'Reilly and James Reilly.

Sixteen candidates attended: eleven passed; five were postponed.

**Summer Assizes, 1918.****NORTH-EAST CIRCUIT.**

Co. Meath.—Trim, Monday, 1st July, 11.30 a.m.

Co. Louth.—Dundalk, Wednesday, 3rd July, 11 a.m.

Co. Monaghan.—Monaghan, Friday, 5th July, 11 a.m.

Co. Armagh.—Armagh, Tuesday, 9th July, 11 a.m.

Co. Down.—Downpatrick, Thursday, 11th July, 11 a.m.

Co. Antrim.—Belfast, Monday, 15th July, 12.30 p.m.

Co. of the City of Belfast.—Belfast, Wednesday, 17th July, 11 a.m.

*Judges.*—The Right Hon. Lord Justice Molony, and the Right Hon. Mr. Justice Gordon.

*Registrars.*—Mr. William T. Sheridan, 1 Elgin Road, Dublin; and Mr. Francis Kennedy, 25 Wellington Place, Ballsbridge, Dublin.

**NORTH-WEST CIRCUIT.**

Co. Westmeath.—Mullingar, Monday, July 1st, 11.30 a.m.

Co. Longford.—Longford, Tuesday, July 2nd, 11 a.m.

Co. Cavan.—Cavan, Thursday, July 4th, 11 a.m.

Co. Fermanagh.—Enniskillen, Monday, July 8th, 11 a.m.

Co. Tyrone.—Omagh, Wednesday, July 10th, 11 a.m.

Co. Donegal.—Lifford, Saturday, July 13th, 11 a.m.

Co. Londonderry.—Londonderry, Tuesday, July 16th, 11.30 a.m.

Co. of the City of Londonderry.—Londonderry, Wednesday, July 17th, 10.30 a.m.

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

*Registrars.*—The Hon. Edward Gibson, 38 Fitzwilliam Place, Dublin; and Mr. W. H. Atkinson, Nutley, Ballsbridge, Dublin.

**MUNSTER CIRCUIT.**

Co. Clare.—Ennis, Tuesday, July 2nd, 11 a.m.

Co. Limerick.—Limerick, Saturday, July 6th, 11 a.m.

City of Limerick.—Limerick, Saturday, July 6th, 11 a.m.

Co. Kerry.—Tralee, Friday, July 12th, 11.30 a.m.

Co. Cork.—Cork; Friday, July 19th, 12 noon.

City of Cork.—Cork, Monday, July 22nd, 11 a.m.

*Judges.*—The Right Hon. Mr. Justice Dodd, and the Hon. Mr. Justice Moore.

*Registrars.*—Mr. Huston Dodd, 46 Hannaville Park, Terenure, Dublin; and Mr. J. M. Davies, 22 Kildare Street, Dublin.

**LEINSTER CIRCUIT.**

Co. Wicklow.—Wicklow, Monday, July 1st, 11 a.m.

Co. Wexford.—Wexford, Tuesday, July 2nd, 2.30 p.m.

Co. Waterford.—Waterford, Thursday, July 4th, 2.30 p.m.

Co. of the City of Waterford.—Waterford, Thursday, July 4th, 2.30 p.m.

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

Co. Tipperary (North Riding).—Nenagh, Thursday, July 11th, 11 a.m.

Queen's Co.—Maryborough, Saturday, July 13th, 11 a.m.

Co. Kilkenny.—Kilkenny, Tuesday, July 16th, 11 a.m.

Co. Carlow.—Carlow, Thursday, July 18th, 11.30 a.m.

Co. Kildare.—Naas, Friday, July 19th, 11 a.m.

*Judges.*—The Right Hon. Mr. Justice Kenny, and the Right Hon. Mr. Justice Ross.

*Registrars.*—Mr. E. H. Kenny, Marlfield, Cabinteely, Co. Dublin; and Mr. S. C. Ross, Oatlands, Stillorgan, Co. Dublin.

## CONNAUGHT CIRCUIT.

- King's Co.—Tullamore, Monday, July 1st, 11.30.  
 Co. Leitrim.—Carrick-on-Shannon, Thursday, July 4th, 12.0.  
 Co. Sligo.—Sligo, Saturday, July 6th, 12.30.  
 Co. Mayo.—Castlebar, Tuesday, July 9th, 2.30.  
 Co. Roscommon.—Roscommon, Saturday, July 13th, 11.0  
 Co. Galway.—Galway, Tuesday, July 16th, 12.0.  
*Judges.*—The Right Hon. Lord Justice Ronan; Right Hon. Mr. Justice Pim.  
*Registrars.*—Mr. John Ronan, 45 Fitzwilliam Square, Dublin; Mr. J. H. Nunn, Bective, Pembroke Park, Dublin.

## Calendar of the Incorporated Law Society, 1918.

THE Calendar and Law Directory, published by the Society for 1918, can be obtained in the Secretary's Office, price 3s., or by post 3s. 6d.

ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin. Advertisements should be sent to Hely's Ltd., 28 Dame Street, Dublin.





# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 4]

August, 1918.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS.

	PAGE
Proceedings of Council	27
Council Meetings	28
Committee Meetings	28
Legal Appointments	28
New Members	28
Commissioners to Administer Oaths	28
Obituary	28
Roll of Honour	29
County Court Costs Order	29
Local Admiralty Courts Costs	30
Courts (Emergency Powers) Act, 1914	30
Land Registry	31
Examination Results	31
Dates of Examinations	31
Michaelmas Sittings Lectures	32



# THE GAZETTE

OF INDIA

INCORPORATED IN THE REGISTRY OF COMPANIES IN INDIA

Part II

August 1918

Vol. XII, No. 41

## CONTENTS

1	Proceedings of Council
2	Orders and Notifications
3	Orders and Notifications
4	Legal Proceedings
5	Orders and Notifications
6	Orders and Notifications
7	Orders and Notifications
8	Orders and Notifications
9	Orders and Notifications
10	Orders and Notifications
11	Orders and Notifications
12	Orders and Notifications
13	Orders and Notifications
14	Orders and Notifications
15	Orders and Notifications
16	Orders and Notifications
17	Orders and Notifications
18	Orders and Notifications
19	Orders and Notifications
20	Orders and Notifications
21	Orders and Notifications
22	Orders and Notifications
23	Orders and Notifications
24	Orders and Notifications
25	Orders and Notifications
26	Orders and Notifications
27	Orders and Notifications
28	Orders and Notifications
29	Orders and Notifications
30	Orders and Notifications
31	Orders and Notifications
32	Orders and Notifications
33	Orders and Notifications
34	Orders and Notifications
35	Orders and Notifications
36	Orders and Notifications
37	Orders and Notifications
38	Orders and Notifications
39	Orders and Notifications
40	Orders and Notifications
41	Orders and Notifications
42	Orders and Notifications
43	Orders and Notifications
44	Orders and Notifications
45	Orders and Notifications
46	Orders and Notifications
47	Orders and Notifications
48	Orders and Notifications
49	Orders and Notifications
50	Orders and Notifications
51	Orders and Notifications
52	Orders and Notifications
53	Orders and Notifications
54	Orders and Notifications
55	Orders and Notifications
56	Orders and Notifications
57	Orders and Notifications
58	Orders and Notifications
59	Orders and Notifications
60	Orders and Notifications
61	Orders and Notifications
62	Orders and Notifications
63	Orders and Notifications
64	Orders and Notifications
65	Orders and Notifications
66	Orders and Notifications
67	Orders and Notifications
68	Orders and Notifications
69	Orders and Notifications
70	Orders and Notifications
71	Orders and Notifications
72	Orders and Notifications
73	Orders and Notifications
74	Orders and Notifications
75	Orders and Notifications
76	Orders and Notifications
77	Orders and Notifications
78	Orders and Notifications
79	Orders and Notifications
80	Orders and Notifications
81	Orders and Notifications
82	Orders and Notifications
83	Orders and Notifications
84	Orders and Notifications
85	Orders and Notifications
86	Orders and Notifications
87	Orders and Notifications
88	Orders and Notifications
89	Orders and Notifications
90	Orders and Notifications
91	Orders and Notifications
92	Orders and Notifications
93	Orders and Notifications
94	Orders and Notifications
95	Orders and Notifications
96	Orders and Notifications
97	Orders and Notifications
98	Orders and Notifications
99	Orders and Notifications
100	Orders and Notifications

# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 4]

August, 1918.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Proceedings of the Council.

10th July.

#### Death of Mr. W. Guest Lane.

A resolution was passed expressing the regret of the Council at the death of Mr. W. Guest Lane, who had been President of the Southern Law Association, and a member of this Council, for many years past, and the sympathy of the Council was directed to be conveyed to Miss Lane.

#### Death of Mr. Francis J. Scallan.

A resolution was passed expressing the regret of the Council at the death of Mr. Francis J. Scallan, and the sympathy of the Council was directed to be conveyed to Mr. John L. Scallan and the members of the family of the late Mr. F. J. Scallan.

#### Confirmation of Probates Bill.

A letter was read from the Attorney General for Ireland enclosing a draft Bill for the abolition of the re-sealing of probates, confirmations, and letters of administration, which he had received from a Scottish member, with a request that he would support the Bill. The Attorney General requested the views of the Council on the Bill. The Council expressed disapproval of the Bill, and referred the matter to a Committee to settle a letter giving reasons for the Council's disapproval.

#### Use of Parchment.

A letter was read from the Northern Law Society drawing attention to the increasing scarcity of parchment, and urging the desirability of legislation in order to sanction the use of paper for Memorials and Requisitions for

Negative Searches in the Registry of Deeds Office. It was resolved to request the Attorney General for Ireland to introduce a Bill to give effect to the suggestion.

24th July.

#### Use of Parchments.

The views of the Registrar of Deeds having been sought at the request of the Attorney General for Ireland in reference to the suggestion that legislation should be introduced sanctioning the use of paper for Memorials and Negative Searches, a letter in reply from the Registrar was read expressing the opinion that in the first instance it would be preferable to apply to the Government to release a sufficient number of sheepskins for Memorials and Negative Searches, viz:— about 10,000 per annum, so as to continue the use of parchment, and that only in case of refusal of this application should the use of paper for the purpose be resorted to. It was resolved to send a copy of the letter to the Attorney General, with an expression of the Council's opinion, that notwithstanding the contents of the letter, legislation should be passed abolishing the statutable obligation to use parchment.

31st July.

#### Courts (Emergency Powers) Act, 1914

The President informed the Council that he had had an interview with the Judges of the King's Bench Division on the subject of applications for liberty to issue execution for the recovery of the costs of judgments on *post bellum* contracts, and that he had requested the Judges to make a regulation in reference to the costs of such applications, with the result that the Judges had decided that costs of such appli-

cations would be allowed, and the amount of such costs would be regulated by the amount for which judgment had been obtained on the contract.

### County Court Costs.

The President informed the Council that, with the two Vice-Presidents, Mr. Bradley and the Secretary, he had had an interview with the Lord Chancellor and County Court Judges on the subject of the County Court rule of 7th May, increasing costs for the duration of the war, and that the deputation had repeated the request originally made by the Council last February that a rule should be made allowing an increase of 25 per cent. on all County Court costs regulated by rules made by the Lord Chancellor and County Court Judges, with the result that the Lord Chancellor intimated that the request put forward by the deputation would be complied with. The Order giving effect to the granting of this application appears in this Gazette.

### Council Meetings.

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

October 2nd, 16th and 30th.

November 13th and 27th.

### Committee Meetings.

THE following Committee meetings were held during July:—

Costs, 3rd and 23rd.

Gazette 4th.

Court of Examiners, 9th, 19th & 29th

### Legal Appointments.

Mr. Francis J. Anderson, Moorfield, Armagh, has been appointed to the combined offices of Crown and Sessional Crown Solicitor for County Armagh in room of the late Mr. John Kilkelly, deceased, and of Mr. Samuel H. Monroe, resigned.

### New Members

The following joined the Society since May, 1918:—

Francis J. Anderson, Moorfield, Armagh.

Charles Magwood, 53 Dame St., Dublin.

James Reilly, Edenderry.

John J. Smyth, Drogheda.

Albert Woodcock, 67 Mid. Abbey St., Dublin

### Commissioners to administer Oaths.

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

Valentine F. Kirwan, Solicitor, 119 Stephen's Green, Dublin.

David O'Flaherty, Solicitor, Chief Secretary's Office, Dublin Castle.

Daniel O'Grady, Solicitor, 22 Mary St., Dublin.

James Rountree, Solicitor, Monaghan.

Nathaniel M. Clarke, Clerk of Petty Sessions, Antrim.

Robert Doogan, Printer, Monaghan.

James Hanna, Solicitor's Assistant, Ballybay.

Michael H. McCann, Clerk of Petty Sessions, Forkhill and Crossinaglen.

John McSherry, Town Clerk, Ballybay.

Percy T. Poole, Clerk of Petty Sessions, Carlow.

### Obituary.

MR. MICHAEL D'ALTON, Solicitor, died upon the 29th June, 1918, at his residence, 7 Connaught Place, Clonskeagh, County Dublin.

Mr. D'Alton served his apprenticeship with the late Mr. William Roche, 72 Harcourt Street, Dublin; was admitted in Michaelmas Term 1866 and practised formerly at 70 Middle Abbey St., Dublin, and latterly at 9 Eustace St., Dublin.

MR. THOMAS I. MAYNE, Solicitor, died upon the 4th July, 1918.

Mr. Mayne served his apprenticeship with Mr. Francis Mayne, Clogher; was admitted in Hilary Sittings, 1890, and practised at Enniskillen.

MR. WILLIAM GUEST LANE, Solicitor, died upon the 8th July, 1918, at his residence at Currabinny, County Cork.

Mr. Lane served his apprenticeship with the late Mr. James Lane, 26 South Mall, Cork; was admitted in Michaelmas Term 1868, and practised in partnership with Mr. Charles J. Lane (under the style of W. G. Lane & Co.) at 26 South Mall, Cork.

Mr. Lane was President of the Southern Law Association and was an Extra-Ordinary member of the Council of this Society.

MR. JOHN GORE, Solicitor, died upon the 20th July, 1918, at his residence Lissadell, Shrewsbury Road, Dublin.

Mr. Gore served his apprenticeship with Mr. Ignatius J. Rice, and Mr. Christopher Friery, 52 Rutland Square, Dublin; was admitted in Trinity Sittings 1899, and practised (latterly in partnership with Mr. Christopher M. Grimes under the style of Gore and Grimes) at 6 Cavendish Row, Dublin.



**Roll of Honour.**

LIEUTENANT DANIEL O'RORKE, Royal Garrison Artillery, was killed in action on the 20th July, 1918.

Lieutenant O'Rorke was apprenticed on the 10th September, 1914, to Mr. William E. O'Rorke, Solicitor, 14 Donegal Street, Belfast.

LIEUTENANT ALEXANDER M. TURNBULL, Royal Flying Corps, missing since the battle of Arras, on 25th April, 1917, has been officially presumed killed in action.

Lieutenant Turnbull served his apprenticeship with Mr. A. S. Megaw, Solicitor, Belfast, and passed his final Examination in October, 1914. In August, 1914, he volunteered as a Motor Cyclist, and on 22nd October, 1914, went on service in France as Despatch Rider, and served as such for two years. In October, 1916, he received a commission in the Royal Flying Corps.

PRIVATE RICHARD COOKE WALLACE, Irish Guards, has been killed in action.

Private Wallace served his apprenticeship with the late Mr. Francis M. Fitt, Limerick; was admitted a Solicitor in Trinity Sittings 1906, and practised at Limerick.

**County Courts Costs Order.**

*Four Courts, Dublin.*

**THE RULES PUBLICATION ACT, 1893.**

NOTICE is hereby given in accordance with the provisions of the Rules Publication Act, 1893, that the Rule-making Authority prescribed by the County Officers and Courts (Ireland) Act, 1877, proposes to make the Rule set out hereunder, the same to come into operation as a Provisional Rule and to continue in force until Rules shall have been made in accordance with the provisions of the said Rules Publication Act.

And notice is hereby further given, that copies of the said Rules as a draft Rule may be obtained on application to the Office of the Lord Chancellor's Permanent Secretary.

Dated this 8th day of August, 1918.

GERALD HORAN,

Clerk of the Crown and Hanaper and Permanent Secretary to the Lord Chancellor of Ireland.

WHEREAS by "The County Officers and Courts (Ireland) Act, 1877," it was enacted that the Lord Chancellor, with the concurrence of the County Court Judges and Chairmen of Quarter Sessions in Ireland, or any five of them to be selected or nominated as in said Act is provided,

should frame and from time to time amend a scale of fees, costs and charges to be paid to Counsel and Attorneys in suits and proceedings in the Civil Bill Courts, and that such scale or amended scale, certified under the hands of the Lord Chancellor and any five of such Chairmen, should from and after such day as should be fixed thereby be in force in every Civil Bill Court.

AND WHEREAS at a meeting of the said Judges, duly convened for the purpose, the following five of them, namely, His Honour Judge Brereton Barry, K.C., His Honour Judge Todd, K.C., the Recorder of Londonderry His Honour Judge Charles F. Doyle, K.C., His Honour Judge Johnston, K.C., and His Honour Judge Brown, K.C., were selected to frame rules and orders as aforesaid:

NOW I, The Right Honourable Sir James Henry Mussen Campbell, Bart., Lord High Chancellor of Ireland, with the concurrence of the Judges, so selected as aforesaid, and in pursuance of the powers given by the said recited Act, have amended the scale of costs and charges, as shown in the Schedule hereto, as the scale of costs and charges to be paid to Solicitors in such proceedings in the Civil Bill Courts, and I, the said Right Honourable Sir James Henry Mussen Campbell, Bart., Lord High Chancellor of Ireland, with the concurrence of the said Judges, as testified by their signatures hereto, in pursuance of the powers given by the said Act and of all other powers thereunto us enabling, do hereby certify the said further or supplemental scale of costs and charges, and that on account of urgency the said scale shall come into immediate operation, and do make and frame the said scale to come into operation forthwith as Provisional Rules.

Dated this 25th day of July, 1918.

JAMES H. CAMPBELL,

C.

R. BRERETON BARRY.

ANDREW TODD.

CHARLES F. DOYLE.

WILLIAM JOHN JOHNSTON.

W. HERBERT BROWN.

**SCHEDULE.**

1. In all such proceedings under the jurisdiction of the county courts in Ireland as are regulated by Rules made by the Lord Chancellor with the concurrence of the County Court Judges and Chairmen of Quarter Sessions in Ireland, or any five of them, selected as in the County Officers and Courts (Ireland) Act, 1877, is provided, there shall be paid to Solicitors an increase

of twenty-five per cent. to the existing costs and charges (other than for outlay) in respect of business transacted after the date hereof, except in cases of ordinary civil bills (other than title jurisdiction civil bills) where the amount sued for does not exceed £2, such increase to be in force from the date hereof during the continuance of the present war and for a period of six months thereafter.

2. Nothing in the above Rule shall be taken to interfere with or limit any discretion as to costs exercisable by the court under any such Rules of Court.

3. The Rule dated the seventh day of May, 1918, made in pursuance of the County Officers and Courts (Ireland) Act, 1877, is hereby annulled as from the date hereof.

### Local Admiralty Court Costs.

In accordance with a request of the Council that the costs payable to Solicitors for business transacted in the Local Admiralty Courts should be increased by 25 per cent. for the duration of the war, and for six months after, the Lord Chancellor has with the concurrence of the Recorders of Cork and Belfast made the following Rule:—

Whereas, by the seventh section of the Court of Admiralty (Ireland) Amendment Act, 1876, it is enacted that the mode of Procedure in the Courts of the Recorders of the Borough of Cork, and of the Borough of Belfast, in the Admiralty causes, and the scale of costs and charges to be payable in respect of Admiralty business in such Courts, should be regulated and fixed by Rules and Orders to be made by the Lord Chancellor, with the concurrence of the said Recorders or one of them.

Now, I, The Right Honourable Sir James Henry Mussen Campbell, Lord High Chancellor of Ireland, do hereby with the concurrence of both the said Recorders make the Rule following for regulating and fixing the scale of costs and charges, payable in respect of Admiralty business in such Courts, and do hereby certify that on account of urgency the said Rule shall come into immediate operation.

Dated this 5th day of July, 1918.

*James H. Campbell, C.*

*J. Walker Craig, Recorder of Belfast.*

*Matthew J. Bourke, Recorder of Cork.*

Rule 6 (A). There shall be paid to the officers and practitioners an increase of 25 per cent. to the costs and charges in the Schedules I. and III. prescribed to be taken in pursuance of the Rules and Orders dated the 5th day of October, 1877. This increase shall continue to be paid during the continuance of the present War and for six months thereafter.

### Courts (Emergency Powers) Act, 1914

In the Gazette for last month notes appeared of the decisions of the Court of Appeal in Ireland in the cases of Gordon v. Kirk and Hughes v. McDowell, both of which cases related to proceedings under the Courts (Emergency Powers) Act, 1914, for the enforcement of judgments as regards costs.

The Council drew the attention of the Government to the desirability of an Order in Council being made to remedy the inconvenience caused by these decisions.

The following Order of His Majesty the King in Council was made on 2nd August, 1918:—

AT THE COURT IN BUCKINGHAM PALACE,

The 2nd day of August, 1918,

Present—  
THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas it is enacted by subsection (4) of Section two of the Courts (Emergency Powers) Act, 1914, that His Majesty may, by Order in Council, provide that that Act shall have effect subject to such limitations as may be contained in the Order:

And whereas it is expedient that the said Act should have effect subject to such limitation as is hereinafter provided:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. The provisions of paragraph (a) of subsection (1) of Section one of the Courts (Emergency Powers) Act, 1914, shall not apply to any judgment, order, or decree for the payment or recovery of costs only, or for the payment or recovery of costs awarded in any proceedings for the recovery of any sum of money to which the said subsection (1) does not apply.

2. This Order may be cited as the Courts (Emergency Powers) Order, 1918.

ALMERIC FITZROY.

### Land Registry.

The Registrar requests that the attention of members should be drawn to the fact that the postage on communications addressed to the Land Registry should be prepaid.

### Examination Results.

At the Intermediate Examination held upon 1st July, the following passed the Examination, and their names are classed and arranged in order of merit:—

#### Class I.

1. Samuel Love
2. William D. Coyne
3. John V. S. Mills
4. Daniel P. O'Connor
5. Dermot F. Gleeson
6. Rupert H. Giltrap
7. John J. Walsh
8. Christopher E. Callan
9. William G. Wilson; junior
10. Walter F. Hannan
11. Thomas F. Aird
12. William F. Clare
13. John Cusack  
Vincent P. Shields } equal
15. James Morrow

#### Class II.

1. James J. Stack
2. George McDonnell
3. Christopher P. FitzSimon
4. Ronald H. Brown
5. Valentine E. Kirwan
6. Thomas R. T. Callan
7. Francis Gallagher  
Thomas D. McLoughlin } equal
9. Joseph P. Walsh
10. Henry B. Fottrell  
John Hanrick } equal
12. Michael Hogan
13. John Connolly  
Patrick Lison } equal

Thirty-five candidates attended; twenty-nine passed; six were postponed.

### New Solicitors.

The following were admitted during the months March to July, inclusive:—

Binchy, James Anthony. Served Apprenticeship to James Binchy, and Owen Binchy, (both of Charleville, Co. Cork.)

Mockler, William D. Served Apprenticeship to Barry C. Galvin, Cork.

O'Toole, Francis B. Served Apprenticeship to Thomas J. Dowdall, Mullingar.

Quinlan, William F. Served Apprenticeship to John O'Connell, Tralee.

Reilly, James. Served Apprenticeship to Thomas O'K. White and William O'K. White (both of Edenderry.)

Ruttledge, Patrick J. Served Apprenticeship to John J. Sheil, Dublin.

Woodcock, Albert A. Served Apprenticeship to George H. Lyster, Dublin.

Donnelly, Henry G. M. Exempt from apprenticeship under Section 29 of the Solicitors (Ireland) Act, 1898.

### Dates of October Examinations.

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

October 3rd and 4th.—Preliminary. (Notices of intending candidates to be lodged in the Secretary's Office before 17th September).

October 7th.—Intermediate. (Notices of intending candidates to be lodged in the Secretary's Office before 23rd September).

October 8th, 9th and 10th.—Final. (Notices of intending candidates to be lodged in the Secretary's Office before 21st September).

### Michaelmas Sittings Lectures.

Professor McKeever will deliver lectures to the Senior Class upon the subjects of Real Property, Equity, and Conveyancing, on the following dates in Michaelmas Sittings, 1918:—

October 25th and 29th.

November 1st, 5th, 8th, 12th, 15th, 19th, 22nd, 26th and 29th.

December 3rd.

Books recommended to be read by Apprentices attending the lectures:—Williams' "Principles of the Law of Real Property"; Snell's "Principles of Equity"; Davidson's "Concise Precedents in Conveyancing."

Professor White will deliver lectures to the Junior Class upon Common Law on the following dates in Michaelmas Sittings, 1918:—

October 28th and 31st.

November 4th, 7th, 11th, 14th, 18th, 21st, 25th, 28th.

December 2nd and 5th.

Books recommended to be read by Apprentices attending the lectures:—"Anson on Contracts"; "Ringwood on Torts."

The lectures to both classes will be delivered in the Lecture Theatre of the Society, Solicitors' Buildings, Four Courts.

Apprentices desirous of attending either lecture class should give notice to the Secretary before the 18th October.

### NOTICE.

The next issue of THE GAZETTE will be for the month of November.



# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 5.]

November, 1918

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS.

Meetings of the Council	...	...	...	...	...	26
Council Meetings	...	...	...	...	...	26
Committee Meetings	...	...	...	...	...	26
Ballot for Election of Council	...	...	...	...	...	26
General Meeting of the Society	...	...	...	...	...	26
Obituary	...	...	...	...	...	26
Roll of Honour	...	...	...	...	...	27
Military Honours	...	...	...	...	...	27
Legal Appointment	...	...	...	...	...	28
Commissioners to Administer Oaths	...	...	...	...	...	28
New Solicitors	...	...	...	...	...	28
The Local Bankruptcy (Ireland) Act, 1888.—Increase of Remuneration	...	...	...	...	...	28
Results of Examinations	...	...	...	...	...	28
Dates of Examinations	...	...	...	...	...	29

# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 5.]

November, 1918.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*October 2nd.*

#### Control of Lighting.

It was resolved that the President and Secretary should interview the Coal Controller, to point out the difficulties Solicitors would labour under in case of a compulsory order of a stringent character, limiting the lighting hours in their offices, being made.

#### Law Lectures.

It was resolved that the Apprentices' Law Lectures should be delivered from 2 p.m. to 3 p.m. until further order.

*October 30th.*

#### Debating Society.

Permission was granted to the Apprentices' Debating Society to continue to hold their meetings in a room in the Solicitors' Buildings from 7.30 p.m. till 10 p.m. on Wednesday evenings.

#### Election of Council.

A letter was read from Mr. Ignatius J. Rice intimating that he did not, owing to official meetings requiring his attendance, intend to seek re-election on the Council. A resolution was passed expressing the great regret of his colleagues on the Council, and urging his reconsideration of the matter.

#### Examinations.

The report of the Court of Examiners on the October Preliminary and Final Examinations was adopted. The results appear in this GAZETTE.

#### Annual Report.

The draft Annual Report of the Council was considered and adopted.

### Council Meetings.

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

November 13th and 27th.

December 4th and 11th.

### Committee Meetings.

THE following Committee meetings were held during September and October:—

Court of Examiners, Sept. 30th, Oct. 15th, 28th.

Statutory, Oct. 11th and 29th.

Annual Report, Oct. 24th.

House, Library and Finance, Oct. 25th.

### Ballot for Election of Council.

THE ballot for the election of the Council will take place in the Secretary's Office, between the hours of eleven o'clock a.m., and one o'clock p.m.; on Thursday, the 21st day of November, 1918. Ballot papers returned by post should be posted so as to reach the Secretary not later than one o'clock p.m., on Thursday, the 21st November, 1918.

### General Meeting of the Society.

THE Half-yearly General Meeting of the members of the Society will be held in the Hall of the Society, Solicitors' Buildings, Four Courts, on Tuesday, the 26th day of November, 1918, at two o'clock p.m. The report of the outgoing Council will be submitted for adoption.

### Obituary.

MR. JOHN HUNT, Solicitor, died upon the 23rd August, 1918, at South Terrace, Dungarvan.

Mr. Hunt served his apprenticeship with the late Mr. Richard G. Hudson, Dungarvan; was admitted in Hilary Term, 1855, and

practised at Dungarvan up to the year 1911, when he retired.

MR. AUSTIN CULLEN, Solicitor, died upon the 2nd September, 1918, at Bundoran.

Mr. Cullen served his apprenticeship with Mr. Vincent Kennedy, M.P., Cavan; was admitted in Hilary Sittings, 1917, and practised at Cavan.

MR. HENRY B. HUNT, Solicitor, died at Cape Province, South Africa.

Mr. Hunt served his apprenticeship with Mr. Christopher Friery, 52 Rutland Square, Dublin; was admitted in Trinity Sittings, 1896, and practised at 38 Lower Ormond Quay, Dublin, up to the year 1900, when he went to South Africa.

MR. WILLIAM M. BEAUCHAMP, Solicitor, died upon the 17th September, 1918, at his residence, 24 Mallow Street, Limerick.

Mr. Beauchamp served his apprenticeship with the late Mr. John Barrington, Limerick; was admitted in Easter Term, 1869, and practised at Limerick up to 1900, in which year he was appointed Clerk of the Crown and Peace for the County and City of Limerick, which position he occupied up to the time of his death.

MR. HENRY R. BARRY, Solicitor, died upon the 21st September, 1918, at his residence, Ingledene, Kanturk.

Mr. Barry served his apprenticeship with his father the late Mr. Henry Harte Barry, Kanturk; was admitted in Trinity Sittings, 1883, and practised at Kanturk.

MR. ROBERT J. PORTER, Solicitor, died upon the 25th September, 1918, at his residence, Silverdale, Greenisland, Belfast.

Mr. Porter served his apprenticeship with the late Mr. James Andrews, Belfast; was admitted in Hilary Sittings, 1879, and practised at Belfast.

MR. JOHN J. MEAGHER, Solicitor, died upon the 12th October, 1918, at his residence, 2 Lombard Street, Dublin.

Mr. Meagher served his apprenticeship with the late Mr. John J. O'Meara, 205 Great Brunswick Street, Dublin; was admitted in Trinity Sittings, 1913, and practised formerly

at 9 Trinity Street, Dublin, and latterly at 205 Great Brunswick Street, Dublin (under the style of Messrs. John J. O'Meara & Co.)

MR. ROBERT E. SPARKS, Solicitor, died upon the 18th October, 1918, at 1 Widcombe Crescent, Bath.

Mr. Sparks served his apprenticeship with the late Mr. Thomas Sparks, 45 Fleet Street, Dublin; was admitted in Trinity Term, 1869, and practised at Ulster Bank, Belfast, up to the year 1894, when he retired.

MR. PATRICK J. O'RORKE, Solicitor, died upon the 24th October, 1918, at his residence, Oldcastle House, Swinford.

Mr. O'Rorke served his apprenticeship with the late Mr. Michael L. Horan, 12 Dame Street, Dublin; was admitted in Trinity Sittings, 1905, and practised at Kiltimagh.

MR. PHILIP S. McDONNELL, Solicitor, died upon the 26th October, 1918, at Dublin.

Mr. McDonnell served his apprenticeship with Mr. John H. Walsh, 1 Lower Ormond Quay, Dublin; was admitted in Hilary Sittings, 1910, and practised at Galway and Ballygar.

#### Roll of Honour.

LIEUTENANT THOMAS O. J. KAVANAGH, M.C., Royal Irish Fusiliers, was killed in action on the 24th August, 1918.

Lieutenant Kavanagh was apprenticed on the 15th February, 1913, to Mr. John G. Fottrell, 46 Fleet Street, Dublin.

LIEUTENANT W. HOWARD SANDERSON, Royal Irish Regiment, died of wounds, received in action.

Lieutenant Sanderson served his apprenticeship with Mr. Thomas Falls, 62 Upper Sackville Street, Dublin; was admitted in Hilary Sittings, 1910, and practised at 37 St. Stephen's Green, Dublin.

#### Military Honours.

The Military Cross has been awarded to the late LIEUTENANT THOMAS O. J. KAVANAGH, Royal Irish Fusiliers.

Lieutenant Kavanagh was apprenticed on the 15th February, 1913, to Mr. John G. Fottrell, 46 Fleet Street, Dublin.

The Military Cross has been awarded to 2ND LIEUTENANT HUGH GALBRAITH, Royal Dublin Fusiliers.

2nd Lieutenant Galbraith was admitted a Solicitor in Easter Sittings, 1911, and practised at 5 South Frederick Street, Dublin, and Drogheda.

A Bar to the Military Cross has been awarded to CAPTAIN ROBERT WATTS, Army Service Corps (attached Royal Irish Rifles).

Captain Watts was admitted a Solicitor in Trinity Sittings, 1913, and practised at Belfast.

#### Legal Appointment.

SIR FRANCIS E. KEARNEY has been appointed Clerk of the Crown and Peace for the County and City of Limerick, in room of the late Mr. William M. Beauchamp.

#### New Member.

THE following joined the Society during October, 1918:—

Russell McWilliam, Monaghan.

#### Commissioners to Administer Oaths.

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

Richard W. Maxwell, Solicitor, 40 Nth. Gt. George's Street, Dublin.

David A. Quaid, Solicitor, 9 Eustace Street, Dublin.

David McKibbin, Estate Agent, Donaghadee.

#### High Court Hours.

THE present sitting hours of the Courts are from 10.30 a.m. till 3 p.m., unless where a Judge finds it desirable that the hearing of a case should continue to a later hour.

On Saturdays the offices of the High Court are open from 10.30 a.m. till 12 o'clock noon.

#### New Solicitors.

THE following were admitted during August, September, and October, 1918:—

<i>Name</i>	<i>Served Apprenticeship to</i>
Callan, John W. T. ...	John H. Callan, 1 Suffolk Dublin.
Johnson, Richard D. F.	Matthew D. McCoy, 100 George St., Limerick.
O'Reilly, Philip H. I.	Thomas J. Greene, 11 Wellington Quay, Dublin.

#### The Local Bankruptcy (Ireland) Act, 1888.

##### Increase of Remuneration.

By Order of the Lord Lieutenant in Council made under the Local Bankruptcy (Ireland) Act, 1888, dated the 1st day of November, 1918, and published in the *Dublin Gazette* of same date, after reciting the fixing of costs under the Act by rules of 28th December, 1888, it was ordered as follows:—

That the costs payable to Solicitors in proceedings under the said Act, as prescribed by the First Schedule to the said Rules dated the 28th day of December, 1888, shall be increased in respect of business transacted on and after the 7th day of May, 1918, by the addition thereto of an amount equal to twenty-five per cent. of the amount of such prescribed costs, such increase to be in force during the continuance of the present war and for a period of six months thereafter.

##### Results of Examinations.

At the Preliminary Examination, held on 3rd and 4th Oct., the following passed the examination, and their names are arranged in order of merit —

1. Edward Walsh.
2. William St. Clair Rice.
3. Patrick Ryan.
4. Thaddeus O'Sullivan.
5. Martin J. Neilan.
6. Charles J. Downing.

Patrick M. Cullen and John Dorman passed the modified Preliminary Examination, for which they had liberty to present themselves.

Thirteen candidates attended: eight passed; five were postponed.

At the Intermediate Examination, held upon the 7th October, the following passed the examination, and their names are classed and placed in order of merit:—

##### CLASS I.

1. Michael J. Spears.
2. Hutchinson E. Davidson.
3. John B. McCann.
4. Barry M. O'Meara.
5. Augustus Cullen.

##### CLASS II.

Alexander Sutherland.

Ten candidates attended: six passed; four were postponed.



At the Final Examination, held upon the 8th, 9th and 10th October, the following passed the examination, and their names are arranged in order of merit:—

1. John J. Early.
2. John A. O'Connell.
3. William J. Clerke.
4. Harry B. Bell, B.A., T.C.D.
5. Thomas J. Dunne,  
John J. W. Morrin, B.A., N.U.I. } equal
7. Edward Fitzgerald, B.A., N.U.I.
8. John S. Conroy.
9. Patrick T. J. Mulligan.
10. Francis J. Byrne.
11. Gerald Daly, jun.
12. Barry I. Sullivan.
13. Thomas H. O'Donovan.
14. Justin C. McKenna.

The Council awarded a Silver Medal to John J. Early.

Nineteen candidates attended: fourteen passed; five were postponed.

#### Findlater Scholarship.

THE Findlater Scholarship for 1918 has been awarded to Philip H. I. O'Reilly, who served his apprenticeship with Mr. Thomas J. Greene, 11 Wellington Quay, Dublin.

#### Dates of Examinations.

THE following are the dates of the January, 1919, Examinations:—

January 6, 7, 8.—Final Examination (notice to be lodged by intending candidates in the Secretary's Office on or before 16th December).

January 9, 10.—Preliminary Examination (notice to be lodged by intending candidates in the Secretary's Office on or before 17th December).

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## Calendar of the Incorporated Law Society, 1918.

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THE Calendar and Law Directory, published by the Society for 1918, can be obtained in the Secretary's Office, price 3s., or by post 3s. 6d.

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ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin. Advertisements should be sent to Hely's Ltd., 28 Dame Street, Dublin.

CHAPTER I  
THE EARLY HISTORY OF THE UNITED STATES

### CHAPTER II THE FOUNDING OF THE NATION

The American Revolution was a struggle for independence from British rule. It was fought between 1775 and 1783.

The Constitution of the United States was adopted in 1787. It established a federal government with three branches: the executive, the legislative, and the judicial.

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 6.]

December, 1918.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS.

	PAGE
Half-yearly General Meeting ... ..	33
Meetings of the Council ... ..	35
Council Meetings ... ..	36
Obituary ... ..	36
Roll of Honour ... ..	37
Commissioners to Administer Oaths ... ..	37
Demobilisation ... ..	37
Legal Decisions affecting Solicitors ... ..	37
High Court Sittings, 1919 ... ..	38
Hilary Sittings Lectures, 1919 ... ..	38

# THE INCORPORATED LAW SOCIETY OF IRELAND.

## COUNCIL AND OFFICERS FOR YEAR ENDING 26TH NOVEMBER, 1919.

### *President :*

ROBERT G. WARREN.

### *Vice-Presidents*

WILLIAM T. SHERIDAN.

JOHN H. CALLAN.

### *Ordinary Members :*

PATRICK J. BRADY.	JAMES MOORE.	EDWIN N. EDWARDS.
WILLIAM J. SHANNON.	EDWARD H. BURNE.	ALEXANDER D. ORR.
JOHN W. RICHARDS.	ARTHUR H. S. ORPEN.	PETER SEALES.
WILLIAM S. HAYES.	JOHN H. WALSH.	WILLIAM T. SHERIDAN.
WILLIAM V. SEDDALL.	R. BLAIR WHITE.	JOHN H. CALLAN.
CHARLES ST. G. ORPEN.	CHARLES G. GAMBLE.	PATRICK ROONEY.
ARTHUR E. BRADLEY.	BASIL THOMPSON.	THOMAS F. MONKS.
JAMES HENRY.	HENRY SHANNON.	LOUIS C. P. SMITH.
JOSEPH E. MACDERMOTT.	MICHAEL L. HEARN.	JOSEPH W. DYAS.
THOMAS G. QUIRKE.	W. HOUGHTON FRY.	ARTHUR W. STIRLING.
ROBERT G. WARREN.		

### *Provincial Delegates :*

*Ulster*—THOMAS M. GREER.

*Leinster*—MICHAEL BUGGY.

*Munster*—THOMAS H. KENNY.

*Connaught*—HENRY J. CONCANON

### *Extra-Ordinary Members :*

#### *Northern Law Society.*

MARTIN H. TURNBULL.  
JOSEPH ALLEN.  
JOHN D. COATES.  
JOHN B. MCCUTCHEON.  
GEORGE H. QUARRY.

#### *Southern Law Association.*

WALTER THORNHILL.  
WILLIAM H. CORKER.  
BARRY C. GALVIN.  
CHARLES JERMYN.  
ARTHUR JULIAN.

### *Treasurers :*

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND.

### *Secretary :*

WILLIAM GEORGE WAKELY.

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### Half-yearly General Meeting.

THE Half-yearly General Meeting of the Society was held in the Solicitors' Buildings, Four Courts, on Tuesday, November 26th. The chair was occupied by Mr. William V. Seddall, President of the Society. The following members were present:—

Sir A. F. Baker, Sir W. Fry, A. E. Bradley, P. J. Brady, E. H. Burne, J. H. Callan, J. W. Dyas, E. N. Edwards, W. H. Fry, C. G. Gamble, W. S. Hayes, James Henry, J. E. MacDermott, C. St. G. Orpen, A. D. Orr, T. G. Quirke, J. W. Richards, Patrick Rooney, Peter Seales, W. J. Shannon, W. T. Sheridan, A. W. Stirling, Basil Thompson, J. H. Walsh, R. G. Warren, R. B. White, D. B. Dunne, H. D. Draper, W. J. Brett, D. A. Quaid, H. C. Neilson, W. J. M. Coulter, J. V. Fahy, Sir Wm. Fry, F. S. de V. White, Q. W. Kennedy, Samuel Kerr, Edward Condell, C. Corcoran, S. M. Bell, J. W. Davis, J. K. Woods, R. W. MacNeice, H. Malley, Daniel O'Grady, C. J. Law, G. A. G. Byrne, R. N. Keller, B. M. O'Grady, G. H. Parkes, J. R. Peart, F. E. Birmingham, Plunkett Kenney, Sir A. F. Baker, R. C. Joy, C. J. Rutherford, L. F. Kenny, Elliott McNeill, B. R. W. Doran, J. G. Lidwell, A. Woodcock, C. H. Hardman, O. E. Barber, M. Dawson, G. E. White, C. G. Thompson, W. O'Reilly, W. M. Reid.

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

The Secretary read the report of the Scrutineers of the ballot for election of Council for year ending 26th November, 1919, which stated that the following had been returned

unopposed as Provincial Delegates:—Thomas M. Greer, for Ulster; Thomas H. Kenny, for Munster; Michael Buggy, for Leinster; and Henry J. Concanon, for Connaught; and that the following, having received the number of votes placed after their names, had been elected as the thirty-one Ordinary Members of the Council:—Patrick J. Brady, 273; W. J. Shannon, 256; J. W. Richards' 256; W. S. Hayes, 252; W. V. Seddall, 249; C. St. G. Orpen, 244; A. E. Bradley, 239; J. Henry, 238; J. E. MacDermott, 237; T. G. Quirke, 235; R. G. Warren, 235; James Moore, 227; E. H. Burne, 226; A. H. S. Orpen, 225; J. H. Walsh, 220; R. B. White, 217; C. Gamble, 208; B. Thompson, 202; H. Shannon, 201; M. Hearn, 199; W. H. Fry, 197; E. N. Edwards, 190; A. D. Orr, 171; P. Seales, 168; W. T. Sheridan, 167; J. H. Callan, 163; P. Rooney, 161; T. F. Monks, 143; L. C. P. Smith, 134; J. W. Dyas, 132; A. W. Stirling, 130; and the following to form a supplemental list to fill vacancies:—R. N. Keller, 126; P. J. Meehan, 121, and J. G. Oulton, 86.

THE PRESIDENT, moving the adoption of the Report of the Council, referred to the shadow of war which hung over the country at the period of the previous meeting of the Society.

Thank God that cloud had rolled away, and they met that day under the bright sunshine of a victorious peace. They had reason to rejoice in the victory of our Empire and our Allies, and it must be no small gratification to them all as Irishmen that one of those who were among the most honoured heroes of the war, the man who commanded the "contemptible," but glorious, British Army, who, with a handful of British and

Irish soldiers, defeated the flower of the German Army, the most powerful and fully-equipped army that ever took the field, at the ever-memorable battle of Mons, and thus averted the greatest disaster in history, was an Irishman, Lord French of Ypres, the present Lord Lieutenant of Ireland; and Admiral Beatty, the Commander of the High Seas Fleet which saved the Empire was also an Irishman. It also was a source of gratification to them all as Solicitors that the Prime Minister, the head of the civil Government which was responsible for the conduct of the war, and who was, consequently, entitled to no small share in the glory of the victory of the Allies, although not an Irishman, was a member of their profession. Their joy in this great victory must be tempered with sorrow when they thought of those gallant sons of our country, our Empire, and our Allies, who had fallen in the war, sacrificing their lives, gloriously, no doubt, but leaving behind millions of broken-hearted parents, wives, and lovers. In the Annual Report it was stated that a very large number of solicitors and apprentices, regardless of their own welfare, joined the Colours, and, at considerable sacrifice, gallantly took their part in the war.

He was sure they would agree with him that those members of the profession who had joined the Army or Navy would have a hearty reception on their return, and that the members of the Society would endorse the action of the Council in giving to those apprentices who had risked their lives every facility to enable them to become honourable and honoured members of the profession. Steps should be taken to perpetuate in a suitable manner the memory of those members of their profession and apprentices who had laid down their lives for their King and country. He commended this to the consideration of the incoming Council. He regretted to say that during the year eight solicitors and apprentices who had joined the Army sacrificed their lives. They were all proud of the seven members of their profession, and apprentices, who had gained distinctions for gallantry during the year.

At their last meeting he had the pleasure of referring to the distinction gained by Mr. James O'Connor, formerly a Solicitor, who subsequently became a member of the Bar, and was elevated to the Judicial Bench.

Since then Mr. Justice O'Connor has received the further distinction of being promoted to the high position of Lord Justice of Appeal. He felt sure they would all wish to join with him in congratulating their former colleague upon having attained the high judicial position which he now adorned.

Under the recent Representation of the People Act the duties formerly performed by revising barristers have devolved upon the Clerks of the Crown and Peace, all of whom were Solicitors before they received their appointments. He had some personal experience in the conduct of the Revision Courts, and he could say without hesitation that the Clerks of the Crown and Peace, at the revision which took place this year, discharged their highly important judicial duties in a manner which entitled them to the greatest credit and the thanks of the profession and the public.

He thought that all of them would admit that the Council had justified the trust placed in them during the year to forward the interests of the profession. One of the first acts of the Council was to secure the appointment of a third Taxing Master, thus remedying a grievance which had become acute. They also succeeded, with the full concurrence of the Lord Chancellor and the Judges, in having Solicitors' costs increased, generally speaking, by 25 per cent. for the period of the war, and for six months after, in order to compensate Solicitors for the enormously increased establishment expenses which they had to pay owing to war conditions. This increased scale of costs would be payable for six months after the date which was hereafter to be fixed as the actual termination of the war. The Council had during the year sought to encourage closer association between the Council and the Sessional Bar Associations, and he trusted that this movement might result in an advantage to the profession, and particularly to those members who practised in the country. They would all join with him in expressing deep regret at the death of Mr. William Guest Lane, who was for many years one of the Southern Law Association representatives on the Council, and President of that Association; and of Mr. John L. McDonnell, who was for some time a representative of the Northern Law Society on the Council.

The number of members of the Society has increased by four, as compared with last year, which in one sense might be considered satisfactory. Speaking for himself, however, he thought it a matter of deep regret that the membership of the Society was so limited as it was. For all practical purposes, Solicitors derived the benefit of the work of the Society equally whether they belonged to it or not, and having regard to the very moderate subscription payable, it seemed strange to him that so many Solicitors refrained from joining. In conclusion, he expressed hearty thanks to his colleagues on the Council for the loyal support they had given to him during his year of office as President, and for the good work which they had done in the interest of the profession.

MR. BASIL THOMPSON, Vice-President, seconded the motion for the adoption of the Report.

SIR WILLIAM FRY congratulated the Society upon the *personnel* of the Council. The interests of the profession, he said, were never served better than during the past twelve months. The manner in which the affairs of the Society were carried on reflected the highest credit on the Council. It was a proud thing for Mr. Seddall that he was President in the year of victory. He raised his hat to the comrades who had fallen in the conflict, and he felt sure that the members of the Society also were gladdened by the knowledge that so many members of the profession had been rewarded with war distinctions. He should be happy to subscribe to a perpetual memento—and he hoped whatever form it would take that it would be worthy of the profession—to be put up in the Hall, so that future generations of Irish Solicitors may read the names of those who had fought in the great war. He thought they should call upon all the Solicitors in Ireland to join the Society.

MR. J. K. WOODS stated that he had been requested by Mr. J. D. O'Connell, a Solicitor in Tralee, to bring before the meeting the matter of the treatment received by Mr. O'Connell from the military authorities while he was engaged in defending a prisoner, of which treatment he had complained to the Council, and had requested them to inquire into the charges made by him against the military authorities; and the Council had not

dealt with the matter with that firmness he would expect from them.

MR. QUAID said that these little conflicts which sometimes occurred between over-zealous advocates and the Bench only reflected the infirmity of human nature. Mr. Woods, in bringing forward this complaint, scarcely realised his responsibilities to the profession or to the Society. He was afraid it was an attempt to introduce politics.

THE PRESIDENT said that the matter was discussed at four separate meetings of the Council, fully and sympathetically, from the point of view of the interests of the profession, and from no other, and the Council came to the conclusion that it was impossible for them to enter upon an inquiry as to facts without having any means of ascertaining what the facts were. The Council decided that they could not proceed any further, and they had so informed Mr. O'Connell.

The Report was adopted.

MR. BASIL THOMPSON was moved to the chair, and

SIR WILLIAM FRY, in moving a vote of thanks to Mr. Seddall for his services as President, said that the profession was proud of the way in which he had "steered the barque" during the past twelve months.

MR. CONDELL seconded the motion, and it was passed with acclamation.

THE PRESIDENT acknowledged the compliment, and this ended the business of the meeting.

### Meetings of the Council.

November 13th.

#### The Armistice.

It was resolved to express the congratulations of the Council to the Prime Minister on the termination of hostilities, brought about by the success of the armies of the Allies.

November 27th.

#### Extra-ordinary Members.

A letter was read from the Northern Law Society submitting the names of the following members of that Society to be Extra-ordinary Members of the Council:—Mr. Martin H. Turnbull (President); Mr. Joseph Allen, Mr. J. D. Coates, Mr. G. H. Quarry, and Mr. J. B. McCutcheon.

A letter was read from the Southern Law Association submitting the names of the following members of that Association to be Extra-ordinary Members of the Council:— Mr. Walter Thornhill (President), Mr. W. H. Córker, Mr. B. C. Galvin, Mr. C. Jermyn, and Mr. A. Julian.

The ten members nominated were declared duly elected.

#### Apprentices' Debating Society.

The list of subjects for debates during the 1918-19 Session submitted by the Debating Society was approved. The Council permitted the meetings to be held on Wednesday evenings in the Solicitors' Buildings.

#### Apportionment of Land Purchase Annuities.

The attention of the Council was directed by a Provincial Delegate to the inconvenience caused amongst country practitioners by delays in the issue of Land Commission apportionment orders, and it was resolved that a letter be addressed to the Irish Land Commission on the subject.

#### Applications by Law Clerks.

Reports from the Court of Examiners were submitted upon two applications by law clerks for leave to be bound as apprentices to Solicitors, under Section 16. The Council granted one of the applications and refused the other.

#### Council Meetings.

Meetings of the Council are fixed to be held upon the following dates:—

January 15th and 29th.

February 12th and 26th.

#### The President.

Mr. ROBERT G. WARREN, who was elected President of the Society upon 4th December, was admitted to the profession in the year 1889. He is a Graduate of Dublin University, has been a member of the Council since the year 1908, taking an active part in its work,

and holds the appointment of Crown Solicitor for County Wicklow. He practises under the style of Messrs. Lambert & Warren, at 9 Eustace Street, Dublin.

The newly elected President has for many years enjoyed considerable public popularity through the prominent part taken by him in advancing the Rugby game of football in Ireland. He was Captain of the first Irish Team to beat England in 1887, and played for Ireland continuously between the years 1885-1890, and he still acts as Secretary of the International Rugby Union Board for Great Britain and Ireland.

#### Obituary.

MR. MARTIN T. BREENE, Solicitor, died upon the 2nd November, 1918, at Dublin.

Mr. Breene served his apprenticeship with Mr. Henry D. Keane, Waterford; was admitted in Hilary Sittings, 1917, and practised at Waterford.

MR. THOMAS A. McLERNON, Solicitor, died upon the 4th November, 1918, at Belfast.

Mr. McLernon served his apprenticeship with Mr. James Brown, Magherafelt; was admitted in Hilary Sittings, 1896, and practised at Belfast.

MR. JAMES DOWLING, Solicitor, died upon the 5th November, 1918, at his residence, Kildare.

Mr. Dowling served his apprenticeship with Mr. Edward F. McHugh, 50 Lower Sackville Street, Dublin; was admitted in Hilary Sittings, 1905, and practised at Kildare.

MR. CYRIL CLARE MCC. STRONGE, Solicitor, died upon the 9th November, 1918, at Londonderry.

Mr. Stronge served his apprenticeship with Mr. John R. Moorhead, Belfast; was admitted in Hilary Sittings, 1906, and practised at Ballyshannon up to 1908, in which year he was appointed Lecturer in Modern Languages at the McCrea Magee College, Londonderry.



MR. JOHN J. HANRATTY, Solicitor, died upon the 9th November, 1918, at Dublin Road, Newry.

Mr. Hanratty served his apprenticeship with his brother, Mr. Simon E. Hanratty, Newry; was admitted in Trinity Sittings, 1915, and practised at Newry.

#### Roll of Honour.

LIEUT. LOUIS BARRON, Border Regiment, was killed in action in July, 1916, at the Somme.

Lieutenant Barron served his apprenticeship with Mr. H. C. Geoghegan, 122 Stephen's Green, Dublin, and Mr. John A. Carlyle, 2 Molesworth Street, Dublin; was admitted in Hilary Sittings, 1910, and practised at 33 Wicklow Street, Dublin.

#### Commissioners to Administer Oaths.

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

John F. Smyth, Solicitor, Castleblayney.

George Berrill, Law Clerk, Drogheda.

Philip Brady, Clerk of Petty Sessions, Bailieborough.

Patrick J. Brannigan, Law Clerk, Drogheda.

#### Demobilisation.

##### Solicitors Serving in His Majesty's Forces.

THE Council have been in communication with the Ministry of Labour (Appointments Department) in reference to release from duty of Irish Solicitors at present serving in His Majesty's Forces, who may for urgent reasons desire immediate discharge.

The War Office is receiving numerous requests from professional men and others for release, and the reply is that demobilisation has not yet begun, and that release cannot at present be granted except, as heretofore, on compassionate grounds.

When demobilisation begins, the first to be released will be persons holding Government appointments, those required for the re-starting of industries of national importance, and those for whom definite employment is assured.

In reference to the release of apprentices to Solicitors, for the purpose of continuing their studies, it has been decided, that students, such as apprentices to Solicitors, who desire to continue or to enter upon courses of study under recognised authorities, shall, for this purpose, be regarded as persons having definite employment awaiting them.

Returns have been furnished by the Secretary of the Incorporated Law Society of Ireland to the Director, Ministry of Labour, Appointments Department, 45 Molesworth Street, Dublin, in reference to all apprentices of Irish Solicitors at present serving in His Majesty's Forces, so as to secure that applications by apprentices for release on demobilisation will be expeditiously dealt with.

Forms are now being circulated throughout the armies, which every officer and man will complete, and such forms, when verified, will settle the claimant's priority on demobilisation.

#### Legal Decisions affecting Solicitors.

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

##### KING'S BENCH DIVISION (ENGLAND).

(Before McCardie, J., without a jury.)

EDGELOW v. McELWEE.

*Moneylending—Solicitor lending money—Money-lenders Act, 1900.*

The plaintiff, a Solicitor, brought this action to recover a sum of £80 as money due on a cheque given by defendant for money lent. The defendant repudiated liability on the ground that the plaintiff was an un-registered money-lender.

McCardie, J., in giving judgment for the defendant, in the course of his judgment, said:—This action raises points of general interest under the Money-lenders Act, 1900. The question at issue is important. The defendant contends that the plaintiff combined the business of an unregistered money-lender with the practice of his profession as a Solicitor, and that the latter vocation has cloaked an illegal trade. . . .

The Act of 1900 was a severe but beneficial measure. Its object must always be remembered. On the one hand, a legitimate business must not be checked if the lending of money is reasonably and *bona fide* incidental to its successful prosecution. On the other hand, the law must not permit an apparently legitimate business to be made the mere cloak and pretext for the unlawful trade of an unregistered money-lender. . . . It is well recognised that a solicitor may properly and frequently does advance money to third persons. But such advances should be so made as to satisfy the Court (a) that the moneys are lent for the primary purpose of maintaining or increasing his professional business and the resultant professional fees, and (b) that the circumstances preclude the inference that his function is that of a money-lender who conceals his trade under the guise of professional legal activity. If the Court comes to the conclusion that the solicitor carries on the actual business of a money-lender as well as the vocation of a solicitor, then his professional calling will not free him from the requirement of registration under the Act of 1900. A man may follow concurrent callings. If one of such callings be the trade of a money-lender, then the Act must be complied with. . . . After a careful consideration of the whole evidence, I am satisfied that at all material times the plaintiff was a money-lender, that his business as a money-lender was carried on apart from any *bona fide* motive or object of professional fees or legal practice, and that his vocation as a solicitor,

so far as he carried it on, was used as a mere disguise in order to give a colourable professional appearance to the course of ordinary money-lending transactions which he combined with his practice.

(Reported (1918) 1 K.B. 205; 118 L.T.R., 177.)

#### High Court Sittings, 1919.

THE following are the dates of the High Court Sittings during 1919:—

- Hilary—commence 11th January, terminate 10th April.
- Easter—commence 24th April, terminate 28th May.
- Trinity—commence 11th June, terminate 31st July.
- Michaelmas—commence 25th October, terminate 21st December.

#### Hilary Sittings Lectures, 1919.

THE following are the dates upon which lectures will be delivered to the Junior Class during Hilary Sittings, from 2 to 3 o'clock, p.m.:—

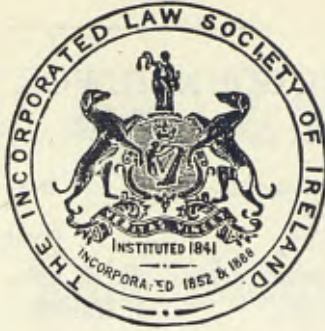
- January 13, 16, 20, 23, 27, 30.
- February 3, 6, 10, 13, 17, 20.

The following are the dates upon which lectures will be delivered to the Senior Class during Hilary Sittings, from 2 to 3 o'clock, p.m.:—

- January 14, 17, 21, 24, 28, 31.
- February 4, 7, 11, 14, 18, 21.

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ALL communications connected with THE GAZETTE (other than advertisements) should be addressed to the Secretary of the Society, Solicitors' Buildings, Four Courts, Dublin. Advertisements should be sent to Hely's Ltd., 28 Dame Street, Dublin.



# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 7.]

January, 1919

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS.

	PAGE
Meetings of the Council	41
Council Meetings	42
Military Honours	42
Civil Honours	42
Commissioners to Administer Oaths	42
New Members	43
New Solicitors	43
Demobilization	43
Recent Legal Decisions	43

# THE INCORPORATED LAW SOCIETY OF IRELAND.

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## COMMITTEES OF THE COUNCIL FOR THE YEAR ENDING 26TH NOVEMBER, 1919.

<i>No. 1. House, Library, and Finance.</i>	<i>No. 2. Parliamentary.</i>	<i>No. 3. Costs.</i>	<i>No. 4. Court and Offices</i>
E. N. EDWARDS.	P. J. BRADY.	J. W. DYAS.	E. H. BURNE.
C. G. GAMBLE.	W. S. HAYES.	W. H. FRY.	T. F. MONKS.
JAMES MOORE.	M. L. HEARN.	J. HENRY.	A. H. S. ORPEN.
BASIL THOMPSON.	W. J. SHANNON.	JAMES MOORE.	A. D. ORR.
J. H. WALSH.	A. W. STIRLING.	P. ROONEY.	PETER SEALES.
<i>No. 5. Gazette.</i>	<i>No. 6. County Courts.</i>	<i>No. 7. Land Acts.</i>	<i>No. 8. Privileges.</i>
E. N. EDWARDS.	THE EXTRA-ORDINARY	W. H. FRY.	P. J. BRADY.
C. G. GAMBLE.	MEMBERS.	C. G. GAMBLE.	W. S. HAYES.
J. E. MACDERMOTT.	THE PROVINCIAL	C. S. G. ORPEN.	C. ST. G. ORPEN.
T. G. QUIRKE.	DELEGATÉS.	A. D. ORR.	J. W. RICHARDS.
R. BLAIR WHITE.	A. E. BRADLEY.	J. W. RICHARDS.	J. H. WALSH.
	E. H. BURNE.		
	H. SHANNON.		
	L. C. P. SMITH.		
	R. BLAIR WHITE.		

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

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## COURT OF EXAMINERS FOR 1919.

### *President :*

ROBERT G. WARREN.

### *Vice-Presidents :*

W. T. SHERIDAN.	JOHN H. CALLAN.
E. H. BURNE.	T. G. QUIRKE.
H. J. CONCANON.	L. C. P. SMITH.
J. W. DYAS.	A. W. STERLING.
W. H. FRY.	M. H. TURNBULL.

### *Special Examiners :*

C. H. DENROCHE, B.A., LL.D., R.U.I.      F. V. GORDON, B.A., Ex-Scholar (T.C.D.)

### *Professors :*

FRANCIS G. MCKEEVER (SEN. MOD.), B.A., T.C.D.  
FREDERICK S. D. DE V. WHITE (SEN. MOD.), B.A., LL.D., T.C.D.

### *Secretary :*

WM. GEO. WAKELY.

# THE GAZETTE

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Vol. XII, No. 7.]

January, 1919.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council

*December 4th.*

Twenty-seven members were present.

### Election of President and Vice-Presidents

The Council elected Mr. Robert G. Warren to the office of President of the Society, and Mr. William T. Sheridan and Mr. John H. Callan to the office of Vice-Presidents of the Society for the year ending 26th November, 1919.

### Increment Value Duty

A letter was read from a country member, stating that when applying upon behalf of a lessor, who is resident out of Ireland, to have the I. V. D. stamp affixed, he had been requested to give an undertaking on behalf of the lessor for payment of the Duty. A reply was directed drawing the member's attention to Sec. 4 (3) (b) of the Finance (1909-10) Act, 1910, under which the Commissioners can require security to be given, but the Council intimated that the Solicitor cannot be compelled to personally give such security.

### Colonial Solicitors Act, 1900

In reply to a letter from the Secretary of State for the Colonies, it was resolved to state that the Council agree to the suggested revocation of the existing Orders applying the Colonial Solicitors Act to the Cape of Good Hope, Natal and the Transvaal, and to the issue of a new Order applying the Act to the entire Union of South Africa, the laws of which Colony permit the admission of Irish Solicitors without examination.

### Publication of Statutes

In reply to a letter from Sir Courtenay Ilbert, the Chairman of the Statute Law Committee, it was resolved to state that in the opinion of the Council it would be desirable, instead of issuing the volume of Statutes for each Session, to issue an annual volume for each calendar year irrespective of the length of the Parliamentary Session, and that it would be also desirable to number the Statutes by reference to the year in which they are passed.

*December 11th.*

Twenty-four members were present.

### War Memorial

The Council resolved that it be referred to the Privileges Committee to consider and report to the Council upon the matter of a Memorial to perpetuate the memory of those Irish Solicitors and Apprentices to Irish Solicitors who lost their lives in Naval or Military Service during the War.

### Debt Collecting Circular

A letter was read from a country member, enclosing a printed form of letter received by a client from a firm of Debt Collectors demanding payment of a debt and a sum for expenses. There was not in the letter any expression used which would convey the impression that it was issued by a firm of Solicitors, and the Council having been advised by Counsel, in reference to the issue of letters couched in similar terms on previous occasions, that the senders had not rendered themselves liable to penalties under Section 53 of the Solicitors (Ireland) Act, 1898, it was decided in this case to inform the member

that, for the reasons mentioned, the Council were not in a position to institute proceedings.

### Statutory Committee

A letter was read from the Lord Chancellor's Secretary intimating that His Lordship had appointed the following members of the Council to be the Statutory Committee for the year ending 26th November, 1919:—Mr. Warren, Mr. Bradley, Mr. Henry, Mr. C. St. G. Orpen, Mr. Richards, Mr. Seddall, and Mr. MacDermott.

### Council of Law Reporting

The Council appointed Mr. James Henry to be a representative of the Council on the Council of Law Reporting, in succession to Sir A. F. Baker, who has retired from the Council.

### Council Meetings

MEETINGS of the Council are fixed to be held on the following dates:—

January 29th.  
February 12th and 26th.

### Solicitors Annual Certificates

MEMBERS are reminded that Annual Certificates for the year ending 5th January, 1920, should be taken out and the duties paid thereon before the 6th February, 1919.

### Military Honours

MR. NORRIS GODDARD, Solicitor (Lieutenant, R.N.V.R.), 1 Upper Mount Street, Dublin, has been appointed an Officer of the Order of the British Empire (Military Division), in recognition of services rendered by him during the war.

MAJOR JOHN D. M. MCCALLUM, D.S.O., Royal Irish Rifles, has been awarded the Croix de Guerre.

Major McCallum was admitted a Solicitor in Hilary Sittings, 1910, and practised at Belfast.

### Civil Honours

MR. GEORGE FOTTRELL, Clerk of the Crown and Peace for the County and City of Dublin, has been appointed a Knight Commander of the Bath.

Sir George Fottrell was admitted a Solicitor in Easter Sittings, 1871, and practised at 46 Fleet Street, Dublin. He was a member of the Council from 1884 till 1895, and a Vice-President in 1893-94. He was appointed Clerk of the Crown and Peace for the County of Dublin in 1895, and in 1899 he was appointed to the combined offices of Clerk of the Crown and Peace for the City and County of Dublin.

MR. R. DAWSON BATES, Solicitor, 2 Arthur Street, Belfast, has been appointed an Officer of the Order of the British Empire.

MR. ARTHUR W. WINDER, Solicitor, 17 South Mall, Cork, has been appointed a Member of the Order of the British Empire.

MR. WILLIAM CHEVERS ROCHE, Solicitor, 20 St. Stephen's Green, Dublin, has been awarded the Medal of the Most Excellent Order of the British Empire. "During a period in which he acted as an ambulance driver he incurred much personal danger, and was unflinching in carrying out his arduous duties."

### Notary Public

THE Lord Chancellor has appointed the following to be a Notary Public:—

Charles J. Lane, Solicitor, Cork.

### Commissioners to Administer Oaths

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

Herbert J. W. Downey, Solicitor, 118 Grafton Street, Dublin.

Edward Felton, Solicitor, 18 Eústace Street, Dublin.

Sydney Mathews, Solicitor, 12 Trinity Street, Dublin.

Samuel G. Rutherford, Solicitor, 25 Bachelor's Walk, Dublin.

Francis E. Tydd, Solicitor, Clonmel.

John A. J. Brooks, Clerk of Petty Sessions, Killarney.

John McKillen, Clerk of Petty Sessions, Cushendall.

Henry Nelson, Clerk of Petty Sessions, Edenderry.

William J. Smyth, Bank Manager, Edenderry.

John Stratton, Law Clerk, Clones.

**New Members.**

THE following have joined the Society since October, 1918:—

- Terence Byrne, Maryborough.
- John W. Callan, Dundalk.
- Arthur S. Coulter, Dundalk.
- Patrick J. Kennedy, Carrickmacross.
- Philip H. I. O'Reilly, 3 Upper Sackville Street, Dublin.

**New Solicitors**

THE following were admitted during November and December, 1918:—

<i>Name</i>	<i>Served Apprenticeship to</i>
Bell, Harry Bruce. ... B.A., T.C.D.	John W. Bell, Downpatrick
Clerke, William J. ...	Patrick O'Leary, Bantry
Conroy, John Stephen	George Nicolls and George Lynch, Galway
FitzGerald, Edward, B.A., N.U.I.	James Rogers, Tullamore
Morrin, John Joseph Wilfrid	John J. McDonald, Dublin
Mulligan, Patrick T. J.	Christopher Friery, Dublin
O'Connell, John Aloysius	H. McNeile McCormick, Sligo
O'Connor, James G., B.A., N.U.I.	Henry F. Brenan, Tulla- more
Porter, Robert Kerr ...	Robert J. Porter, Belfast
Sullivan, Barry I. ...	James Nunan, Mallow
Wilson, John Bernard Maxwell	Arthur E. Bradley, Dublin

**Demobilization**

“ONE MAN BUSINESSES.”

THOSE members of the profession at present engaged in either Naval or Military Service who, previous to joining such service, were carrying on their profession alone, and not in partnership with, or in the employment of, any other Solicitor, and who now desire immediate release in order to resume carrying on their business, should communicate with the Secretary of the Society.

**Recent Legal Decisions**

*Mortmain—Bequest to the College of Surgeons—Question of Charitable Gift.*

An interesting and instructive case on the Law of Mortmain and Charity came before the Court of Appeal recently in *Miley v. Attorney-General* (reported (1918) 1 I.R., 455). A Testatrix by her Will bequeathed a sum

of £500 to the Royal College of Surgeons in Ireland. She died a few days after making the Will. Her property consisted of real estate valued at about £5,800, and personal estate valued at £417. The Law of Mortmain in Ireland, which is essentially different from the Statutes on the same subject in England, is substantially contained in the 16th Section of the Charitable Donations and Bequests Act, 1844 (7 & 8 Vict., c. 97), which enacts that “No donation, devise or bequest for pious or charitable uses in Ireland shall be valid to create or convey any estate in lands, tenements or hereditaments for such uses, unless the deed, will, or other instrument containing the same shall be duly executed three calendar months at least before the death of the person executing the same, and unless every such deed or instrument, not being a will, shall be duly registered in the Office for registering deeds in the City of Dublin within three calendar months after the execution thereof.” If, therefore, the gift to the College of Surgeons was to be regarded as a charity, the legacy was practically lost. There is no clear-cut definition in law of a charity, but a number of charitable uses are set out in an English Statute, 43 Eliz., c. 4, which has its counterpart in the Irish Statute, 10 Chas. I., sen. 3, c. 1. In a judgment which may be regarded as a classic on the subject (*Commissioners of Income Tax v. Pemsel*, 1891, A.C. 531), Lord Macnaghten reduces legal charitable uses to four principal divisions:—(1) Relief of poverty; (2) Advancement of education; (3) Advancement of religion; (4) Trusts for other purposes beneficial to the community, not falling under any of the preceding heads. On the evidence before it, the Court of Appeal found that the College of Surgeons under its Charter existed for a two-fold object:—(a) For the advancement of education in its specialised form of the science of surgery; and (b) for the discipline and general interests of its members; and accordingly that the bequest was not of a charitable nature within the meaning of the Statute, and that the bequest was, therefore, payable out of the general estate of the Testatrix. The Court indicated that the bequest might have been impressed as a charity if it had been given to the College for the exclusive purpose of advancement of education.

*Banking Law.*

Two important and generally interesting cases in Banking Law are reported in the current number of the House of Lords Reports.

In the *London Joint Stock Bank, Ltd. v. Macmillan*, 1918, A.C. 777, the facts were simple. A firm who were customers of the Bank entrusted to a confidential clerk the duty of filling up their cheques for signature. The Clerk filled up a cheque for petty expenses of the office payable to bearer; the space in which the amount of the cheque is usually written in words was left completely blank, and in the space allotted for the figures the number "2" was written at such a distance from the symbol "£" that it was possible to insert figures both before and after the figure "2." A member of the firm signed the cheque in that condition, and the clerk having written in the words One Hundred and Twenty Pounds and altered the figures to £120, cashed the cheque for that amount. It was admitted that when the cheque was presented for payment there was nothing on the face of the cheque or otherwise to induce any suspicion that the cheque had been tampered with. The Bank brought an action claiming a declaration that they were entitled to debit the firm with the full amount of the cheque, and judgment was given for the defendants on the ground that they had not been negligent in signing the cheque, and if there was negligence it was not the proximate cause of the loss. The Court of Appeal in England unanimously affirmed the judgment. On Appeal to the House of Lords, the judgment was reversed, and the old case of *Young v. Grote* (1827), 4 Bing. 253, on the same point was approved.

The principle established by the decision is that a customer of a bank in drawing a cheque must take reasonable and ordinary precautions against forgery. The judgments contain a valuable exposition of the law in the relations of banker and customer.

Another case of interest in Banking Law is *Banbury v. Bank of Montreal*, reported 1918, A.C. 626. The judgments of the Lords deal exhaustively with the question of the liability

of a bank for advice given to customers regarding investments. The case is further important in that it establishes what many may possibly regard as of far-reaching effect in *Nisi Prius* practice, viz. :—That notwithstanding the omission of the Defendant in an action to ask for a direction on the ground that there was no evidence upon which the jury could reasonably find for the plaintiff, the Court of Appeal, on a motion for a new trial, is not precluded from considering the question of no evidence, and in a proper case may order judgment to be entered for the defendant notwithstanding such omission.

The decision was grounded on the English Order LVIII., R. 4. There is a corresponding Irish Rule (see Supreme Court Rules, 1905, Order LVIII., R. 4, Wylie, p. 784).

*Cheque—Stoppage of Payment.*

An action recently tried before Mr. Justice Lawrence deals with an important question as to the right of a drawer of a cheque to stop payment. A customer of a bank having drawn a cheque on his bankers for £100 gave notice to the branch of the bank on which the cheque was drawn to stop payment. The notice was duly received by the branch before the cheque was presented for payment. The payee of the cheque presented the cheque for payment at another branch of the same bank, and the manager of that branch paid the cheque, admittedly in good faith and without any notice of the stoppage given to the branch on which it had been drawn. It was decided that the bank was entitled to recover the amount of the cheque from the drawer. (*London Provincial and South Western Bank, Ltd. v. Buszard*, reported *Times Law Reports*, Vol. XXXV., 142.)

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### CONTENTS.

	PAGE
Meetings of the Council ... ..	47
Council Meetings ... ..	49
Obituary ... ..	49
Legal Appointments ... ..	49
Commissioner to Administer Oaths ... ..	49
New Members ... ..	49
New Solicitors ... ..	49
Results of Examinations ... ..	49
Dates of Spring Assizes, 1919 ... ..	50
Recent Legal Decisions ... ..	51



# THE GAZETTE

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[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*January 15th.*

Twenty-six Members were present.

### Death of Mr. Jacob T. Geoghegan

The President referred to the death of Mr. Jacob T. Geoghegan, B.L., Assistant Probate Registrar, who had always shown much courtesy to members of the profession and their assistants; and it was resolved that the sympathy of the Council be conveyed to his widow and family in their bereavement.

### Sir John Ross, Bart.

The congratulations of the Council were directed to be conveyed to the Right Hon. Mr. Justice Ross on the honour which His Majesty has conferred upon him.

### Sir George Fottrell, K.C.B.

It was resolved that the congratulations of the Council be conveyed to Sir George Fottrell, K.C.B., a past member of the Council, on the honour which His Majesty has conferred upon him.

### Law Clerks' Salaries.

The President informed the Council that he had presided on the 13th inst. at the Annual Meeting of the Law Clerks' Society, on which occasion the claim of the Society put forward upon behalf of the Law Clerks of Ireland for increase of salaries was discussed, and that he had promised to bring the matter before the Council. The Council referred the subject to a Committee for report.

### Clerks of the Crown and Peace.

The Council having been informed that the Treasury are still urging the reduction of salaries of Clerks of the Crown and Peace, on the occurrence of vacancies in that office, passed the following resolution:—

Resolved:

“The Council of the Incorporated Law Society of Ireland desire to record their strong and emphatic protest against the action of His Majesty's Treasury in attempting, as each vacancy arises, to reduce the salaries payable to Clerks of the Crown and Peace.

“These are practically the only positions of honour and emolument under the Crown open to the Solicitors' profession, and the constant reduction of the salaries must inevitably deter the most experienced and suitable practitioners from being candidates for the office.

“As a result of continuous legislation extending the jurisdiction of the County Courts in Equity, and in all matters relating to Employers' Liability and Workmen's Compensation, the Clerk of the Crown and Peace has become responsible for the disbursement and control of monies which are increasing in amounts by thousands of pounds in cash, with a corresponding addition to his duties and obligations. He has further to discharge new and onerous duties in connection with the Local Registration of Title and the Franchise Acts, and the fact that Parliament has recognised and provided for his right to remuneration for these new duties proves that it did not regard him as already overpaid for his ordinary services as Clerk of the Crown and Peace, while the Treasury by the policy complained of, are unjustly

but effectively depriving him of all benefit from this extra remuneration for added duties.

“That a copy of this resolution be sent to His Excellency the Lord Lieutenant, the Lord Chancellor, the Chief Secretary, the Under Secretary, and His Majesty’s Treasury.”

It was resolved that His Excellency the Lord Lieutenant be requested to receive a deputation from the Council in reference to the matter dealt with in above resolution.

#### **Resident Magistracy.**

A resolution was submitted from the Northern Law Society urging the appointment of a Solicitor to the position of Resident Magistrate in Belfast, and the following resolution was passed:—

Resolved:—

“The Council of the Incorporated Law Society of Ireland, having considered the resolution of the Northern Law Society urging the appointment of a member of the Solicitors’ profession to the office of Resident Magistrate at Belfast on the pending vacancy taking effect, desire to express their concurrence with the claim put forward upon behalf of the Solicitors’ profession, and to urge the justice of appointing a Solicitor to the office.

“The Council desire further to urge that the claims of the Solicitors’ profession to a fair share of the appointments to the Resident Magistracy in Ireland should be recognised when an appointment is being made to the vacancy in the office which has recently occurred, and upon the making of future appointments.

“That copies of this resolution be sent to His Excellency the Lord Lieutenant, to the Right Hon. the Lord Chancellor, to the Right Hon. the Chief Secretary for Ireland, to the Law Officers, and to the Under Secretary for Ireland.”

#### **Apportionment Orders.**

A letter in reply was received from the Irish Land Commission stating that the matter of the delay in issuing of apportionment orders to which the Council had drawn attention was now being dealt with.

*January 29th.*

Twenty-seven Members were present.

#### **Law Clerks’ Salaries.**

The report of the Committee of the Council, to whom this subject had been referred, was submitted. The Committee reported that on 28th inst. the Chairman and Secretary of the Law Clerks’ Society had by request attended a meeting of the Committee, when they put forward the claim for an increase of 25 per cent. on the salaries paid to Law Clerks as on 4th August, 1914, and sought a resolution of the Council recommending the favourable consideration of this claim by the profession. On the recommendation of the Committee the Council adopted the following resolution, and directed that a copy be sent to the Law Clerks’ Society:—

Resolved:—

“The Council of the Incorporated Law Society of Ireland, having heard the representations of the Law Clerks’ Society, recommend to the profession throughout Ireland the favourable consideration of the claim put forward by that Society upon behalf of the Law Clerks in Ireland for an increase of 25 per cent. on Law Clerks’ salaries as payable on the 4th August, 1914. The Council recommend those members of the profession who, up to the present, have not granted any increase of salary since that date, to now grant the 25 per cent. sought for, and where members of the profession have since August, 1914, granted an increase of a less amount than 25 per cent., that they should increase such amount up to the 25 per cent.”

#### **Examination Results.**

The Report of the Court of Examiners upon the January Preliminary and Final Examinations was submitted and adopted.

#### **Sub-Sheriffs.**

A letter in reply was read from the Secretary of the Committee appointed by the Lord Lieutenant to inquire and report upon the law relating to Sub-Sheriffs in Ireland, stating the Committee would be pleased to consider suggestions put forward by the Council. The preparation of suggestions was referred to a Committee of the Council.

**Council Meetings.**

MEETINGS of the Council are fixed to be held on the following dates :—

February 26th.  
March 12th and 26th.

**Obituary.**

MR. ROBERT KYLE KNOX, Solicitor, died upon the 7th January, 1919, at his residence, 1 College Gardens, Belfast.

Mr. Knox was admitted in Easter Term, 1866, and practised at Coleraine up to the year 1876, when he retired.

MR. JOHN STANTON, Solicitor, died upon the 16th January, 1919, at his residence, 5 Alexandra Place, Cork.

Mr. Stanton served his apprenticeship with the late Mr. Terence O'Reilly, 5 North Great George's Street, Dublin; was admitted in Trinity Term, 1876, and practised under the style of Messrs. John Stanton & Son, at 47 South Mall, Cork.

MR. THOMAS J. BABINGTON, Solicitor, died upon the 23rd January, 1919, at his residence, 4 Mt. Verdon, Wellington Road, Cork.

Mr. Babington was admitted in Hilary Term, 1871, and practised at 24 Marlborough Street, Cork.

MR. MICHAEL E. FITZGERALD, Solicitor, died upon the 24th January, 1919, at Cork.

Mr. Fitzgerald served his apprenticeship with the late Mr. John Kepple, Mallow; was admitted in Hilary Sittings, 1902, and practised at Mallow.

**Legal Appointments.**

MR. JAMES ROCHE, Solicitor, heretofore Resident Magistrate at Ballymena, has been appointed Resident Magistrate at Belfast. Mr. Roche was admitted in Trinity Sittings, 1903, and practised at Omagh, Co. Tyrone, until March, 1910, when he was appointed Resident Magistrate.

MR. WILLIAM F. QUINLAN, Solicitor, Tralee, has been appointed Secretary to the County Council of Kerry. Mr. Quinlan was admitted in Trinity Sittings, 1918.

**Commissioner to Administer Oaths.**

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

Charles J. Lane, Solicitor, 26 South Mall, Cork.

**New Members.**

THE following joined the Society during January, 1919 :—

Eugene J. Downing, Killarney.  
John J. W. Morrin, Kiltimagh.  
John O'Hanrahan, Omagh.

**New Solicitors.**

THE following were admitted during January, 1919 :—

<i>Name</i>	<i>Served Apprenticeship to</i>
Byrne, Francis J. ...	Edward O'Hagan and Patrick J. MacGarvey, both of Portadown.
Daly, Gerald ...	Thomas W. Delany, Longford.
Dunne, Thomas Joseph	Michael Verdon, Castlebar.
Early, John J. ...	Thomas Early, 6 Cavendish Row, Dublin.
O'Donovan, Thomas H.	Patrick Donovan, Clonakilty.
McKenna, Justin Chas.	Francis McBrean, Bailieborough.

**Results of Examinations.**

AT the Preliminary Examination held upon 9th and 10th January, the following passed the Examination, and their names are arranged in order of merit :—

1. James F. K. Anderson.
2. Robert H. Brett.
3. James P. Kennedy.

Thomas M. Harvey passed the modified Preliminary Examination for which he had liberty to present himself.

Seven candidates attended : four passed ; three were postponed.

AT the Final Examination held upon the 6th, 7th and 8th January, the following passed the Examination, and their names are arranged in order of merit :—

1. Michael Dorgan.
2. Timothy Byron, B.A., N.U.I.
3. Edmond R. McDonnell.
4. Patrick Marron.
5. Gerald Maguire, B.A., N.U.I.
6. Thomas Healy.

Eight candidates attended : six passed ; two were postponed.

**Dates of the Spring Assizes, 1919.****NORTH-EAST CIRCUIT.**

Co. Meath.—At Trim, Saturday, March 1st, at 11.30 o'clock.

Co. Louth.—At Dundalk, Monday, March 3rd, at 11 o'clock.

Co. Monaghan.—At Monaghan, Wednesday March 5th, at 11 o'clock.

Co. Armagh.—At Armagh, Friday, March 7th, at 11 o'clock.

Co. Down.—At Downpatrick, Monday, March 10th, at 12.30 o'clock.

Co. Antrim.—At Belfast, Friday, March 14th, at 12.30 o'clock.

Co. of the City of Belfast.—At Belfast, Tuesday, March 18th, at 11 o'clock.

*Judges.*—The Right Hon. Mr. Justice Dodd, and the Hon. Mr. Justice Moore.

*Registrars.*—Huston Dodd, Esq., B.L., 46 Hannaville Park, Terenure, Dublin; J. M. Davies, Esq., Solicitor, 22 Kildare Street, Dublin.

**NORTH-WEST CIRCUIT.**

Co. Westmeath.—At Mullingar, Monday, March 3rd, at 11.30 o'clock.

Co. Longford.—At Longford, Tuesday, March 4th, at 11 o'clock.

Co. Cavan.—At Cavan, Thursday, March 6th, at 1.30 o'clock.

Co. Fermanagh.—At Enniskillen, Tuesday, March 11th, at 11 o'clock.

Co. Tyrone.—At Omagh, Thursday, March 13th, at 11 o'clock.

Co. Donegal.—At Lifford, Monday, March 17th, at 11 o'clock.

Co. Londonderry.—At Londonderry, Wednesday, March 19th, at 11 o'clock.

City of Londonderry.—At Londonderry, Thursday, March 20th, at 10.30 o'clock.

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

*Registrars.*—John Ronan, Esq., Solicitor, 45 Fitzwilliam Square, Dublin; Francis Kennedy, Esq., 25 Wellington Place, Ballsbridge, Dublin.

**CONNAUGHT CIRCUIT.**

King's Co.—At Tullamore, Monday, March 3rd, at 11.30 o'clock.

Co. Leitrim.—At Carrick-on-Shannon, Thursday, March 6th, at 12 o'clock.

Co. Sligo.—At Sligo, Monday, March 10th, at 12.30 o'clock.

Co. Mayo.—At Castlebar, Friday, March 14th, at 2 o'clock.

Co. Roscommon.—At Roscommon, Friday, March 21st, at 11.30 o'clock.

Co. Galway.—At Galway, Wednesday, March 26th, at 12 o'clock.

*Judges.*—The Right Hon. Mr. Justice Pim, and the Right Hon. Mr. Justice Gordon.

*Registrars.*—J. H. Nunn, Esq., B.L., Bective, Pembroke Park, Dublin; J. H. Monroe, Esq., B.L., 68 Pembroke Road, Dublin.

**LEINSTER CIRCUIT.**

Co. Wicklow.—At Wicklow, Monday, 3rd March, at 11 o'clock.

Co. Wexford.—At Wexford, Wednesday, 5th March, at 12.30 o'clock.

City of Waterford.—At Waterford, Friday, 7th March, at 11 o'clock.

Co. Waterford.—At Waterford, Friday, 7th March, at 12 o'clock.

Co. Tipperary (S.R.)—At Clonmel, Tuesday, 11th March, at 11 o'clock.

Co. Tipperary (N. R.)—At Nenagh, Friday, 14th March, at 11 o'clock.

Queen's Co.—At Maryborough, Tuesday, 18th March, at 11.30 o'clock.

Co. Kilkenny.—At Kilkenny, Thursday, 20th March, at 11 o'clock.

Co. Carlow.—At Carlow, Saturday, 22nd March, at 11.30 o'clock.

Co. Kildare.—At Naas, Tuesday, 25th March, at 11 o'clock.

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

*Registrars.*—W. T. Sheridan, Esq., Solicitor, 1 Elgin Road, Dublin; and W. Gage, Esq., Solicitor, 51 Merrion Square, Dublin.

**MUNSTER CIRCUIT.**

Co. Clare.—At Ennis, Tuesday, 4th March, at 2 o'clock.

Co. Limerick.—At Limerick, Monday, 10th March, at 11 o'clock.

Co. of the City of Limerick.—At Limerick, Monday, 10th March, at 11 o'clock.

Co. Kerry.—At Tralce, Friday, 14th March, at 12 o'clock.

Co. Cork.—At Cork, Monday, 24th March, at 12 o'clock.

Co. of the City of Cork.—At Cork, Wednesday, 26th March, at 11 o'clock.

*Judges.*—The Right Hon. Lord Justice O'Connor, and the Right Hon. Mr. Justice Ross.

*Registrars.*—Mr. J. J. McDonald, Solicitor, 116 Grafton Street, Dublin; Major Ronald D. Ross, Oatlands, Stillorgan, Co. Dublin.

### Recent Legal Decisions

*Bonus Dividends on Stocks and Shares—Capital or Income—Rights of Tenant for Life and Remainderman.*

Questions of some difficulty not infrequently arise where settled property consists of stocks or shares, and the company in which the investment is made declares a bonus dividend in the form of new shares allotted proportionately to the holding in the company. Is the tenant for life entitled to the bonus as income, or are the new shares to be held by the trustees as capital?

A recent case, *Ogilvie v. Ogilvie* (35 T. L. R., 218), will repay perusal. The leading authority on the subject is *Bouch v. Sproule* (1887), 12 A. C., 385. In his judgment Lord Herschell, at p. 397, says:—"The general principle for the determination of such a question and in my opinion the only sound principle is that which is well expressed in the judgment of Lord Justice Fry. Where a testator or settlor directs or permits the subject of his disposition to remain as shares or stocks in a company which has the power either of distributing its profits as dividend or of converting them into capital, and the company validly exercises this power, such exercise of its power is binding on all persons interested under the testator or settlor in his shares, and consequently what is paid by the company as dividend, goes to the tenant for life, and what is paid by the company to the shareholder as capital or appropriated as an increase of capital stock in the concern enures to the benefit of all who are interested in the capital."

### *Bequest of Moneys in Bank.*

It has been decided that a bequest of "all my moneys at the Bank" passes not only the money to credit at current account but money on deposit receipt. Usually in this country money on deposit receipt is payable on

demand, but when the amount exceeds £1,000 a condition is generally inserted entitling the bank to seven days' notice of withdrawal. *Re Glendenning: Steel v. Glendenning* (63 Sol. I., 156), decides there is no difference in principle in the nature of a deposit receipt requiring notice of withdrawal and a notice not requiring such notice, and that both pass on a bequest of "all moneys at bank."

### *Double Portions.*

The doctrine of double portions laid down by Lord Eldon in the leading case, *Ex parte Pye* (White & Tudor, Leading Cases, 8th edition, Vol. II., 373), is that "Where a parent gives a legacy to a child, not stating the purpose with reference to which he gives it, the Court understands him as giving a portion, and by a sort of artificial rule upon an artificial notion that the father is paying a debt of nature, and a sort of feeling upon what is called a leaning against double portions, if the father advances a portion on the marriage of that child, though of less amount, it is a satisfaction of the whole or in part." The rule is applicable where a testator has placed himself *in loco parentis* to the beneficiary.

A recent case of interest on the subject is *Re Dawson: Swanson v. Dawson*, 1919, 1 Ch. D., 102. Shortly the facts were, that the testator divided the residue of his estate into five parts, three parts he bequeathed to his three unmarried daughters, a fourth part to a grandson, son of his only son who had predeceased him, and the fifth part to the children of a daughter who had predeceased him. Having made his will, he gave substantial sums by gift *inter vivos* to his children, and the question arose whether they were bound to account for these sums as a satisfaction *pro tanto* of their shares of residue. On the question of fact the judge held that the grandfather had not placed himself *in loco parentis* to any of his grandchildren, and the case establishes the proposition of law that a grandfather is in the position of a stranger for the purpose of the doctrine against double portions, and that grandchildren cannot claim the benefit of the doctrine unless on proof that the grandfather had assumed the parental care of them.

*Costs—Instructions for Briefs—Payments to Foreign Lawyers—Attendances on Counsel.*

The most important item as regards the Solicitors' remuneration in the costs of an action is beyond question the item "Instructions for Briefs." In fact, the trouble involved in most records is so considerable that unless the solicitor obtains a fair allowance for this item he is practically without any fair reward for his services. It is accordingly of first importance to the solicitor to see that this fee is properly dealt with in his bill of costs, and the attention of the profession is called to the recent case in the Court of Appeal (England) on this subject (see *Slingsby v. Attorney-General*, 1918, p. 236). In the Irish Schedule of Fees, Rules of Supreme Court, 1905, Appendix S., Part I., Item 73, the ordinary fee for Instructions for Brief on hearing or trial of action is set down at £1 1s. 0d., but under Order LXV., Rule 65 (3), the Taxing Master is given a discretion on special grounds to make such further allowance as may be reasonable. This discretion except in the most trivial cases is invariably exercised by the Taxing Master to increase the schedule fee. Swinfen Eady, L.J., in the case referred to, says:—"The allowance to be made for 'Instructions for Brief' is a matter peculiarly within the discretion of the 'Taxing Master.'" And he quotes with approval the judgment of Buckley, L.J. *In the Estate of Ogilvie* (1910, p. 243):—"On questions of quantum the decision of the Taxing Master is, generally speaking, final. It must be a very exceptional case in which the Court will even listen to an application to review his decision."

In the bill of costs before the Court there was a charge of £1,365 for "Instructions." The Master allowed £735, and the appeal was taken by the party liable for the payment. Certain particulars as to how the charge of £1,365 was made up were given in the bill, including details of work done before the litigation commenced. The Court came to the conclusion that the Master in exercising his discretion had not sufficient and proper materials to enable him to arrive at a correct conclusion, and remitted the item back to the Taxing Master with a direction that

details should be furnished. The judgment indicates the nature of the particulars that should be given. The length of the documents perused, the names of the witnesses who have been attended, the places to which journeys have been made, the time occupied in each, and expenses paid. The case is important as showing what may fairly be included in the item of "Instructions for Brief," the details that should be summarised under that head, and the great importance of keeping a full note of all work done in connection with the preparation for the trial.

As regards attendances on Counsel, the Court of Appeal approved of the decision *In re Catlin* (18 Beav., 508) that it is not proper to allow for such attendances where no fee is paid to Counsel. Another matter dealt with in *Slingsby's* case is the payment to foreign lawyers. Frequently in the course of getting up the evidence, it is necessary for the Solicitor to employ lawyers abroad. The charges paid to these lawyers are properly included in the solicitor's bill of costs, but it is his duty to see that such charges are reasonable and proper and according to the scale of payment in force in the country where the charges are incurred. The Taxing Master should not allow the amount charged simply because it has been paid. Details of the charges by the foreign lawyers should be placed before the Master, and the onus is on the Solicitor bringing in the bill to prove they are fair and reasonable. Such charges are not to be allowed simply because the other side have not produced evidence to show that they are excessive.

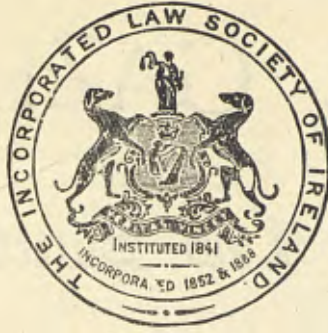
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THE Society's Calendar and Law Directory for 1919 can be obtained in the Secretary's Office, price four shillings; by post, four shillings and sixpence.

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# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No 9.]

March, 1919

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS.

	PAGE
Meetings of the Council	54
Council Meetings	55
High Court Sittings	55
Obituary	55
New Members	56
Commissioner to Administer Oaths	56
New Solicitors	56
Proceedings in Minor Matters	56
Recent Legal Decisions	56

# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 9.]

March, 1919.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*February 12th.*

Twenty-six Members were present.

#### War Memorial.

A report was submitted from a Committee of the Council, and of Past-Presidents of the Society, who had under consideration a reference from the Council to report upon a suitable form of Memorial to those Irish Solicitors and Apprentices to Irish Solicitors who had lost their lives in the war.

The report recommended that the form of Memorial should be a Tablet, with suitable inscription and a record of the names of the Solicitors and of the Apprentices, to be erected on the wall of the staircase leading from the entrance door of the Solicitors' Buildings to the Society's Hall. The report further recommended that the Council should issue a circular to the Members of the Solicitors' profession in Ireland inviting subscriptions to a Memorial Fund, the subscription to be limited to a sum of one guinea from each Solicitor.

The report was adopted by the Council, and it was referred to the Committee to prepare the circular and to take all necessary steps to further the Memorial, and to report their proceedings to the Council.

#### Costs Query. Additional Remuneration Rules.

A report was read from the Costs Committee upon the following query jointly submitted for decision :—

*Query* :—A contract for sale of lands was entered into by a tenant for life on 31st May, 1918, and the conveyance was executed on 12th December, 1918. With the exception

of the negotiations for sale, all the legal work was done between the dates referred to. The Vendor's Solicitor claimed the additional remuneration as provided by the Order, dated 7th May, 1918, made pursuant to the Solicitors' Remuneration Act, 1881. The Solicitor for the Settled Land Act Trustees objected to the claim for the additional remuneration owing to the contract being dated prior to the 1st July, 1918.

The Committee expressed the opinion that the Vendor's Solicitor was entitled to the additional remuneration prescribed by the Order of 7th May, 1918.

The report of the Committee was adopted.

*February 26th.*

Twenty-seven Members were present.

#### Death of Mr. Robert Powell.

The President referred to the death of Mr. Robert Powell, Solicitor, and a resolution was passed expressing the sympathy of the Council with their colleague, Mr. W. J. Shannon, on the death of Mr. Powell, his son-in-law, and with Mrs. Powell.

#### Law Clerks' Salaries.

A letter was read from the Secretary of the Law Clerks' Society acknowledging the receipt of the resolution of the Council passed upon 29th January (which appeared in the GAZETTE of February), and stating that a general meeting of the members of the Law Clerks' Society was held on 17th February, at which the following resolution was passed :—“ This meeting having carefully considered the resolution of the Incorporated Law Society, are of opinion that it does not meet the requirements of Law Clerks.”

### Amalgamation of the Legal Professions.

Letters were read from two Members of the Society asking the Council to take into consideration the question of the amalgamation of the legal professions. It was resolved that a Special Meeting of the Council for the purpose of considering the question be held on the 2nd April.

### County Court Rules.

A letter was read from the Northern Law Society, enclosing copy of memorandum which had been sent by that Society to the County Courts rule-making authority, containing a request for the amendment of Order VIII., Rule 6, and of Order XVI., Rule 2, of the County Court Rules of 1890.

The objects of these amendments are (Order VIII., Rule 6) to permit the name of a firm of Solicitors to be entered on the record for a plaintiff, or defendant, not more than one member of such firm to appear or take part in the conduct of any one case, and (Order XVI., Rule 2) to permit, in the case of sickness or unavoidable absence of the Solicitor on record, another Solicitor, being a Solicitor usually practising in the particular Court, to appear for such party in his stead.

The Council approved of these two suggested amendments, and decided so to inform the Lord Chancellor and County Court Judges, and to request that rules in the amended form suggested should be made.

### Council Meetings.

MEETINGS of the Council are fixed to be held on the following dates:—

March 26th.

April 2nd (Special), 9th and 30th.

### High Court Sittings.

HILARY SITTINGS end on Thursday, 10th April, and Easter Sittings begin on Thursday, 24th April.

### Obituary.

MR. ARTHUR B. SMYTH, Solicitor, died upon the 2nd February, 1919, at Sydney Lodge, Ballsbridge, Co. Dublin.

Mr. Smyth served his apprenticeship with the late Mr. William Smyth, 15 Wellington Quay, Dublin, and the late Mr. Francis C. Downing, Trálee; was admitted in Michaelmas Sittings, 1881, and practised at Cootehill.

MR. MICHAEL A. HAYDEN, Solicitor, died upon the 6th February, 1919, at Dublin.

Mr. Hayden served his apprenticeship with the late Mr. James Blaquiére, 19 Middle Gardiner Street, Dublin; was admitted in Trinity Sittings, 1889; and practised at Ballinasloe.

MR. SAMUEL BOXWELL, Solicitor, died upon the 7th February, 1919, at his residence, Bella Vista, Stradbrook, Blackrock, Co. Dublin.

Mr. Boxwell served his apprenticeship with the late Mr. William Fry, Lower Mount Street, Dublin; was admitted in Hilary Term, 1858, and practised formerly at 52 Middle Abbey Street, Dublin, and subsequently in partnership with Mr. Francis L. Brownrigg (under the style of Messrs. Boxwell and Brownrigg), at 5 Hume Street, Dublin, up to the year 1914, when he retired.

MR. BENJAMIN BARRINGTON, Solicitor, died upon the 12th February, 1919, at his residence in Limerick.

Mr. Barrington served his apprenticeship with his father, the late Mr. John Barrington, Limerick; was admitted in Easter Term, 1871, and practised at Limerick.

MR. STEPHEN HASTINGS, Solicitor, died upon the 16th February, 1919, at his residence, O'Connell Street, Limerick.

Mr. Hastings served his apprenticeship with the late Mr. John Ellard, Limerick; was admitted in Hilary Sittings, 1885, and practised at Limerick.

MR. ROBERT POWELL, Solicitor, died upon the 17th February, 1919, at his residence, Druid Hill, Killiney, Co. Dublin.

Mr. Powell served his apprenticeship with Mr. John W. F. Garvey, Ballina; was admitted in Hilary Sittings, 1904, and practised as a member of the firm of Messrs. W. J. Shannon & Co., at 19 Upper Ormond Quay, Dublin.

MR. THOMAS M. KENNY, Solicitor, died upon the 27th February, 1919, at Salerno, Galway.

Mr. Kenny served his apprenticeship with his father, the late Mr. Matthew Kenny, 17 Middle Gardiner Street, Dublin; was admitted in Trinity Sittings, 1880, and practised (in partnership with Mr. James W. Blake, under the style of Messrs. Blake and Kenny), at Galway.

#### New Members.

THE following joined the Society during February, 1919:—

James G. O'Connor, 44 Westland Row, Dublin.

Patrick F. Quinlan, 68 Middle Abbey Street, Dublin.

#### Commissioner to Administer Oaths.

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

David W. J. Browne, Clerk of Petty Sessions, Mitchelstown.

#### New Solicitors.

THE following were admitted during February, 1919:—

Name	Served Apprenticeship to
Byron, Timothy	... Thomas J. Deering, 12 Lr. Ormond Quay, Dublin.
Dorgan, Michael	... F. H. Hall, Cork.
Marron, Patrick	... Edward Phelan, Carrickmacross.
McDonnell, Edmond Robert	... W. J. Shannon, 19 Upper Ormond Quay, Dublin.

#### Proceedings in Minor Matters.

THE Lord Chancellor has made the following Order relating to proceedings in Minor matters:—

I, the Right Honourable Sir James Henry Mussen Campbell, Baronet, Lord Chancellor of Ireland, in pursuance of the powers reserved to me under Order V., Rule 2, of the Rules of the Supreme Court (Ireland), 1905, and of all other powers hereunto me enabling, hereby Order and direct that the Order of the Lord Chancellor dated the 25th day of June, 1915, be and the same is hereby revoked: And I do further Order and direct that in all cases in which proceedings to make Minors Wards of Court are instituted by Originating Summons instead of by Originating Petition, the Originating Summons shall be marked for the Lord Chancellor.

(Signed),

JAMES H. CAMPBELL, C.

Dated this 4th day of February, 1919.

#### Recent Legal Decisions.

*Emergency Legislation—Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915.*

Section 1, Sub-Section 1, of the above Act enacts that, "Where the rent of a dwelling-house to which this Act applies has been since the commencement of the present war, or is hereafter during the continuance of this Act increased above the standard rent, as hereinafter defined, the amount by which the rent exceeds the amount which would have been payable had the increase not been made shall notwithstanding any agreement to the contrary be irrecoverable."

The Act applies in Ireland to a house or a part of a house let as a separate dwelling-house where either the annual amount of the standard rent or the rateable value does not exceed £26 (see Sec. 2, Sub-Sec. 2 (c)). "Standard Rent" is defined as the rent at which the house was let on the 3rd August, 1914, or where the house was not let on that date, the rent at which it was let before that date, or where the house was first let after

the 3rd August, 1914, the rent at which it was first let. In a recent case where a house, having been originally let on 3rd August, 1914, at 10/- a week, and becoming vacant was let to a new tenant in November, 1917, at 20/- a week, it was contended that the statute did not apply to a new tenancy. The Court held this view erroneous, and that the Act did not refer merely to an increase of rent to a particular tenant, but covered every case; that the Act applied to houses not to persons, and operated *in rem* not *in personam* (*King v. York, Weekly Notes, 1919, p. 59*).

In Dublin and district it is a common practice to let houses at a rent inclusive of taxes, which would in the ordinary course be payable by the tenant. In such cases note that the rent of the house to which the Act applies may, on a new letting, be increased to the extent of the increase in such taxes over those payable in the year which included the 3rd August, 1914 (Sec. 1, Sub-Sec. 1 (4), of above Act).

It is provided by Sec. 1, Sub-Sec. 3, of the above Act that no order for the recovery of possession of a house to which the Act applies shall be made so long as the tenant continues to pay the rent except on certain grounds or conditions, one being that the premises are reasonably required by the landlord for the occupation of himself or some other person in his employ, or on some other ground which may be deemed satisfactory by the Court making such order. By an Amending Act of 1918 it is provided that the expression "landlord" in Sub-Sec. 3 of Sec. 1 of the earlier Act, "shall not include any person who since Sept. 30th, 1917, has become "landlord by the acquisition of the dwelling-house." In a recent case, *Stovin v. Fairbrass*, the plaintiff gave notice to his tenant which would expire on 27th September, 1918. Subsequently he entered into a contract for sale of the house, and completion of the sale being delayed owing to the defendant's refusal to give possession, the action was brought for recovery. The tenant relied on the provisions of the above Acts. The County Court Judge gave an order for possession, holding that the sale was *bona fide*, and that it would involve great hardship

on the plaintiff if he were not able to complete, and that there was, therefore, satisfactory ground for making the order. This decision was reversed on appeal, the Court remarking that the effect of making the order for recovery of possession by the plaintiff was to give to the purchaser that which he was expressly prohibited by the statute from acquiring. (Reported *Weekly Notes, 1919, p. 68*.)

#### *Master and Servant—Wrongful Dismissal.*

In the absence of special stipulations, the hiring of a domestic servant is a general hiring, which is in law a hiring for a year, but by a general custom which has been judicially recognised, the contract is determinable by a month's notice on either side at any time, and if the usual month's notice is not given by the employer, a month's wages must be paid in lieu thereof with the wages accrued due up to the time of dismissal; and it was decided in *Gordon v. Potter, 1859, 1 F. & F., 664*, that in such case the servant was not entitled to board wages in addition to the ordinary pecuniary wage. A modification of this rule of law has been established by the recent case *Lindsay v. Queen's Hotel Co., Ltd., 1919, 1 K.B., 212*. There the plaintiff entered the defendants' service in January, 1918. On the 31st January, she was paid her month's wages, and on the 4th February gave a month's notice to her employers. On the 26th February she was dismissed, and as was found by the Court wrongfully dismissed. She claimed damages for wrongful dismissal, and the County Court Judge gave a decree for one month's wages in addition to the amount lodged in Court by the defendants, namely, the month's wages which would have been due on the 4th March when her notice would have expired. On appeal to the King's Bench Division this decision was reversed, the Court holding that in such a case the damages should be ascertained according to the principles applicable to any other case of wrongful dismissal, namely, the damages should be the actual pecuniary loss sustained, and having lost the six days' board and lodging from 26th February to 4th March, she was declared

entitled to be paid the value thereof in addition to the month's wages which had been lodged:

As illustrating the general principles on which damages for wrongful dismissal are computed another recent case reported in the current month's Reports should be referred to. In *Manubens v. Leon* (1919, 1 K.B., 208) a hairdresser employed at a weekly wage of 30/- with a commission on any goods sold, was wrongfully dismissed. It was held that being entitled to a week's notice he was entitled to a week's wages of 30/-, but it being also an implied term of the contract of his service that he should be allowed to receive tips from the customers served by him, the loss of those tips must be taken according to the well-known principles established by the leading case of *Hadley v. Baxendale* (1854, 9 Ex. 341), to have been in the contemplation of the parties as the result of the breach of the contract, and that therefore the value of the week's tips must be taken into consideration in assessing the damages for the wrongful dismissal.

#### *Costs of Action for Tort.*

THE Rules of the Supreme Court, 1905, Order 65, Rule 4, provide that when the parties reside within the jurisdiction of the Civil Bill Court of the county in which the cause of action has arisen, if the plaintiff in any action disconnected with contract (except for replevin, slander, libel, malicious prosecution, seduction or criminal conversation), shall recover a sum not exceeding £5, the plaintiff

shall not be entitled to any costs unless at the trial of such cause, the Judge shall certify that the case was a fit one to be tried in the High Court.

A plaintiff brought an action for damages for assault and false imprisonment. At the trial the jury brought in a verdict for £5 on each issue. The defendant contended on the taxation of the costs, that the plaintiff was not entitled to any costs, there being no certificate of the Judge under the above Rule. The King's Bench Division held that the true interpretation of the rule was the amount recovered in the action and not the amount recovered in each separate cause of action, and that the plaintiff having recovered £10 in the action was entitled to the costs. (*Donnelly v. Verschoyle* (1919), 2 I.R., 101.) The defendant appealed, and the Court of Appeal affirmed the decision of the King's Bench Division.

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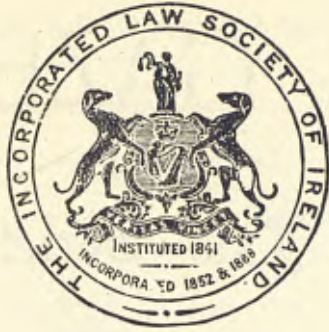
## Calendar of the Incorporated Law Society, 1919.

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## Incorporated Law Society of Ireland.

Vol. XII, No 10.]

April, 1919

[ FOR CIRCULATION  
AMONGST MEMBERS.

### CONTENTS.

	PAGE
Meetings of the Council ... ..	60
Council Meetings ... ..	60
High Court Sittings ... ..	60
Obituary ... ..	60
Appointments ... ..	61
Commissioner to Administer Oaths ... ..	61
War Memorial ... ..	61
Barristers and Solicitors (Qualification of Women) Bill ... ..	62
Easter Sittings Lectures, 1919 ... ..	62
Dates of May Examinations ... ..	62
Recent Legal Decisions ... ..	62

# THE GAZETTE

OF THE

## Incorporated Law Society of Ireland.

Vol. XII, No. 10.]

April, 1919.

[ FOR CIRCULATION  
AMONGST MEMBERS.

### Meetings of the Council.

*March 12th.*

Twenty-one Members were present.

### Salaries of Clerks of Crown and Peace.

A letter in reply was read from the Assistant Under-Secretary stating that their Excellencies the Lords Justices desired to inform the Council that the reduction from £900 to £800 per annum of the salary assigned to the office of Clerk of the Crown and Peace for the County and City of Limerick was effected on the advice of Their Excellencies' advisers after very careful consideration of all the facts of the case, and with due regard to the nature and extent of the duties attached to the post. The letter further stated that the salary of the Clerk of the Crown and Peace as Local Registering Authority was increased at the same time from £100 to £200 per annum.

### Witnesses' Expenses.

A communication was received from the Taxing Masters, intimating that the Lord Chancellor had requested the Masters to ascertain the views of the Council in reference to a suggested increase of amounts allowed under the Supreme Court Rules to witnesses.

The matter was referred to the Costs Committee.

### Lectures.

Applications by two Apprentices, both of whom had served four years in the Army, for exemption from attendance at lectures, were granted.

*March 26th.*

Twenty-three Members were present.

### Irish Land Commission.

A letter in reply was read from the Irish Land Commission, stating that it is not the practice for the Solicitor to the Commission to act for purchasers of holdings sold owing to default in payment of annuity, though there sometimes are cases, generally of a petty nature, where the Solicitor for the Commission has to do so, as it is the only means of effecting a sale.

### Council Meetings.

MEETINGS of the Council are fixed to be held on the following dates:—

April 30th.

May 14th and 28th.

### High Court Sittings.

EASTER Sittings commence on Thursday, 24th April, and terminate on Wednesday, 28th May.

### Obituary.

MR. THOMAS O'KEEFE, Solicitor, died upon the 1st March, 1919, at Lisgoold, Midleton.

Mr. O'Keefe served his apprenticeship with Mr. Joseph H. McCarroll, Wicklow; was admitted in Hilary Sittings, 1914, and practised at Midleton.



MR. HENRY W. GEOGHEGAN, Solicitor, died upon the 3rd March, 1919.

Mr. Geoghegan served his apprenticeship with his father, the late Mr. Thomas Geoghegan, 16 Upper Ormond Quay, Dublin; was admitted in Hilary Term, 1868, and practised formerly at 16 Upper Ormond Quay, Dublin, and subsequently at 122 St. Stephen's Green, Dublin, up to the year 1897, when he retired.

MR. REDMOND J. CARROLL, Solicitor, died upon the 6th March, 1919, at his residence, 2 Upper Sherrard Street, Dublin.

Mr. Carroll served his apprenticeship with his father, the late Mr. Anthony R. Carroll, 47 North Great George's Street, Dublin; was admitted in Easter Sittings, 1904, and practised at 47 North Great George's Street, Dublin, up to 1912, when he retired.

MR. WILLIAM J. DUNNE, Solicitor, died upon the 12th March, 1919, at his residence, 12 Northumberland Road, Dublin.

Mr. Dunne served his apprenticeship with his father, the late Mr. James Dunne, 42c Great Brunswick Street, Dublin; was admitted in Michaelmas Sittings, 1890, and practised at 42c Great Brunswick Street, Dublin, up to 1910, when he retired.

MR. ALEXANDER D. KENNEDY, Solicitor, died upon the 12th March, 1919, at his residence, Glen-na-Geragh Hall, Kingstown, Co. Dublin.

Mr. Kennedy was apprenticed to the late Mr. William C. Bennett, 15 South Mall, Cork, was admitted in Michaelmas Term, 1857, and practised in partnership with Mr. Thomas F. Figgis (under the style of Messrs. A. D. Kennedy and Figgis) at 63 Dawson Street, Dublin.

MR. ARTHUR CLARKE, Solicitor, died upon the 16th March, 1919, at his residence, Lake View, Glanmire, Co. Cork.

Mr. Clarke served his apprenticeship with the late Mr. William W. Babington, Cork;

was admitted in Michaelmas Sittings, 1888, and practised in partnership with Mr. John Mooney (under the style of Messrs. Babington, Clarke and Mooney) at 48 South Mall, Cork.

#### Appointments.

MR. CHARLES MACMAHON RUSSELL, Solicitor, has been appointed a Resident Magistrate, to be stationed at Roscommon.

Mr. Russell was admitted in Hilary Sittings, 1902, and practised at Downpatrick up to the year 1916, when he obtained a Commission in the Royal Flying Corps, from which he was demobilised in February last.

MR. ROBERT WEBSTER GLASS, Solicitor, has been appointed a Resident Magistrate, to be stationed at Ballina.

Mr. Glass was admitted in Easter Sittings, 1895, and practised at Banbridge up to 1915, when he joined the 16th Battalion of the Royal Irish Rifles, and subsequently obtained a Commission in the Royal Inniskilling Fusiliers, from which he was demobilised in February last.

#### Commissioner to Administer Oaths.

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

Samuel J. Whitley, Clerk of Petty Sessions, Schull.

#### War Memorial.

THE Council, after consultation with Past Presidents of the Society, have decided that the most fitting form of Memorial is the erection of a Tablet on the wall of the staircase leading from the entrance porch of Solicitors' Buildings to the Society's Hall; the Tablet to bear a suitable inscription, and the names of the twenty-one Solicitors and seventeen Apprentices who lost their lives.

The President has issued a letter to the profession inviting subscriptions to the Memorial, limited to the sum of one guinea.

A sum of £228 17s. 0d. has been received up to date. It is intended that a list of the subscribers will be published in a future number of the GAZETTE.

### Barristers and Solicitors (Qualification of Women) Bill.

THIS Bill provides for the admission of women (1) as Students of the Inns of Court and being called to the Bar and practising as Barristers; and (2) as Solicitors under the Solicitors Act, 1843, and the Acts amending the same. The Bill does not extend to Ireland. It has passed the House of Lords and has been sent to the House of Commons.

The Lord Chancellor has inquired from the Council as to their attitude towards an amendment, should it be proposed, making the Bill applicable to the Solicitors' profession in Ireland, and the Council have replied to His Lordship that the Council would offer no objection to an amendment making the Bill applicable to the Solicitors' profession in Ireland, provided that the Bill be also made applicable to the Barristers' profession in Ireland.

### Easter Sitzings Lectures, 1919.

LECTURES will be delivered to the Junior Class on the following dates, at two o'clock p.m. :—

April 24, 28, 30 (Wednesday).  
May 1, 5, 8, 12, 15, 19, 22, 26.

Lectures will be delivered to the Senior Class upon the following dates, at two o'clock p.m. :—

April 25, 29.  
May 2, 6, 7 (Wednesday), 9, 13, 16, 20,  
21 (Wednesday), 23, 27.

### Dates of May Examinations.

*Final.*—Wednesday, Thursday and Friday, 21, 22 and 23 May, at 10 o'clock a.m., each day. (Notices to be lodged in Secretary's Office before 6th May.)

*Preliminary.*—Thursday and Friday, 29 and 30 May, at 10 o'clock a.m., each day. (Notices to be lodged in Secretary's Office before 11th May.)

### Recent Legal Decisions.

*Allowance of Income Tax Claim as a deduction from rent independent of production of receipt.* The decision of the Lords Justices of Appeal in the case of *North London and General Property Co., Ltd. v. Moy, Ltd.* (Law Times Reports, Vol. 119; p. 230), disposes of a contrary proposition often insisted upon in the collection of rents, namely, that unless the claim for deduction of income tax from the rent, or on account of the rent, is vouched by production of official receipt, the claim need not be allowed. Under some circumstances the demand for such receipt is reasonable, but under others insistence is unnecessarily vexatious, compliance being often inconvenient or impracticable to the tenant, e.g., where he is a middleman in receipt of ground rents paid to him by a large number of tenants out of property in respect to which he pays the chief rent. In the above-mentioned case, on appeal from the King's Bench Division, and in reversal of judgment of Low, J., the Lords Justices decided that though a request for production might be a reasonable one, yet in order to establish right to deduction, no obligation rested on a tenant to support his claim by production of the receipt, and that the landlord refusing on this account the proper refund or allowance does so at his own risk.

*Mistake in Law.* In *Hatch v. Hatch* (L. T. R., Vol. 146, 367) the decision of Mr. Justice Sargant confirms the well-known principle that payments made under mistake in law are irrecoverable. The question arose in the administration of the estate of a deceased testator who had lived separated from his wife, and who was bound by deed of covenant to pay to her an annuity in lieu of alimony. The testator during his lifetime paid this annuity without deducting income tax, and after his death the trustees of his Will continued payment without deduction. In the course of the administration proceedings the trustees sought refund of the over-payment to the widow annuitant by reason of the non-deduction of income tax. It was held, however, that the annuity being

clearly payable subject to the income tax, and the over-payments having been made under a mistake of law, same were not recoverable as such by the trustees.

In practice it is sometimes difficult to distinguish whether a payment has been made under mistake of fact or under mistake in law. For instance, in this case, suppose that the deed of covenant was not acceptable to the trustees, and that in its absence, guided by the practice of the testator, the trustees assumed that the deed provided for payment, not subject to, but free from, income tax, would the same decision have been given?

#### *Malicious Injuries.*

Destruction of, or injury to, farm implements and machinery has recently been an accompaniment to the unsatisfied claim for increased wage of the agricultural labourer, the damage thereby entailed on the employer often exceeds far the cost of repair or of renewal. From injury to a tractor or a reaper and binder in a district remote from any industrial centre serious loss may ensue from the delay thereby caused in farming operations at a critical time.

The judgment of the Court of Appeal (Ireland) in *Noblett v. Leitrim County Council* (Irish Law Times Reports, Vol. 53, p. 25) is, therefore, timely and important, establishing as it does that on proof of a claim founded on such injury, if malicious, the amount to be awarded should include all damages consequent on the injury.

In *Joseph Rank, Limited v. Craig* (Law Times Report, Vol. 119, p. 751) the decision of the Lords Justices of Appeal intimates that caution should be exercised before an owner institutes proceedings to prevent dumping of rubbish upon his land. This cause of complaint is frequently experienced on town lots in course of development as building sites. Even in Dublin owners have not been exempt from this wrong, notwithstanding ample dumping ground provided at Ballybough by the Dublin Corporation: *parum locuples continente ripa*. Naturally one is inclined to institute proceedings

against the owner of the rubbish whose servants or employees have made the deposit; but before proceeding inquiry should be made to ascertain whether this has been done with the concurrence, express or implied, of the employer or contrary to his instructions. In the latter event, as above mentioned report shows, an action against him cannot succeed.

If credence be given to the Greengrocer, and to the Chancellor of the Exchequer, apples just now are dear and the monetary equivalent is scarce; hence, if your neighbour's apple trees overhang your land, in exercising what may be your indubitable right of lopping the trespassing boughs you may experience temptation of unusual cogency to retain the apples thereon for your own consumption. Before yielding to this temptation it would be well to read *Mills v. Brooker* (Times Law Reports, Vol. 35, p. 261). The reference will teach you that retention constitutes you a gratuitous bailee with all the undefined responsibility incident to such bailment, and that consumption of the apples may entail upon you payment in the way of damages far beyond the extortion of the greengrocer.

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## Calendar of the Incorporated Law Society, 1919.

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**T**HE Society's Calendar and Law Directory for 1919 can be obtained in the Secretary's Office, price 4s., or by post 4s. 6d.

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

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