



The Law Society of Ireland 1852-2002: Portrait of a Profession

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The Irish solicitor of today is a successor of the fili (poet) of pre-Norman Ireland. The fili was no mere versifier with a command of words, but was knowledgeable in several fields; one particular qualification of the fili was knowledge of the jurisprudence of Irish law. The profession of attorney and solicitor (one who was appointed to act for another), initially regulated by the courts and subsequently by statute, gradually developed following the establishment of Anglo-Norman rule in Ireland. Pursuant to the Supreme Court of Judicature Act (Ireland) 1877, all persons admitted as solicitors or

attorneys were henceforth to be called solicitors of the Court of Judicature, although the title of attorney lives on in the designation of the chief law officer of the State as the Attorney General.

The period up to the Charter of 1852

Attorneys were among the categories of legal practitioner admitted to the Honorable Society of the King's Inns on its revival in 1607. In 1629, there was a first recital of a crucial new rule to the effect that no one was to be admitted an attorney in any of the courts of Dublin unless he had first been admitted to membership of the Society of King's Inns and that existing attorneys who were not already members of the King's Inns were to present themselves for admission early in the next ensuing Hilary Term; otherwise they were to be struck off. Every attorney was required to keep one week's commons at the King's Inns in each law term. The King's Inns occupied a prominent position in the scheme of regulation of attorneys and solicitors for many years.

The relationship's between attorneys and solicitors as a profession with the Benchers was an uneasy one with the attorneys and solicitors considering that their needs were not catered for by the Benchers. Efforts were made from time to time by groups to improve the quality of the profession. A

Society of Attorneys was formed in 1774 and was the first known association of members of that branch of the profession in the country.

In November 1791, the Law Club of Ireland was established. Little is known of this society of solicitors but, like the Society formed in 1774, it appears to have been composed of the better educated or more substantial members of the profession. It had premises at 13 Dame Street, Dublin until 1869 and thereafter at 25 Nassau Street and was dissolved at the end of the nineteenth century.

The Law Society of Ireland was established on 24 June 1830 with premises at Inns Quay, Dublin. In November 1830, the Committee of the Society submitted a memorial to the Benchers as to the 'necessity and propriety' of erecting chambers for the use of solicitors with the funds which solicitors had been levied to pay to King's Inns over the years. The Committee requested that the hall and chambers for the use of solicitors should be erected away from the King's Inns and apartments were allotted by the Kings Inns at the Four Courts to solicitors in May 1847. However, the adequacy of that accommodation at the Four Courts was to be a bone of contention between the Society and the Benchers for thirty years.

The years 1852 to the First World War

The Law Society was incorporated by royal charter dated 5 April 1852. The charter referred to founding 'an institution for facilitating the acquisition of legal knowledge', and for the better and more conveniently discharging professional duties of attorneys and solicitors.

The principal events with which the Law Society was concerned on behalf of solicitors in the second half of the nineteenth century were the inauguration of a scheme for education of apprentices, the independence of the solicitors' profession from the King's Inns and the achievement of an increasing degree of self-government and of recognition of its position as the representative and regulatory body for solicitors in Ireland, culminating in the Solicitors (Ireland) Act, 1898.

Lectures for Bar students were introduced by King's Inns in 1850 but no provision was made for the education of solicitors' apprentices, and in 1855 the Law Society presented a memorial to the Benchers calling for examinations to be introduced as a test both for admission to an apprenticeship and subsequently for admission to the profession. The Benchers initially declined to take any action but after subsequent pressure eventually introduced a preliminary examination in Latin, history, arithmetic,

book-keeping, geography and English composition for prospective apprentices and a final examination before admission to the profession.

Pursuant to the Solicitors' Act, 1866 the Law Society took over responsibility for education of the solicitors' branch of the profession from the Benchers under the supervision of the judges. The 1866 Act in effect provided that membership of, or payment of fees to, the Society of King's Inns would no longer be a condition of admission as a solicitor. One link between the solicitors' profession and the Benchers had been broken, but others remained. The Benchers were still the landlords of the Law Society's buildings at the Four Courts. Subsequently, the Benchers agreed to make a lease of an area comprising both the original accommodation and a further area at the Four Courts for a term of 999 years from 1874 at an annual rent of 1 shilling, if demanded.

At the end of the nineteenth century, the legal functions for the Law Society were substantially increased by the Solicitors (Ireland) Act, 1898 which repealed the Act of 1866 and transferred control of education and important disciplinary functions from the direct supervision of the judges to that of the Society. In 1888, the constitution of the Council of the Society was changed by supplemental charter which provided that the Northern Law Society and Southern Law Association would each be entitled to appoint members to the

Council. This was further changed in 1960 when provision was made for the appointment to the Council of three members of the council of the Dublin Solicitors' Bar Association.

The First World War and its aftermath

The First World War, subsequent political developments and the War of Independence had a considerable impact on lawyers in Ireland and their professional organisations, including the establishment, with corresponding statutory functions in its jurisdiction, of the Incorporated Law Society of Northern Ireland. Many Irish lawyers joined the forces. The Irish Law Times published a War supplement in February 1916 and listed 110 solicitors, 71 solicitors apprentices and 175 sons of solicitors who had enlisted. A memorial to those who died was erected in the Four Courts by the Society in July 1921.

The Four Courts were occupied by the Volunteers during Easter week 1916; books of furniture were piled in windows as barricades. A number of solicitors' offices in central Dublin were in buildings destroyed by fire in the course of the fighting. The Council of the Society passed a resolution assuring the King of their continued loyalty, expressing their 'abhorrence and

condemnation of the scenes of outrage and destruction which had taken place', and recommending proper compensation for all who had suffered.

The period from 1920 to 1960

The end of the Anglo Irish war, marked by the Treaty in December 1921, gave rise to hopes that the unrest of the previous few years would be replaced by return to normality in legal business. In April 1922, however, the Four Courts buildings were occupied by units of the IRA opposed to the Treaty and the bombardment and capture in June of the Four Courts by Government forces resulted in serious damage to the buildings, including the Solicitors' Buildings. In 1899, in what turned out to be a most useful precaution, a fire-proof room for the records of the Society had been constructed after it had become the statutory custodian of the roll of solicitors pursuant to the Solicitors (Ireland) Act, 1898. Despite the destruction of the building in 1922, the contents of the strongroom were afterwards found to be intact. Most of the property of the Society was destroyed, however, including all the furnishings and the library. For the rest of the decade the Society's offices were at 45 Kildare Street, a building which the Government placed at its disposal.

One innovation which the Society strongly opposed in the new Irish State was the requirement for newly-qualified solicitors to be proficient in the Irish language. The Society issued a pamphlet to all members of the Dáil and Seanad stating its views on the Legal Practitioners (Qualification) Bill, 1928. The Society considered that the Bill (a) was not wanted either by the public or the profession and was unnecessary; (b) was oppressive; (c) was unworkable; (d) set an impossibly high standard in Irish; (e) must lead to inefficiency; and (f) should not be compulsory.

At the half yearly meeting of the Society in May 1929, the President, Edward H. Burne referred to 'this atrocious measure which in its present form spelt waste of money, brains, energy and time... which was not wanted, and had not been asked for by any, save extreme and foolish idealists, quite ignorant of the necessary high legal education of future solicitors.' Politicians from both Government and opposition criticised the attitude of the Society, but the Society's objections did result in some amendment of the original proposals before the passing of the Bill in 1929.

The rebuilding and reopening of the Solicitor's Buildings in 1931 as a part of the general reconstruction of the Four Courts gave general satisfaction. They were sited adjoining and slightly to the east of where the former premises stood.

The number of solicitors practising in Ireland increased by about a third in the first decades of independence, arising from 995 in 1924 to a peak of 1422 in 1943, a number which it did not afterwards attain for almost thirty years. The growth in numbers, in what was generally an economically depressed or stagnant period, put pressure on the incomes of solicitors. In 1944, the President of the Society spoke of overcrowding in the profession and warned young people against 'entering a profession in which they might have to endure respectable starvation'.

The subject of regulation of the profession and its statutory framework preoccupied the Society for much of the 1940s and 1950s, a period during which membership of the Society became universal practice among solicitors. The passing of the Solicitors Act, 1954 was a culmination of efforts extending over many years by the Law Society to amend and update the law on the regulation (more precisely the self-regulation) of the profession. Following a finding of constitutional infirmity in its provisions for disciplinary measures that could be taken against members of the profession, amending legislation was passed in 1960. The Solicitors Act (Amendment) 1960 dealt primarily with the new disciplinary provisions, a re-statement of the basis of the compensation fund and provisions to be implemented at a future date for the furnishing by every solicitor of an accountant's certificate of compliance

with the Solicitors Accounts Regulations. The Society had considerable dealings and vigorous debate on the matter with Charles Haughey, TD, then at the start of his Ministerial career as the Parliamentary Secretary to the Minister for Justice.

The 1954 and 1960 Act formed the basis of the regulation of the profession for another generation.

The Modern Era

During the last three decades of the twentieth century and up to the present, the Society, its presidents and directors-general have taken an increasingly prominent role as spokespersons and leaders of the profession. A notable feature of secretaries and directors-general of the Society has been, in general, their longevity of office. Edward Iles held office from 1841 to 1864; John Hawksley Goddard served for 24 years up to 1888; William George Wakely held office from 1888 to 1942, a period of 54 years [and incidentally is noted for an act of bravery in rescuing the President's chain of office from the Four Courts in 1922 at grave personal risk]. Eric Plunkett served from 1942 to 1973; James Ivers from 1973 to 1990; Noel Ryan from 1990 to 1994 and Ken Murphy from 1995 to the present time. These seven men have straddled a period of almost 161 years.

Blackhall Place

By the middle of the 1960s, the Solicitors' Buildings at the Four Courts were proving inadequate for the expanding activities of the Society. In fact, outside premises were used for lectures for students. A special committee recommended the purchase of the King's Hospital, Blackhall Place, described by Maurice Craig as 'one of the most beautiful and, in its way, original' of Dublin's major buildings. Peter Prentice proposed a motion at a special meeting of the Council of the Society on 3 July 1968, seconded by John Jermyn that the Society purchase the King's Hospital for the sum of £105,000. The motion was carried unanimously and a contract was subsequently executed.

Few great projects run smoothly and the Blackhall Place project was no exception. Some solicitors expressed concern about expenditure on the proposed new headquarters. Costs escalated on the Blackhall Place project to such an extent that by late 1971 there was strong pressure from within the Society to abandon the entire project. However, under the guidance of Peter Prentice, who was elected president of the society in 1973, and Moya Quinlan, (subsequently President of the Society) who was appointed to the chair of Blackhall Place premises committee in that year, the Council of the Society agreed to proceed. Wednesday 14 June 1978, the official opening of

the new headquarters of the Society by An Taoiseach, Jack Lynch during the presidency of Joseph Dundon, was an important day in the history of the society.

Women in the Profession

In nineteenth century Ireland and Britain, women were effectively excluded from practising law. It was widely accepted that at common law women were under a general disability by reason of their sex to become lawyers. There was no express statutory law prohibiting female solicitors, but it became custom and practice to regard a lawyer's work as not fit for a woman. The Sex Disqualification (Removal) Act, 1919 facilitated women becoming members of the legal profession. The number of women joining the profession grew significantly in the 1960s and 1970s. To-day, 40 per cent of solicitors are women.

Incidentally, the issue of forensic dress for women lawyers raised 'eyebrows' when women first began appearing in court as advocates. There was a view shared by many (including some women solicitors even up to the 1960s) that a woman, in court as in church, should have her head covered. Judge Mary Kotsonouris, solicitor, writer and former judge of the District Court in her book 'Retreat from Revolution' (1994), having noted that Judge Eileen Kennedy (a

solicitor from Carrickmacross, Co. Monaghan) was the first woman judge to be appointed in Ireland in 1963, recounts how Judge Kennedy created another precedent by being 'the first female to sit in a court with her head uncovered'. Judge Kotsonouris, who was a solicitor's apprentice at the time, remembers the 'frisson of excitement at such daring'.

Supply of solicitors

The 1950s as a decade was generally regarded in Ireland as a period of stagnation. Of the small number of solicitors who qualified in the 1950s some were forced to emigrate and of these many joined the British Colonial Service. In the period 1955 to 1960, the number seeking admission to the roll of solicitors declined. By 1960, the number of solicitors on the roll was at its lowest for several years. In the period 1960 to 1973 there was relatively little growth in the numbers in the profession. By 1985, however, it was considered that an oversupply of solicitors existed, the extent of which was hard to measure. A 1985 report detailed that a difficult market situation had developed in Ireland in the wake of the recession of 1980 to 1983. Nobody then could foresee the era of the Celtic tiger, an unparalleled period of growth and considerable demand for services of solicitors in the 1990s. At the end of 2001, there were 6,478 solicitor members of the Law Society with 5,914 holding practising certificates. However, the implications of the terrorist

attacks on New York and Washington on 11 September 2001, the slowing down in Ireland of one of the longest economic booms in history and the rise in unemployment may affect the employment prospects and income of solicitors.

Advertising

Advertising by solicitors has been a contentious issue over many years. Indeed for decades, solicitors were strictly prohibited from advertising. A postal ballot in which almost 2,000 solicitors participated in October 1988 resulted in a narrow majority in favour of permitting individual advertising subject to restrictions. The Solicitors (Amendment) Act, 1994 gave statutory recognition to the acceptability of advertising, although the Solicitors (Amendment) Act, 2002 makes provision for stricter regulation of the content of advertisements, particularly personal injury advertising.

Inquiries

The profession has been subject of several inquiries in recent times. The National Prices Commission considered the issue of solicitors' remuneration in 1976. This was followed by the Restrictive Practices Commission Report of enquiry into the effect of competition of the restrictions on conveyancing and the restrictions on advertising by solicitors in 1982, and the Fair Trade

Commission Report of study into restrictive practices in the legal profession in 1990. The Competition Authority is now undertaking a study of the legal profession in Ireland and its report is awaited.

Solicitors as judges

The Society pressed for many years for a change in the law so as to permit the appointment of solicitors in the Circuit Court and the High Court. The issue had been canvassed in many fora. The Fair Trade Commission in its 1990 report stated that had the judiciary been within the scope of its study, the Commission would have carefully considered whether the restriction upon those eligible for appointment constituted an unfair practice on the grounds, for example, that it was in restraint of trade and excluded new entrants and whether it was contrary to the common good. The Courts and Court Officers Act 1995 allowed for the appointment of solicitors as judges to the Circuit Court. In July 1996, the Government announced the appointment of solicitors John F. Buckley, Frank O'Donnell and Michael White as judges of the Circuit Court. The Society welcomed with particular warmth and pleasure the nomination by the Government of three distinguished solicitors who would enjoy a place in legal history as the first ever solicitors appointed directly from practice to serve as judges of the Circuit Court. The Courts and Courts Officers Act, 2002 provided that a person shall be qualified for

appointment as a judge of the Supreme Court and the High Court if he or she is for the time being a practising barrister or practising solicitor of not less than twelve years and shortly after its enactment Michael Peart became the first practising solicitor to be appointed a judge of the High Court. His elevation was warmly welcomed by the profession.

The 1994 Act and the Review

The Solicitor's (Amendment) Act, 1994 gave the Society stronger powers to investigate and deal with complaints from the public against solicitors. However, dissatisfaction with some aspects of the structure of the Society and its governance led to vigorous debate at the annual general meeting on 24 November 1994. A resolution was passed that the Society immediately set up an enquiry to examine the structure of the council of the Society with the objective of better serving the solicitors' profession in modern Ireland and to examine the administration, finances and accounts of the Society with a similar objective.

The Review Group, chaired by Donald G. Binchy, came up with 106 specific recommendations. The overwhelming majority of the Review Group's recommendations were approved at a special general meeting in March and July 1966 and by-laws were made to give effect to them.

Education

A significant improvement in the education system for solicitors took place in conjunction with the physical location of the Law School of the Society at Blackhall Place in 1978. From 1986 onwards, the Society faced challenges in the courts against its Education Regulations and in the manner in which it had implemented them. The new Law School, built on premises adjoining the existing Blackhall Place Headquarters and officially opened by President Mary McAleese on 2 October 2000, must be regarded as one of the greatest achievements of the solicitors' profession in recent times. The Law School was completed on schedule and within budget. The strengthening of the teaching and administrative staff in the Law School has also benefited the profession.

Library

An important service provided to the members has been the library of the Law Society. Solicitors have had access to a library of their own for over 160 years. The new library in Blackhall Place was also opened officially by President McAleese on 2 October 2000. Apart from extra space, the layout includes a combination of study tables and computer workstations.

Significant developments have taken place in recent times in the library with the provision of electronic information and other services.

Conclusion

Undoubtedly, the profession of solicitor has developed a strong cohesion and indeed a powerful advocate in the form of the Law Society. In many ways, the institutional Law Society has adapted itself to serve the changing needs of solicitors over the past decades. With the growth of government, in its many guises, the increasing complexity and the regulation of business and life in general and growing consciousness of legal rights and remedies, and of the importance of law and of the Constitution, solicitors have played, and will continue to play, a significant role in Ireland.

End.

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