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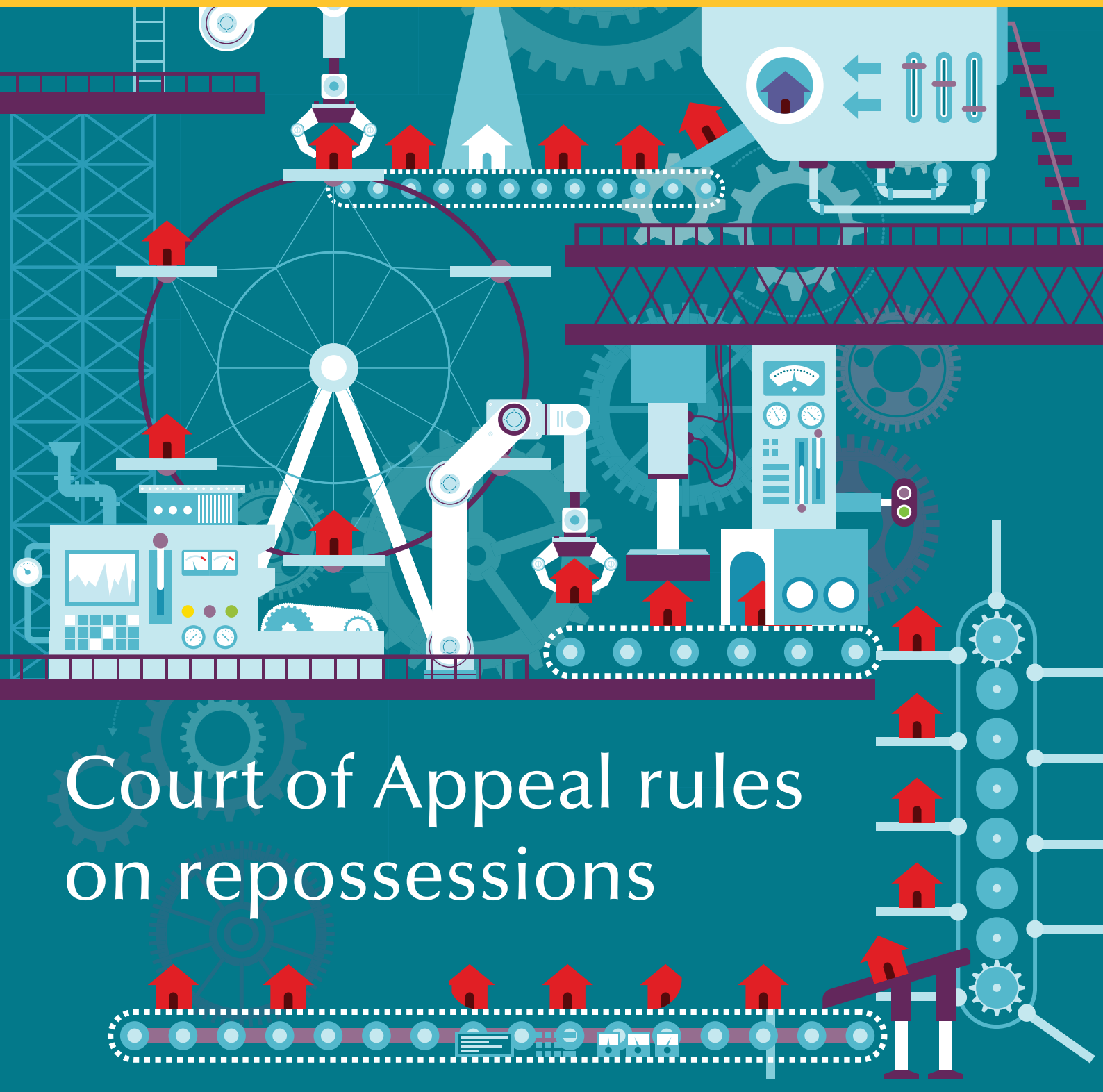

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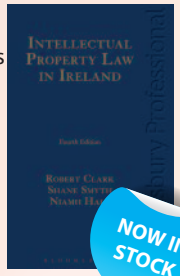

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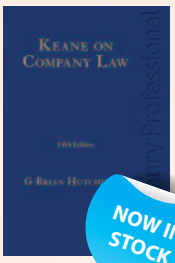

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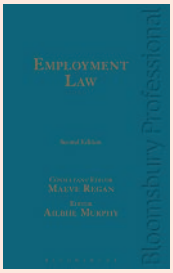

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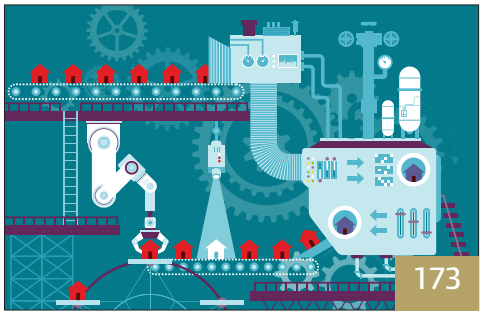

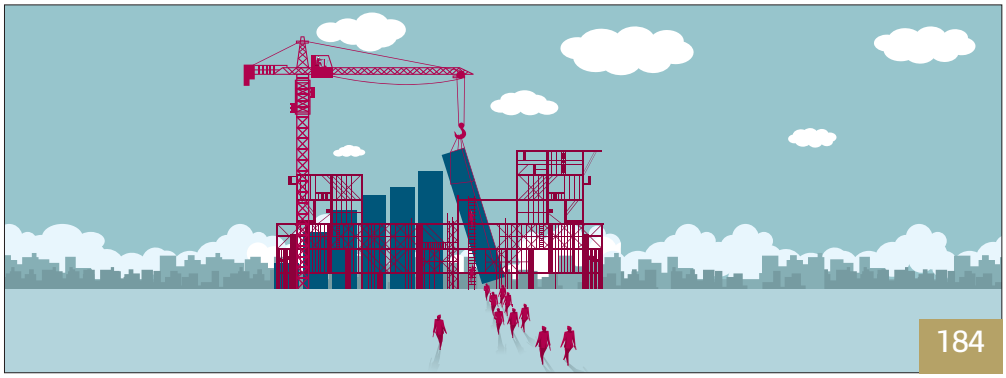

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We must defend the rule of law

The recent attack on judges in the UK for performing their duty is worrying.

Representing and promoting the Bar

Since the Oireachtas committee hearings in September 2016 into motor insurance costs, the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach has published its 'Report on the Rising Costs of Motor Insurance'. Representatives of the Council met with Eoghan Murphy TD, Minister of State for (*inter alia*) Financial Services, and his officials in advance of the finalisation of this report to ensure that the views of the Bar were represented. The establishment of a personal injuries commission has been recommended and we have sought the opportunity to contribute to the work of this commission when established. The Council, at its November meeting, agreed to establish a new non-permanent committee on insurance and personal injuries to facilitate a proactive forum and ongoing engagement between both members and Government bodies in this area. I met recently with the Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD. This was a positive engagement and an opportunity to discuss issues including the publication of a judicial appointments bill, the need to establish a mechanism to address matters arising in the criminal legal aid scheme, the implementation of the Legal Services Regulation Act (LSRA), and in particular, the need to prioritise the commencement of that part of the Act dealing with legal costs. The Council will host an Oireachtas day in January 2017 to meet with TDs and senators, share information with them on the work undertaken by the Bar, and highlight areas of policy such as those already mentioned above.

Defending the rule of law and the judiciary

I have spoken with many colleagues in recent weeks about the vilification of judges in the UK following the ruling against the government in the Article 50 case. This is a disturbing and objectionable development. An independent, impartial judiciary is fundamental to a working democracy and the rule of law. Any attack on a judge for performing his or her fundamental role in that democracy is an attack on the rule of law and democracy itself, and is to be condemned. Irish judges are not immune from this kind of treatment and we have witnessed of late some politicians abusing their privilege to criticise individual judges in circumstances where they know that the judiciary is constrained from responding. Other politicians resort to lazy statements of fact about the judiciary as a whole, whether by reference to the manner of appointment or their interests, sometimes without any basis in fact. The media often follows uncritically. The opinion piece published in *The Irish Times* on November 24, 2016, was a reaction to the unjustified denigration of the judiciary. We all have a responsibility to protect the values of democracy and our institutions, or else face the reality of a destructive and dystopian society.

Supreme Court legal assistance scheme

Following contacts with the Chief Justice and the Law Society, a pilot scheme has been established to assist unrepresented litigants who are parties to appeals before the Supreme Court. A panel of volunteer barristers and solicitors willing to act at the request of the Supreme Court is being established. Details have been circulated to members through the *In Brief* newsletter.

Amicus curiae

The Council successfully made an application to be joined as *amicus curiae* in a Supreme Court appeal relating to the system of taxation of costs. The appeal (in *Sheehan v Corr*) is due to be heard on February 21, 2017.

Maurice Gaffney SC

It was with great sadness that we learned of the passing of our friend and colleague, Maurice Gaffney SC. The obituary written by David Nolan SC in this edition provides us with great memories of our much loved colleague and our deepest sympathy has been extended to his wife Leonie and his family. His drive for excellence, his determination, his can-do spirit and his commitment to the Bar will inspire and stay with us always. We hope to be able to have his family with us when we formally dedicate The Gaffney Room in the new year. May he rest in peace.

Paul McGarry SC
Chairman,
Council of The Bar of Ireland

Change all around

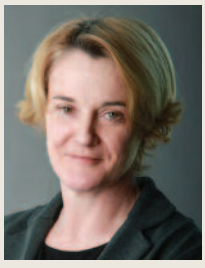
New legal services regulations and the passing of an institution mark changing times for the Bar.

Some of the provisions of the Legal Services Regulation Act 2015 were commenced in July of this year and the Legal Services Regulatory Authority (LSRA) was established as of October 1. While many of the provisions of the Act have not yet taken effect, it is time to take stock and to analyse where we are and what to expect in the months ahead. In this edition, we analyse the new provisions and examine how the LSRA is expected to operate in practice. As Irish banks continue to foreclose on residential mortgages, a recent Court of Appeal judgment now confirms that the Circuit Court does not have jurisdiction over such cases. This will lead to increased costs and most likely longer delays for all litigants. Legislation may be required to address the issue and we explain the ramifications of the judgment, which is now being appealed to the Supreme Court.

Workplace investigations and grievance procedures have spawned a plethora of case law in the last few years and we explore the common themes that give rise to difficulty in employment relationships. We also examine the progress of weeding out what is waste and obsolete in our statute book, so that we can hopefully clear the way for the codification and simplification of legislation in the years ahead.

In our Closing Argument, we look to the United Kingdom and innovative measures employed there to combat gangland crime. In that jurisdiction, convicted gangland criminals have been made subject to reporting orders and have had restrictions placed on their access to mobile phones and multiple bank accounts and their use of cash. Our commentator asks if it is time to consider some of those measures here.

Finally, we say goodbye to our much-loved and much-mourned friend, Maurice Gaffney SC. As King James I once said: "I can make a lord, but only God can make a gentleman".



Eilis Brennan BL
Editor
ebrennan@lawlibrary.ie

Poor treatment of elderly prisoners

In September, the Irish Penal Reform Trust (IPRT), a charity which campaigns for the rights of people in prison and for penal policy reform, published a research report on the experiences of older people in Irish prisons. Launched by Senator David Norris, Patrick Gageby SC and others, and written by Joanna Joyce and Tina Maschi, the report examined the serious practical and ethical challenges in imprisoning older people, with a focus on evidence-based solutions.

Older people constitute 10% of today's prison population, a substantial minority. The report highlighted the unique vulnerability of elderly prisoners: their serious health needs, susceptibility to elder abuse, and the difficulties they face upon release in an ageist society that often stigmatises offenders. It unveiled the hidden daily struggles of elderly prisoners to climb stairs or carry trays, to manage their dementia, and to cope without trained carers, relying on fellow inmates to wash them, dress them, and even change their incontinence pads.

The IPRT campaigns on many policy issues regarding the penal system. It has published research reports on behalf of vulnerable minorities within our prisons, including LGBT people, women, young people and Travellers. This has contributed to encouraging the Irish Prison Service to commit to supporting these groups. Some campaigns the IPRT is involved in include: ending the detention of children at St Patrick's Institution in Dublin; ending slopping-out; and, preventing penal expansion in the form of Thornton Hall. To find out more about the Trust, or to read its reports, please see its website www.iprt.ie.

Patrick Gageby SC at the launch of the IPRT report.
(Photo credit: Derek Speirs.)

Employment expertise

On Friday, October 21, the Employment Bar Association (EBA) welcomed over 190 delegates to its flagship conference on employment law.

The conference featured presentations on cutting-edge topics by leading senior and junior counsel who are recognised experts and published authors on employment law. The conference addressed the latest developments on issues such as employment equality, unfair dismissal, bullying at work, cyber law and data protection. In attendance were solicitors, barristers, in-house counsel and HR practitioners from across the health, business, finance and technology sectors, including representatives from Government, State bodies and industrial relations organisations.

The event received extremely positive feedback from attendees and was hugely successful in showcasing the specialist expertise at the Bar.

From left: Brendan Kirwan BL; Cathy Maguire BL, Chairperson of the EBA; Claire Bruton BL; and, Tom Mallon BL.

Introducing The Gaffney Room

The Bar of Ireland is delighted to announce that a new dedicated events and meeting space has opened above the Sheds. The Gaffney Room, named after the recently deceased Maurice Gaffney SC, is fitted with state-of-the-art technology, allowing all CPD events to be webcast live and a range of events to be hosted. All CPD seminars will now be available live to members on site and on circuit throughout the country. Seminars can be easily viewed live by members on a PC, laptop, tablet or smartphone, or watched at a later date. Full details can be found on the Members' Section of www.lawlibrary.ie. The first seminar and webcast, a CPD on professional negligence, took place on Monday, November 28.

The new dedicated meetings and event space above the Sheds, The Gaffney Room.

Supreme Court assistance

The Bar of Ireland is pleased to advise members that a Supreme Court Legal Assistance/Legal Representation Scheme has been established in agreement with The Honourable Mrs Susan Denham, Chief Justice, and in co-operation with the Law Society of Ireland, to assist unrepresented people who are parties to appeals from either the Court of Appeal or the High Court. A panel of volunteer barristers and solicitors willing to act at the request of the Supreme Court will be established, comprised of members of The Bar of Ireland and the Law Society of Ireland who responded to a recent call for expressions of interest for inclusion on the panel. The Scheme will only operate in such circumstances where the judgment to be appealed involves either a matter of general public importance and/or is in the interest of justice. Legal advice and representation will be provided *pro bono* to users of the Scheme by the panel of volunteer barristers and solicitors; however, they will be entitled to apply for costs at the conclusion of the appeal. The Supreme Court will determine an application for costs on the basis of the existing legal principles applicable to costs.

The Registrar of the Supreme Court, on behalf of the Supreme Court, will select the solicitors and barristers to represent unrepresented people in applicable cases in accordance with the availability of the solicitor(s) and barrister(s) to act. At all times, the relevant party to the appeal may decide whether he or she wishes to be represented by the solicitor(s) and barrister(s) selected under the Scheme.

New information on claims

Detailed research on the levels of damages being awarded for personal injuries in Ireland was published recently. The revised General Guidelines as to the amounts that may be awarded or assessed in personal injury claims (Book of Quantum) sets out the ranges of damages being paid in Ireland in personal injury claims.

Prepared by Verisk Analytics (ISO), the General Guidelines are based on an examination of a representative sample of over 51,000 closed personal injury claims during 2013 and 2014. This analysis included compensation awards from court cases, insurance company settlements, State Claims Agency cases and data relating to awards of the Personal Injuries Assessment Board (PIAB), and is the most comprehensive publicly available analysis of this kind carried out in Ireland. The revised guidelines were commissioned and published in accordance with the PIAB Act 2003 and are available at www.injuriesboard.ie.

Woman Lawyer of the Year

On November 5, the Irish Women Lawyers Association (IWLA) honoured solicitor Patricia Rickard-Clarke by presenting her with the IWLA Woman Lawyer of the Year award, in recognition of her work in promoting the rights of vulnerable adults and older people, and developing the law on the issue of capacity.

Until her retirement in 2012, Ms Rickard-Clarke was a commissioner of the Law Reform Commission (LRC) and was lead commissioner with regard to the LRC's work on vulnerable adults and the law (which included the reform of the law on capacity). She is Chair of the Law Society's Mental Health and Capacity Task Force and Chair of the National Advisory Committee of Sage (Support and Advocacy Service for Older People). She is a member of the Council of the Hospice Foundation and a member of its Think Ahead project advisory group for the Forum on End of Life. In December 2015, she was appointed the Independent Chair of the National Safeguarding Committee for Vulnerable Adults. She is also a member of the Council of the Royal College of Physicians of Ireland.

The award was presented at the IWLA Gala 2016 held in Blackhall Place, in collaboration with The Bar of Ireland and Law Society Skillnet, and with the support of Ronan Daly Jermyn, who sponsored the pre-dinner reception. The keynote speaker on the night was Orlaith Carmody, author of *Perform As A Leader* and Managing Director of Mediatraining.ie. Further information on the IWLA is available at www.iwla.ie.

At the Irish Women Lawyers Association Gala 2016 held in the Law Society were: back row (from left): Ashling Walsh, Ronan Daly Jermyn; Noeline Blackwell, Dublin Rape Crisis Centre; Attracta O'Regan, Law Society Skillnet; Michelle Ní Longáin, ByrneWallace; Eileen Creedon, Chief State Solicitor; and, Grainne Larkin BL, The Bar of Ireland. Front row (from left): Orlaith Carmody, keynote speaker; Ms Justice Catherine McGuinness, President, IWLA; Patricia Rickard-Clarke, Irish Woman Lawyer of the Year 2016; Aoife McNickle BL, Chairperson, IWLA; and, Mary Rose Gearty SC, The Bar of Ireland.

Speaking for ourselves

Left: Attendees at the VAS pro bono *advocacy training for charities.*
Above: from left: Ciara McDermott, Immigrant Council of Ireland; Libby Charlton BL, VAS Co-ordinator; Paul McGarry SC, Chairman of the Council of The Bar of Ireland; and, Leanne Caulfield, Immigrant Council of Ireland.

On Thursday, November 24, Trócaire, the Immigrant Council of Ireland, the Irish Refugee Council, MS Ireland, Family Carers Ireland, Citizens Information and Samaritans were among 23 charities, NGOs and civic society groups that attended a *pro bono* advocacy training workshop called 'Speaking for Ourselves', hosted by the Voluntary Assistance Scheme (VAS) of The Bar of Ireland. This workshop was established to assist charities in developing their advocacy skills and enhancing their capacity to communicate as organisations.

Addressing the workshop were barristers Michael Cush SC, Turlough O'Donnell SC, Louise Beirne BL, Mary Rose Gearty SC, Bairbre O'Neill BL, Micheal Lynn SC and Aoife Carroll BL. Michelle Grant, Committee Secretariat – EU and International Relations for the Houses of the Oireachtas Service, and Thomas Ryan, Environment and Infrastructure Executive at the Irish Farmers' Association, also presented on effective engagement with public bodies.

The Bar provides *pro bono* advocacy training by barristers to groups from the voluntary sector as part of the VAS. It also provides assistance to charities on a wide range of legal areas including debt and housing, landlord and tenant issues, social welfare appeals, and employment and equality law. More information can be found on www.lawlibrary.ie.

Focus on professional regulation

On Saturday, November 12, the Professional Regulatory and Disciplinary Bar Association (PRDBA) hosted over 70 delegates at a conference on the regulation of social workers. Leading senior and junior counsel who are recognised experts in the field of professional regulation, and Gloria Kirwan, Assistant Professor of Social Work and Social Policy in Trinity College Dublin, provided a practical overview of the system of mandatory regulation for social workers and the implications of being a regulated professional. The conference was well attended by social workers, legal practitioners, CORU (the regulator of health and social care professionals) and representatives from Tusla (the child and family agency). The event received excellent feedback and also some media coverage, with speaker Teresa Blake SC appearing on *Newstalk Breakfast*.

From left: Ciara McGoldrick BL; The Honourable Ms Justice Bronagh O'Hanlon; Barry O'Donnell SC; Professor Gloria Kirwan; and, Teresa Blake SC.

New Committee elected

The Young Bar Committee has been busy putting a new committee in place, organising a Christmas event and setting up a new online hub.

Claire Hogan BL

We have a new Young Bar Committee in place for 2016/2017 following elections held in October. The following members are year representatives, who should be mailed with any issues you have, which you would like to see addressed:

Year one:	Eoin O'Donnell BL and Suzanne Dooner BL
Year two:	Ellen O'Brien BL and Dylan West BL
Year three:	Jennifer M. Good BL and Paul W.J. Hegarty BL
Year four:	Ellen O'Callaghan BL and Séamus Ó Coigligh BL
Year five:	Aoife Beirne BL and Liam O'Connell BL
Year six:	Sean O'Quigley BL and Maeve Cox BL
Year seven:	Eve Bolster BL and George Maguire BL

CPD and Santa's Sheds Christmas Party

The Young Bar Committee has invited the Dublin Solicitors Bar Association (DSBA) Younger Members to participate in a joint CPD event to be held on Thursday, December 15, entitled 'Personal Injuries Litigation Update'.

The event will be chaired by the Honourable Ms Justice Irvine, and will commence at 4.30pm in the Atrium of the Distillery Building. There will be a mixed panel of barrister and solicitor speakers. The CPD will be focused on the junior practitioner and topics will include:

- developments in the calculation of damages;
- practice and procedure issues for the junior practitioner;
- the new Book of Quantum; and,
- fraudulent/exaggerated claims.

The Committee is organising Santa's Sheds Christmas Party to take place after the CPD, from 6.30pm until late. Further details of the combined event have been communicated by email.

Young Bar hub online

We are currently developing an improved online hub, which will be aimed specifically at junior members and provide resources such as events and opportunities, nationwide court information and legal blog posts. Content is welcome and can be sent to youngbar@lawlibrary.ie.

Discovery Counsel Database and research panel

Publicity of the Discovery Counsel Database has been ongoing, with an article by Eoin Martin BL featuring in the November *Law Society Gazette*, and online ads going live.

Work is also continuing on devising a research panel based on the interest expressed in this idea at the end of the last legal year.

Structuring the devil–master relationship

Last year's committee focussed on the need to improve the structure and quality of the devil–master relationship. Pupil guidelines were produced (based on work by Ellen O'Brien BL and Hugh Good BL) and distributed to all new devils at induction in September.

Master guidelines are underway. A compulsory CPD for masters was held on Friday November 25, at which Conor Bowman SC and Mary Rose Gearty SC imparted words of wisdom. Following the CPD, all new devils met their mentors, who are on hand to assist them and provide advice whenever the need might arise.

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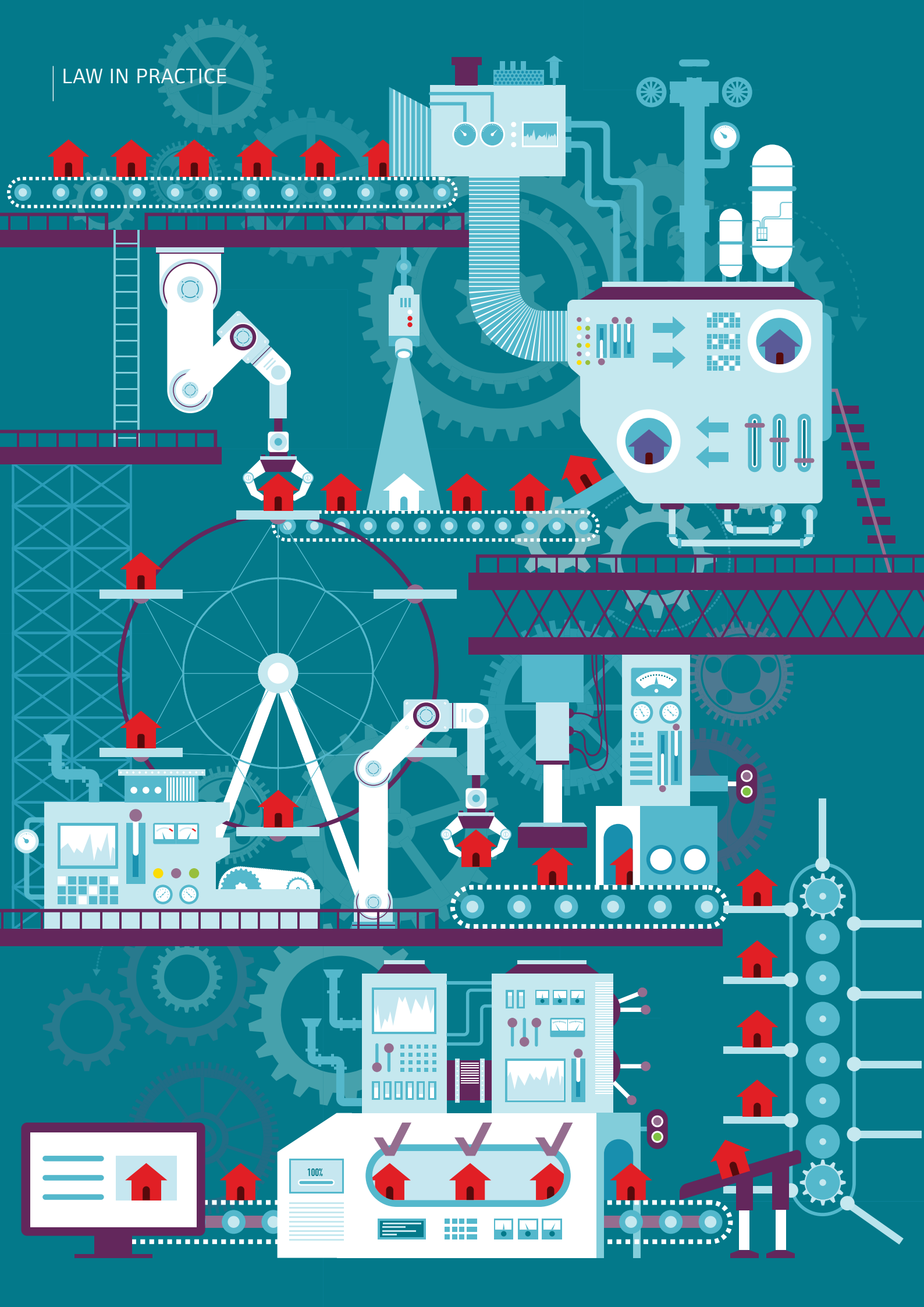
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Repossessing homes has become harder and this will create a backlog in the High Court.

Court of Appeal rules on rateable valuation

Stephen Healy BL

Introduction

Mortgages secured by residential investment properties have generally been enforced in one of two ways. If the borrower defaults on their mortgage, the bank would generally realise the security by appointing a receiver or they would seek a possession order from the Circuit Court with ultimately the same outcome being reached – the bank gains control of the asset and the property is sold, reducing or extinguishing the debt.

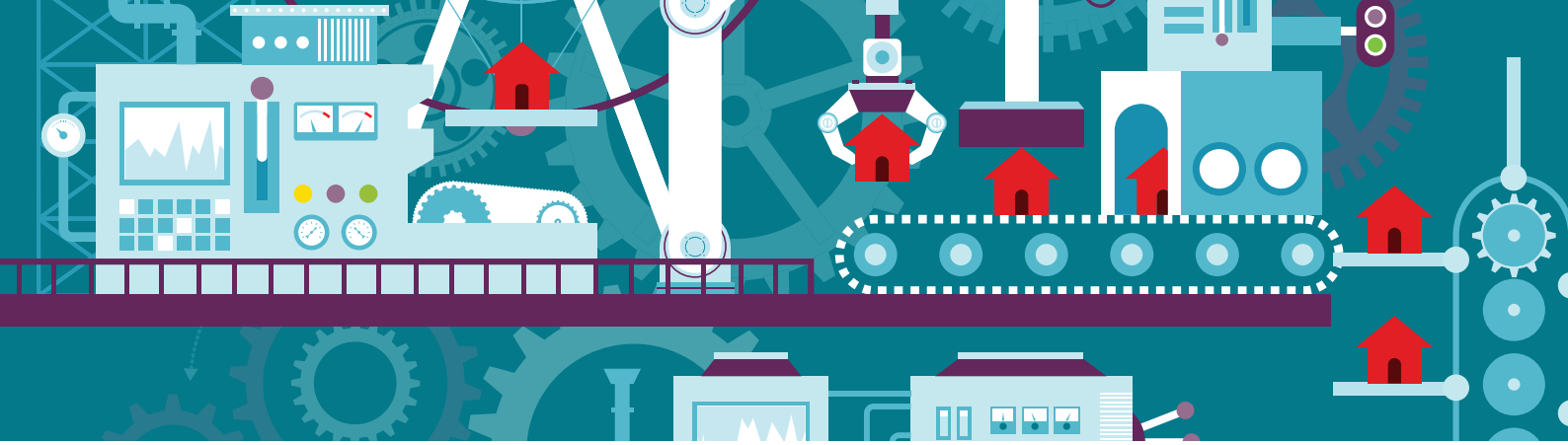
A bank is more likely to appoint a receiver where there is rental income being diverted from the mortgage, or if they wish to avoid court proceedings. However, lengthy receiverships become costly and can be a less attractive means of recovery. For this reason, a bank may seek possession as a more economical mechanism to realise the security.

Until recently, obtaining a possession order through the Circuit Court was an effective enforcement remedy. However, this remedy was recently tested in a number of cases, resting with the Court of Appeal decision in *Permanent TSB Plc v Langan*.[1] That case was referred to the Court of Appeal through the case stated procedure under section 38(3) of the Courts of Justice Act 1936 (as amended) by Baker J. in the High Court. By the time the case came before Baker J., there were two conflicting High Court judgments: *Bank of Ireland Mortgage Bank v Finnegan Ward and anor*[2] (a decision of Murphy J.) and *Bank of Ireland Mortgage Bank v Hanley and anor*[3] (a decision of Noonan J.). Both cases were appeals of possession orders granted by the Circuit Court.

A bank is more likely to appoint a receiver where there is rental income being diverted from the mortgage, or if they wish to avoid court proceedings. However, lengthy receiverships become costly and can be a less attractive means of recovery. For this reason, a bank may seek possession as a more economical mechanism to realise the security.

Jurisdiction of the Circuit Court to grant possession orders

The jurisdiction of the Circuit Court to grant possession orders was determined by the rateable valuation of the property pursuant to section 22 of the Courts (Supplemental Provisions) Act 1961 (the "1961 Act"). Rateable valuations were necessary for properties subject to domestic rates, so that the appropriate rates could be levied. Rates became very unpopular in the context of domestic properties and were discontinued by the Local Government (Financial Provisions) Act 1978 (the "1978 Act"). Section 3 of the 1978 Act provided that the relevant local authority would make an allowance to the domestic rate payer, which amounted to an abatement of the levy. Because of the way the legislation was drafted, domestic properties remained on a valuation list but, effectively, no rates were levied nor did this class of property get valued for rating purposes. The practice of obtaining a rateable valuation for domestic properties became redundant.



Notwithstanding the changes brought about by the 1978 Act, it was still necessary to establish jurisdiction in certain types of proceedings involving land. In particular, when seeking an order for possession in the Circuit Court, it was necessary to prove that the rateable valuation for the property had not exceeded €253.95 in order to confer the Circuit Court with jurisdiction. The history as to how this type of rating methodology came about can be traced back to section 33(c) of the County Officers and Courts (Ireland) Act 1877 (the "1877 Act") when civil bill courts operated and were the precursor to the establishment of the modern Circuit Courts. The current rateable valuation threshold of €253.95 (£200.00) was updated under section 2(1)(d) of the Courts Act 1981 (the "1981 Act") for rateable properties.

As a consequence of section 3 of the 1978 Act, where a rateable valuation had not been carried out, a practice developed that the Valuation Office (upon request) would examine the deed plans of the property in issue and provide a certificate of valuation, which essentially amounted to a letter stating, *inter alia*:

"...if a building is erected/reconstructed in accordance with the dimensions shown on the deed plans submitted I certify that the rateable valuation of the said buildings will not exceed €252.95 (two hundred and fifty two euro)".[4]

This became common practice to evidence that the Circuit Court had jurisdiction to grant possession orders for domestic properties.

Implications of the Valuation Act 2001

It seems that prior to the introduction of the Valuation Act 2001 (the "2001 Act"), the rating system for domestic properties continued on at least a conceptual basis although in practice no levies were applied. Provision for the valuing of lands dates back as far as the Valuation (Ireland) Act 1852 (the "1852 Act") and similar to the development of rates, this area of law has also developed over time.

Section 15 of the 2001 Act provides that certain relevant property "shall not be rateable". Domestic dwellings are then specifically listed as relevant property under schedule 4 of the legislation. There is an exemption for classes of apartments but that provision is of limited import and the majority of domestic dwellings would not fall within that class.

Conflicting High Court judgments

In *Bank of Ireland Mortgage Bank v Finnegan Ward and anor*, the appellant argued, *inter alia*, that a letter from the Valuation Office could not be relied upon as evidence of rateable valuation for the purpose of conferring jurisdiction on the Circuit Court to grant possession orders. Further to this issue and notwithstanding how problematic this issue might be, Murphy J. concluded that the Circuit Court was divested of jurisdiction by Section 15 of the 2001 Act by making domestic properties not rateable.

Separately, in *Bank of Ireland Mortgage Bank v Hanley and anor*, Noonan J. arrived at a different conclusion and took the view that section 22(1) of the 1961 Act was to vest the Circuit Court with the same original jurisdiction enjoyed by the High Court for proceedings identified in column (2) of the third schedule of the 1961 Act.[5] The reasoning of Noonan J. was that in the absence of proof that the monetary limits had been breached, the Circuit Court was not deprived of jurisdiction.

When considering the two conflicting High Court judgments Hogan J. in the Court of Appeal in *Permanent TSB Plc v Langan*, held:

"Forced as I am to choose between two powerfully argued High Court judgments, I find myself on balance agreeing with Murphy J. in *Finnegan*. It seems to me that it is necessarily implicit in the scheme of jurisdictional limits prescribed by the s. 22(1) and the third schedule of the 1961 Act that the property in question must have a rateable valuation. If, whether by virtue of the 2001 Act or otherwise, the property is not rateable, then the Circuit Court simply has no jurisdiction to hear the proceedings..."[6]

It seems that prior to the introduction of the Valuation Act 2001 (the "2001 Act"), the rating system for domestic properties continued on at least a conceptual basis although in practice no levies were applied.

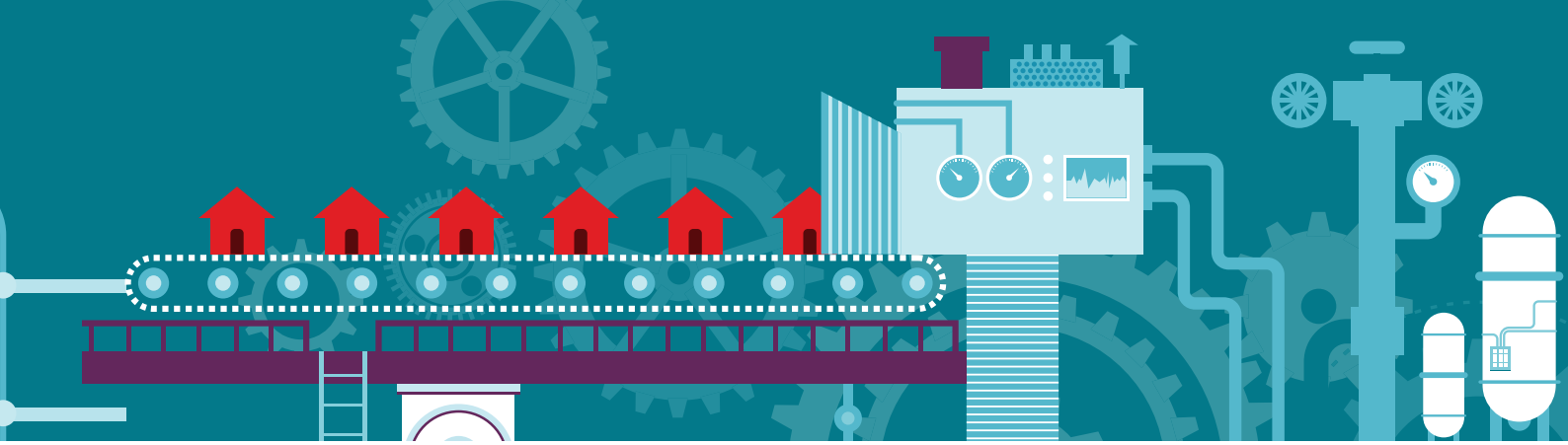
Hogan J. considered the nature of the jurisdiction of the Circuit Court under Article 34.3.4[7] of the Constitution and noted that the Circuit Court "enjoys no inherent jurisdiction, as the limitations of the jurisdiction of the court must be specified by law".[8]

By this reasoning, once section 15 of the 2001 Act removed domestic properties from the legislation, there was no mechanism conferring jurisdiction on the Circuit Court.

How far reaching is the Court of Appeal judgment?

The decision of the Court of Appeal means that all possession orders for domestic properties which are not covered by part 10 of the Land and Conveyancing Law Reform Act 2009 (the "2009 Act") or do not come within section 3 of the Land and Conveyancing Law Reform Act 2013 (the "2013 Act") must be initiated in the High Court.

In practical terms, this means that mortgages created on domestic properties after December 1, 2009 are saved by part 10 of the 2009 Act, as are domestic properties which are private principal residences saved by section 3 of the 2013 Act. Section 3 of 2013 Act was introduced to cure the lacuna which was successfully relied on in the *Start Mortgages* case[9] when banks lost their right to obtain possession orders on domestic properties through a legal challenge. The Start Mortgages issue was caused when sections of the Registration of Title Act 1964 (the "1964 Act") were repealed by the 2009 Act with no saving



provisions. This issue affected a large asset class of domestic properties. Many banks could circumvent this problem by appointing receivers on domestic investment properties but were unable to appoint receivers on domestic private principal residences.

Interestingly, pipeline possession cases affected by *Permanent TSB v Langan*, which are already lodged in the Circuit Court, may not be as problematic as one might expect. The reason for this is that question three in the case stated put forward by Baker J. to the Court of Appeal asked:

"Is the Circuit Court entitled to proceed to judgment, unless it is shown by evidence that there is a rateable valuation which exceeds €253.95?"

Hogan J's. determination of this point was:

"Where the defendant has put the jurisdiction of the Circuit Court at issue, that Court is not entitled to proceed to judgment in respect of a domestic dwelling which has been rendered unrateable by the Valuation Act 2001, unless the case in question comes within either Part 10 of the 2009 Act or s. 3 of the 2013 Act".

Therefore, if jurisdiction has not been put in issue by the defendant, the Circuit Court can and should grant an order for possession. However, that does not prevent the defendant from making an application to amend their pleadings and put jurisdiction in issue. Pleadings can be amended on application to a county registrar or Circuit Court judge pursuant to Order 65, rule 1 of the Circuit Court Rules.

The implications of the current state of affairs are highly unsatisfactory for litigants. Borrowers are deprived of accessing their local Circuit Courts, and the costs for all parties are increased. The already busy High Court list will come under increased pressure. As Murphy J. eloquently put it in *Bank of Ireland Mortgage Bank v Finnegan Ward and anor*:

"the Court observes that the defendants' success on this aspect of the case is a pyrrhic victory. In circumstances where there is no dispute that the defendants borrowed the money and no dispute that they ceased making the agreed repayments in August 2011, this judgment merely postpones the day of reckoning while their debt keeps mounting. So be it".[10]

The purpose of section 45 was to replace the rateable valuation system with a market value system. The threshold for the Circuit Court under section 45 is a market value of up to €3,000,000, which clearly intends to capture the majority of domestic dwellings in Ireland. This section has not been commenced at the date of going to print.

Summary

Leave to appeal has been granted by the Supreme Court but it could take a year or more before the appeal is determined. If the Supreme Court upholds the decision of the Court of Appeal, the current state of affairs will continue.

This issue of relying on rateable valuations on domestic properties was identified and amending legislation was drafted under section 45 of the Civil Liability Act 2004 (the "2004 Act"), which substitutes section 2(1)(d) of the 1981 Act.

The purpose of section 45 was to replace the rateable valuation system with a market value system. The threshold for the Circuit Court under section 45 is a market value of up to €3,000,000, which clearly intends to capture the majority of domestic dwellings in Ireland. This section has not been commenced at the date of going to print.

It is not clear why the section has not been commenced but the consequences are far reaching and costly.

Section 45 could be commenced quickly by statutory instrument from the Minister. Section 45 would provide swift access to the Circuit Court for possession proceedings and reduce costs for litigants. Section 45 was cited by Murphy J. in *Bank of Ireland Mortgage Bank v Finnegan Ward and anor* and by Hogan J. in *Permanent TSB Plc v Langan* and would appear to be the appropriate way to remedy the situation.

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2. [2015] IEHC 304.
3. [2015] IEHC 738.
4. Supra note 2 at para 4.
5. Supra note 3 at para 22.
6. Supra note 1 at para 36.
7. "The Courts of First Instance should include Courts of local and limited jurisdiction with a right to appeal as determined by law."
8. Supra note 1 at para 11.
9. *Start Mortgages Ltd v Gunn* [2011] IEHC 275 (High Court, Dunne J., July 25, 2011).
10. Supra note 2 at para 37.

Clearing the statute book

The statue law revision programme has done great work and needs to be completed.

Mr Justice Richard Humphreys[1]

Over the past decade, a major process of statute law revision has been underway to improve the Irish statute book. That process was recently highlighted by the judgments of Donnelly J. in *Persona Digital Telephony Ltd. v Minister for Public Enterprise*,[2] which noted the preservation of previous law on maintenance and champerty by the Statute Law Revision Act 2007 in the context of proposed third-party funding of litigation against various defendants including Mr Denis O'Brien. This article is an attempt to take stock of progress and examine the need for future work in this area.

What is statute law revision?

What makes statute law revision a distinct activity? After all, so many areas are surrounded by such a thicket of legislation that it is impossible to legislate further without repeal of what has gone before. But statute law revision and ordinary repeal are distinct activities. The ordinary repealing act replaces what is repealed with new substantive provisions. By contrast, statute law revision is pure ground clearing – simply doing away with the old without replacement.

Acts suitable for statute law revision fall into two categories. Firstly, laws which have ceased to be in force due to change of circumstances or the passage of time but have never been expressly repealed (such acts are frequently referred to as 'spent', for example, where the act is for a limited time period which has expired). Secondly, statute law revision seeks to repeal legislation which, while technically in force is no longer of relevance in practice. Such legislation is normally referred to as 'obsolete'. Elimination of the spent and the obsolete forms the bread and butter of the statute law revision process. Substantive change to the law would be regarded as outside the scope of a statute law revision.

In practical terms, statute law revision bills are introduced by a particular department on behalf of the public service more widely. The sponsoring department (which has varied over the years – in 1962 and 1983 the Department of Justice, then the Department of the Taoiseach, and in more recent years, the Department of Public Expenditure and Reform) arranges for an analysis to take place of the legislation, which results in a recommendation as to whether it is either spent or obsolete. If a particular department wishes to go beyond that to make a substantive change in its own legislation, it is more appropriate that it take responsibility for that change by introducing a bill of its own.

Furthermore, it could be argued that to introduce significant, substantive change in a revision bill might dilute the general cross-party welcome for such measures, which is normally predicated on the expectation that there has been an expert assessment that the repeals do not change the substantive law. A similar approach obtains in the UK where that assessment is carried out by the relevant law commission.

A brief history of statute law revision

Like so many other worthwhile enthusiasms such as natural history, rail transport, or the county structure of local government in Ireland, statute law revision really got going in the Victorian era. The first proper statute law revision act, entitled "An Act to repeal certain Statutes which are not in use", was enacted in 1856.[3] Following on from this, from 1861 to 1908 there were approximately 25 statute law revision acts, including the Statute Law Revision Act 1879, which specifically focused on acts of the Irish parliament.[4] There were no further statute law revision acts between 1908 and Irish independence in 1922.

Following independence, there were two major revision initiatives prior to recent times, the Statute Law Revision (Pre-Union Irish Statutes) Act 1962, which revisited the generally neglected area of acts of the Irish parliament, including repeal of the Act of Union 1800, as passed by that parliament;[5] and, the Statute Law Revision Act 1983, which repealed a wide swathe of legislation including the UK version of the Act of Union 1800.[6]

There matters largely stood until the present statute law revision programme was put in motion in early 2003 under the Attorney General of the day, the late Rory Brady SC on foot of proposals which I made to him that there was a need to restart the review of pre-independence legislation, which had not been comprehensively re-examined for the previous 20 years.[7]

The statute law revision project is something that by its sheer scale and comprehensiveness surpasses any similar efforts in other jurisdictions. From the outset, the process of statute law revision was closely related to a wider imperative to make the statute book more accessible.

First result

The first tangible result of the programme was the Statute Law Revision (Pre-1922) Act 2005, which repealed an initial tranche of 207 Acts. This was followed by the major piece of work involved in the programme, the review of all pre-independence public general acts by the Statute Law Revision Act 2007. The 2007 Act examined a total of 26,191 such acts.[8] The Act incorporated a new approach to statute law revision by the introduction of the 'whitelist', namely a specific list of acts retained, with any others being either expressly or impliedly repealed. That approach allowed for complete certainty to be achieved as to what was and was not in force. Up to 2007, the practice had been simply to list the acts being repealed, and not those being kept. The 2007 Act retained 1,364 pre-independence public acts. It expressly repealed 3,224 acts and impliedly repealed 12,562, making a total of 15,786 acts repealed in total. At the time, that was the largest single repealing measure anywhere.

The next area to warrant attention was that of local, personal and private acts. To give some idea of the scale of such acts, and of legislative activity during the Victorian period, one might take the example of the most productive legislative year ever, 1846.[9] That year had a total of 117 public general acts, 51 private acts and 402 local and personal acts, giving a total of 570 enactments in a single year. By comparison, the Oireachtas passed 67 acts in 2015 (including one constitutional amendment). The Northern Ireland Assembly passed 10 acts. Westminster only managed 37 public acts and no private acts in that year.

Local, personal and private acts were addressed in two tranches by the Statute Law Revision Acts of 2009 and 2012. Between them they reviewed over 33,000 acts and expressly repealed 4,300, impliedly repealing 27,000. In terms of total repeals (both expressed and implied) per act, the 2012 Act broke the previous record by repealing, in a single act, a total of 21,936 acts at one stroke. A further area to receive attention was that of secondary legislation such as proclamations, orders in council and similar instruments. All such instruments that could be identified up to 1820 were reviewed in the Statute Law Revision Act 2015, which reviewed a total of 12,841 measures. The previous record for express repeals was broken again with the express revocation of 5,782 instruments in a single act.

In total the current series of acts has reviewed a remarkable total of 72,849 laws, each of which had to be individually assessed. Of that total, 9,877 were found to have been already repealed. In all, 60,681 laws were then expressly or impliedly repealed and 2,341 were retained. That represents a repeal rate of 96% of extant legislation with only 4% being retained. This extraordinary work rate was achieved over the relatively short period since 2003 on a shoestring budget. I think one could fairly say that few other public service projects could claim a greater ratio of output to resources consumed.[10]

A further recent postscript was the recent publication of the Statute Law Revision Bill 2016, which aims to repeal a limited list of acts passed since Irish independence between 1922 and 1950. That Bill is currently before the Seanad. The Bill reviewed 1,124 acts enacted during that period, and identified 297 acts suitable for repeal. The process has been maintained over the course of several different administrations from 2003 to date, supported by consecutive attorneys general, and latterly sponsored by the Department of Public Expenditure and Reform. Few legislative projects can have laboured on a limited budget for so long with such significant results and with such fairly consistently maintained widespread support for the end result.

Continuing the process

The statute law revision project is something that by its sheer scale and comprehensiveness surpasses any similar efforts in other jurisdictions. From the outset, the process of statute law revision was closely related to a wider imperative to make the statute book more accessible. Statute law revision in its modern form could not have occurred without the putting together of a publication of *The Statutes of the Realm*, an early 19th century publication aimed at making the text of statutes, as enacted, publicly accessible, at least insofar as concerned the public general statutes. Similarly, once the process of formal statutory revision got rolling, it went hand in hand with the publication of 'revised' volumes of the statutes, from which repealed matter was omitted.

The future of the statute law revision project is uncertain, in that the Government has indicated an intention to pause the project at present, although it plans to enact the Statute Law Revision Bill 2016 (which will review primary legislation up to 1950). Secondary legislation has already been reviewed up to 1820, as set out in the Statute Law Revision Act 2015, and thus there is a clear gap which needs to be addressed in terms of the secondary legislation enacted between 1820 and 1950. It would certainly be a pity if the project was not continued in order to close that gap in review of legislation, and indeed to continue the work forward to present times in a review of both primary and secondary law. The project has been tremendously successful in the period of its operation, despite having operated on a very modest budget compared to many other public sector initiatives, and it would be regrettable if it were not to be continued to a conclusion, despite the very significant progress made and the fact that the completion of this overall review of Irish legislation is very much within grasp.

Indeed, a comprehensive, chronological and systematic process of statute law revision is essential in order to open up the horizon for a more far-reaching configuration of the statute book, such as comprehensive codification. Such a codification process would have immense benefits in terms of public accessibility and transparency, as well as simplifying administration, saving costs and promoting democratic values.[11] But those new horizons of a leaner, more organised and simplified statute book simply cannot be opened unless we first complete the removal of the legislative deadwood that has accumulated over the years. The OECD recognised this point by specifically welcoming the process of statute law revision as part of a modernisation of Irish law.

A country's statute book is a central element of the architecture of any developed modern state. One might ask, if a society were to seem satisfied to leave legislative undergrowth, even legislative 'weeds', remain on the statute book indefinitely, what does that say about our attitude to what is the defining feature of what it means to be a democratic state – the function of law making? What does it imply regarding our commitment to ensure that the statute book is – at a minimum – accessible? Perhaps such issues might not seem urgent, but to let such matters slide by default would not only seem to rule out any effort to consider such initiatives as codification, but could run the risk of provoking a more serious crisis in legal transparency at some future point, if the statute book passes a point of no return in terms of Byzantine complexity.

The Law Reform Commission has since 2014 been examining the consolidation, codification and simplification of legislation[12] and is due to publish an issues paper on this project shortly. But the ambitions of any such project may be thwarted unless there is a willingness to continue and indeed complete a comprehensive programme of statute law revision that is essential to clear the ground for further initiatives. All of the stakeholders in the legal system need to be conscious of the point that an inaccessible statute book is unacceptable in a democracy, and that the statute book cannot be made accessible without first completing a comprehensive process of statute law revision.

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3. 19 and 20 Vict., c. 64. The Act applied to Ireland (subsequently repealed by the Statute Law Revision Act 1875).
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Recent case law raises questions about workplace investigations and grievance and disciplinary procedures.[1]

Making workplace investigations work

Peter Ward SC

Introduction

This article examines some recent case law governing workplace investigations and grievance and disciplinary procedures.[2] Workplace investigations most often take place in the context of the operation of a grievance procedure or a disciplinary procedure. Grievance procedures are those which apply when an employee has a complaint or grievance, of whatever nature, which he or she seeks to bring to the attention of his or her employer and to have investigated or resolved. Disciplinary procedures govern the steps to be taken by an employer when an allegation of wrongdoing is made against an employee. At all times throughout a workplace investigation – or during any step or process under a grievance procedure or disciplinary procedure – it is essential to know precisely where in the process one is and how any particular step is to be conducted and completed. Confusion and missteps in relation to these essential elements have led to a considerable volume of recent case law, just some of which is considered here. There is considerable reluctance on the part of the courts to grant orders that would bring an investigation or a disciplinary procedure to an end.[3] However, it is a reluctance which the courts are prepared to overcome if they find that a significant breach of contract or fair procedures has occurred, such as to significantly prejudice the employee concerned.

What type of investigation?

The type of investigation to which one is entitled has been considered in the context of both grievance and disciplinary procedures in recent decisions.

A failure to properly invoke the grievance procedure can result in an employer avoiding any obligation to conduct an investigation under its terms.

In *Elmes and ors v Vedanta Lisheen Mining Limited and ors* [2014] IEHC 73, Ryan J. (as he then was) considered an application for an interlocutory injunction where the plaintiffs, sought, *inter alia*, an external independent investigation of their grievances, which they claimed they had lodged with the defendant employer. It was argued that an email sent on behalf of one of the plaintiffs and his colleagues constituted a grievance under the company's grievance procedure. Ryan J. was satisfied that the plaintiffs had developed a deep sense of grievance about the manner in which they had been treated by their employer. However, he was not satisfied that they had made out any case for an entitlement to an investigation independent of the company to be carried out. Ryan J. stated it was very doubtful whether the email sent by one of the plaintiffs was a statement of intention to initiate the grievance procedure. At any rate, he did not believe the company could be faulted for not treating it as such.

This case highlights the importance of an explicit invocation of the grievance procedure by aggrieved employees. A failure to properly invoke the grievance procedure can result in an employer avoiding any obligation to conduct an investigation under its terms.

In *Conway v the Health Service Executive* [2016] IEHC 73, Murphy J. gave judgment at the interlocutory stage in a challenge to an investigation which had been commenced into a number of HSE employees employed at a residential care facility who were the subject of allegations of inappropriate and abusive behaviour. It is noteworthy that two procedures were invoked in the investigation that was undertaken by the HSE – the Trust in Care policy and the HSE disciplinary procedure. The Trust in Care policy provides that "the investigation will be

conducted by the designated person(s) agreed between parties". The disciplinary procedure provides that "an investigation will be conducted by person(s) who are acceptable to both parties". In December 2014, a number of employees were suspended pending investigation into allegations of abuse of patients. The plaintiff employees were formally notified of the identities of the three members of the investigation team appointed by the HSE in March 2015, but their agreement to the composition of the investigation team was not sought.

Ms Justice Murphy stated that the contracts of employment of a number of the plaintiffs referred to the employee handbook as forming an integral part "of the terms and conditions of employment". The other plaintiffs' contracts also referred in different terms to the employee handbook. She was satisfied that the provisions of the Trust in Care policy and the disciplinary procedure formed part of the terms of the contract of each of the plaintiffs. She stated that:

"The right of an individual, who is to be made subject to a disciplinary process, to have an input into the composition of the panel who are to conduct that investigation, is a right of real substance. In all such disciplinary investigations, there is a potential inequality of arms in that the power of the institution is ranged against the individual. The requirement that the investigation team be agreed between the parties redresses that potential imbalance and is a material safeguard for the right of the individual to have a fair, unbiased and impartial hearing. As such, the right to have an input into the composition of the investigation panel appears to the Court to be a core value of both the Trust in Care and the disciplinary procedures of the defendant".

Murphy J. thereby upheld the right of the employees concerned to be consulted and to have their agreement sought as to the composition of the investigation team where that right is clearly set out in the procedure itself. She granted an injunction restraining the investigation, which had been initiated on the part of the HSE, and restraining the HSE from embarking on any further investigation other than any in accordance with the Trust in Care policy and the disciplinary procedure.

Cross-examination by employees

In *O'Leary v An Post* [2016] IEHC 237, Mr Justice Keane considered an application by the plaintiff for an injunction prohibiting an investigation in circumstances where the plaintiff had not been permitted cross-examination at the investigation hearing. The disciplinary procedure governing An Post itself acknowledges that An Post is not obliged to afford an employee the right of cross-examination of any person. It permits an employee to raise questions which he or she wishes to have put to the person concerned, and the employer is obliged to put those questions to them under the procedure as part of a process of further inquiry following the employee's initial response. In this case, the plaintiff had not sought to raise any such questions or indeed sought to assert the right to cross-examine at the actual investigation itself. Thus Keane J. found that the plaintiff had failed to satisfy him that he had established a strong or a clear case that he was wrongly deprived of his right to cross-examine any relevant witness in breach of his contractual entitlement to natural and constitutional justice and fair procedures. It was thus unnecessary for him to address in any detail the question of whether fair procedures require the right to cross-examination in this kind of case. He did make clear, however, that he would regard consideration of that issue to take account of a number of factors which would include the fact that the employee was in a position of trust and that an employer in those circumstances was entitled to expect a candid response of an employee when it puts misgivings to him/her. Keane J. was further of the view that the employer was not in a position to set up an independent tribunal with a power to subpoena witnesses, even if it wished to do so.

While an employee will in most cases have the right to test and challenge evidence in a procedure that may result in an adverse finding against him or her, how precisely evidence is to be challenged must be considered in the light of the specific provisions of the governing procedure and how the employer proposes to facilitate this right in the proposals made for the conduct of the investigation.

The right of an individual, who is to be made subject to a disciplinary process, to have an input into the composition of the panel who are to conduct that investigation, is a right of real substance.

Bias and prejudgement

The judgment of Mr Justice Binchy in *Joyce v The Board of Management of Colàiste Iognàid* [2015] IEHC 809 illustrates the importance of knowing the precise type of investigative process which has been undertaken, and where it fits into the overall procedure. Binchy J. granted an injunction restraining the board of management of the defendant school from continuing an investigation conducted pursuant to the disciplinary procedure for principals of schools, as set out in Circular 60/2009 of the Department of Education and Skills. The chairperson of the board of management had prepared a report into a number of matters of concern regarding the principal and presented it to the board of management. The procedure provides for a comprehensive report on the facts to be prepared by the chairperson and forwarded to the board of management, who must then consider the matter and seek the principal's views on the report in writing.

Binchy J. found that in the report, the chairperson's views quite clearly reflected very negatively on the plaintiff regarding the performance of her duties and he was of the view that "there must be a strong case that they go far beyond the gathering of evidence or the formulation of allegations based upon the evidence". He concluded that the plaintiff had established a strong case that the chairperson of the board of management did not proceed with the investigation in accordance with the circular and that the report contained not just statements of facts but also findings and conclusions which had been made without affording the plaintiff an opportunity to respond, thereby depriving her of fair procedures and natural justice. Also, that if the circular envisaged the making of findings as part of the preparation of a comprehensive statement of facts, then the plaintiff would be entitled to fair procedures in natural justice at that stage in the process, i.e., when the report was being prepared by the chairperson.

This case illustrates the importance of being clear about precisely what one is required to do in carrying out any particular type of investigation. In this case, the procedure provided for the chairperson to complete a comprehensive report on the facts, but the High Court found it had strayed beyond that and into findings

adverse to the principal in respect of which the principal had not been given an opportunity to respond.

Appeals in disciplinary procedures

Circular 60/2009 was also interpreted by the High Court in the case of *Kelly v Board of Management of St. Joseph's National School* [2015] 26 ELR 53. In that case, the plaintiff was the principal of the defendant school and had been demoted to the position of classroom teacher. The appellant appealed to the disciplinary appeal panel under the provisions of Circular 60/2009. Paragraph 18 of the disciplinary appeal panel code stipulates that the final decision in respect of the appeal panel recommendation rests with the board of management, which shall set out in writing the basis for its decision.

In *Kelly*, the disciplinary appeal panel was of the opinion that the proposed sanction of demotion was disproportionate and that the plaintiff should only be reprimanded for the manner in which she conducted herself in dealings with the board. The board of management rejected the disciplinary appeal panel's findings. O'Malley J. was of the view that the role of the disciplinary appeal panel deserved more respect than it was given. It is a body drawn from the fields of teaching and management, with an experience of the areas that is unlikely to be matched or exceeded by the board members. It has an independent chair. She therefore concluded:

"Its recommendations should, accordingly, carry very substantial weight with boards of management. While a board is not bound to carry out its recommendation, it should in my view depart from it only for very good reasons".

In what were judicial review proceedings, O'Malley J. proceeded to quash the decisions of the respondent board demoting the applicant from the position of principal of the respondent school. Thus it was clear that even where the procedure itself provided that the decision of the board of management was final, the recommendations of the disciplinary appeal panel could not be departed from without very good reasons.

Trust and confidence issues

The recent decision of Mr Justice Gilligan in *O'Leary Darcy v Lisdoonvarna Failte Limited* [2016] IEHC 305 is an illustration of a case where, despite the argument that an investigation report contained prejudgment and findings arrived at in breach of fair procedures, the courts may not intervene to prevent an employer acting on foot of such a report when issues of trust and confidence and reputational damage outweigh the alleged shortcomings in the report. Mr Justice Gilligan stated that he was not satisfied on the affidavit evidence, which contained admissions of wrongdoing, and the submissions as offered on behalf of both parties, that the plaintiff made out a strong case that she was likely to succeed at the trial of the action. He also determined that damages would be an adequate remedy and that the balance of convenience, particularly having regard to issues of trust and confidence, and taking into account the aspect of reputational damage between the parties, lay in favour of the defendant.

Parallel criminal proceedings

In *Rogers v An Post* [2014] IEHC 412, the plaintiff was a manager at a post office and was suspended on full pay by the defendant pending the determination of disciplinary procedures against him. The defendant sought to investigate whether the plaintiff had engaged in serious misconduct in the mistreatment of registered post. The plaintiff was charged with a criminal offence arising from the same incident. A trial took place before a judge and jury, at the end of which a jury could not agree upon a verdict and was discharged. A retrial was fixed for hearing in December 2014. The plaintiff sought an injunction from the High Court prohibiting the defendant from proceeding with the disciplinary inquiry pending the conclusion of the criminal case. The plaintiff argued that he would suffer irremediable prejudice – either through being constrained or inhibited in his participation in the disciplinary process or, should he participate fully, by potentially losing (at least some of) the benefit of the privilege against self-incrimination in the criminal process, or the tactical advantage of not disclosing his line of defence in advance of trial, or both. Keane J. cited the Supreme Court decision in *O'Flynn v Mid Western Health Board* [1991] 2 IR 223, which held that there is no immutable rule that civil proceedings must remain at a standstill to await the outcome of a criminal investigation. Keane J. stated that in order to demonstrate that the plaintiff was entitled to an injunction restraining a disciplinary process, the plaintiff must show more than merely that there is a criminal trial pending arising out of the same events. If that was enough, there would be an immutable rule that disciplinary proceedings must remain suspended to await the outcome of a criminal prosecution in every case. Keane J. was of the view that an injunction such as that sought by the plaintiff does not exist to direct procedure in advance in relation to a proposed disciplinary process.

An Post had informed the plaintiff that it was prepared to provide an undertaking that it would not oblige the plaintiff to provide any information which he believed might incriminate him. It also conceded that it was not appropriate to maintain any objection to the plaintiff's intention to rely upon the terms of his written cautioned statement to An Garda Síochána as the explanation or representation that he wished to make for the purposes of the proposed oral hearing. Keane J. was of the view that if the interlocutory injunction was granted, the effective result of that would be to have decided the matter summarily in favour of the plaintiff, as it would effectively conclude the matter and that would preclude the defendant from the opportunity of having its rights determined at a full trial. In all the circumstances, Keane J. refused the plaintiff's application for injunctive relief.

The role of suspension

In *Bank of Ireland v Reilly* [2015] IEHC 241, Noonan J. made some interesting observations on the right of an employer to suspend an employee, albeit in the context of a claim for unfair dismissal and not in an employment injunction case. He stated:

"This suspension of an employee, whether paid or unpaid, is an extremely serious measure which can cause irreparable damage to his or her reputation and standing. It is potentially capable of constituting a significant blemish on the employee's employment record with consequences for his or her future career. As noted by Kearns J. (as he then was) in *Morgan v Trinity College Dublin* [2003] 3 IR 157, there are two types of suspension – holding and punitive. However, even a holding suspension can have consequences of the kind mentioned. Inevitably, speculation will arise as to the reasons for the suspension on the premise of there being no smoke without fire. Thus, even a holding suspension ought not to be undertaken lightly and only after full consideration of the necessity for it pending a full

investigation. It will normally be justified if seen as necessary to prevent a repetition of the conduct complained of, interference with evidence or perhaps to protect persons at risk from such conduct. It may perhaps be necessary to protect the employer's own business and reputation, where the conduct in issue is known by those doing business with the employer. In general, however, it ought to be seen as a measure of design to facilitate the proper conduct of the investigation and any consequent disciplinary process".

In *Canavan v the Commissioner of An Garda Síochána* [2016] IEHC 225, the applicant was a member of An Garda Síochána who sought an order of prohibition to prevent the respondent from continuing a process of internal disciplinary investigation. He also sought an order prohibiting the respondent from further suspending him from duty on foot of alleged breaches of discipline. The applicant was suspended on May 31, 2014, and a formal notice of suspension pursuant to Regulation 7 of An Garda Síochána (Discipline) Regulations 2007 was served. The reason given was that he had failed to prosecute certain cases in 2012 and 2013. During suspension, the applicant was paid a suspension allowance lower than his ordinary remuneration.

Ms Justice Baker examined the authorities which make a distinction between a suspension required to address an urgent issue, i.e., a summary or purely holding suspension, and a lengthy suspension when, she stated, considerations of fair procedures and unwarranted prejudice come into play. She examined the dicta of Kearns J. in *Morgan v Trinity College* and Henchy J. in *Flynn v An Post*. She held that while a holding suspension may be justified without giving the member the benefit of procedural fairness, the balance tipped towards a requirement of such fairness when the suspension has been a lengthy one and when no substantive progress has been made in the investigation. Some part of the delay was justified on the grounds that a criminal investigation was underway and the decision of the DPP whether to prosecute or not was awaited. Baker J. held that the suspension had ceased to be a holding suspension long before that time and the delay was unwarranted. The applicant had suffered prejudice, having been suspended for 18 months at the time the judicial review was commenced. Baker J. considered that the suspension had ceased to be a holding suspension and that the principles of fairness and due process came to be engaged. She held that there was no obligation imposed by the regulations on the Commissioner to give reasons to a member of the force before effecting a suspension. The authorities that supported the view that no such obligation was imposed must be seen as pertaining to the holding or summary suspension and do not deal with the requirements of fairness in the case of a longer suspension, which has ceased to have that character. Baker J. thus concluded that the continued suspension of the applicant had not been shown to be justified. The decision maker had not sworn an affidavit and there was no evidence before her that pointed to a justifying feature. For that reason, Baker J. made a declaration that the continued suspension was not valid and that the applicant should be reinstated to his employment on full pay and allowances. While lifting the applicant's suspension, Baker J. refused the application to prohibit the continuation of the disciplinary process itself as no evidence had been furnished to her to warrant the Court's interference with that process.

Suspension length

In *Kinsella v Ulster Bank* (unreported, Gilligan J. October 25, 2016), Gilligan J. also reviewed the law governing suspension of employees. The plaintiff was a bank manager who was suspended on May 20, 2015. An application was made for *ex parte* relief on May 19, 2016 restraining the defendant from continuing the disciplinary process on the grounds that the suspension was unlawful and had been allowed to continue for such a lengthy period, without review, such that it had become invalid. After reviewing the authorities on suspension, Gilligan J. stated that he was satisfied, as a matter of law, that the rules of natural justice did not apply in the instant case to the investigative process, on the basis that it did not amount to any finding of fact, either adverse or otherwise, concerning the plaintiff. He stated that it appeared to be purely investigative, leading in that instance to the instigation of a disciplinary process. That process had not yet commenced. He was satisfied that the plaintiff had not suffered such a level of prejudice that her capacity to defend herself had been sufficiently impaired as to cause her actual prejudice in dealing with the disciplinary process. Gilligan J. therefore concluded that the plaintiff, who had been suspended on pay for the year prior to the application to Court, which was made before a proposed disciplinary meeting was to be held, had not met the necessary threshold of satisfying the strong case principle that the process was so flawed that it was not capable of being remedied. Nor had she satisfied the Court that she had suffered such a level of prejudice that she was sufficiently impaired in her capacity to defend herself. While the distinction between a holding suspension and a suspension as a sanction has been maintained in recent case law, it is clear that greater judicial scrutiny is being applied to the circumstances when holding suspensions are effected by employers. The mere invocation of a holding suspension will not immunise that suspension from close judicial examination as to its nature and effect, and potential prejudice to the employee.

Conclusion

For all the stated reluctance to intervene in investigative and disciplinary procedures, the case law reveals a readiness on the part of the courts to intervene and halt such processes where there is a clear breach of contractual rights or fair procedures, and where prejudice to the employee is firmly established. Clarity of procedure and purpose at the outset of any investigative or disciplinary process will in most instances avoid the pitfalls and traps into which so many employers descend with all the resultant cost and delay and, in many cases, a recommencement of the investigative process.

References

1. This is an edited version of a paper presented at the Employment Bar Association conference on employment law held at the Law Library, Distillery Building, on October 21, 2016.
2. For treatment of this area generally see: Frances Meenan, *Employment Law*, (2014), Chapter 18; Brendan Kirwan, *Injunctions – Law and Practice*, (2nd ed.), Chapter 9, part F; Cox, Corbett and Ryan, *Employment Law in Ireland*, Chapter 18; and, Mary Redmond, *Dismissal Law in Ireland* (2nd Ed), Chapter 13.
3. See *Carroll v Dublin Bus* [2005] ELR 192 and *Kinsella v Ulster Bank Limited* (unreported, Gilligan J., October 25, 2016).

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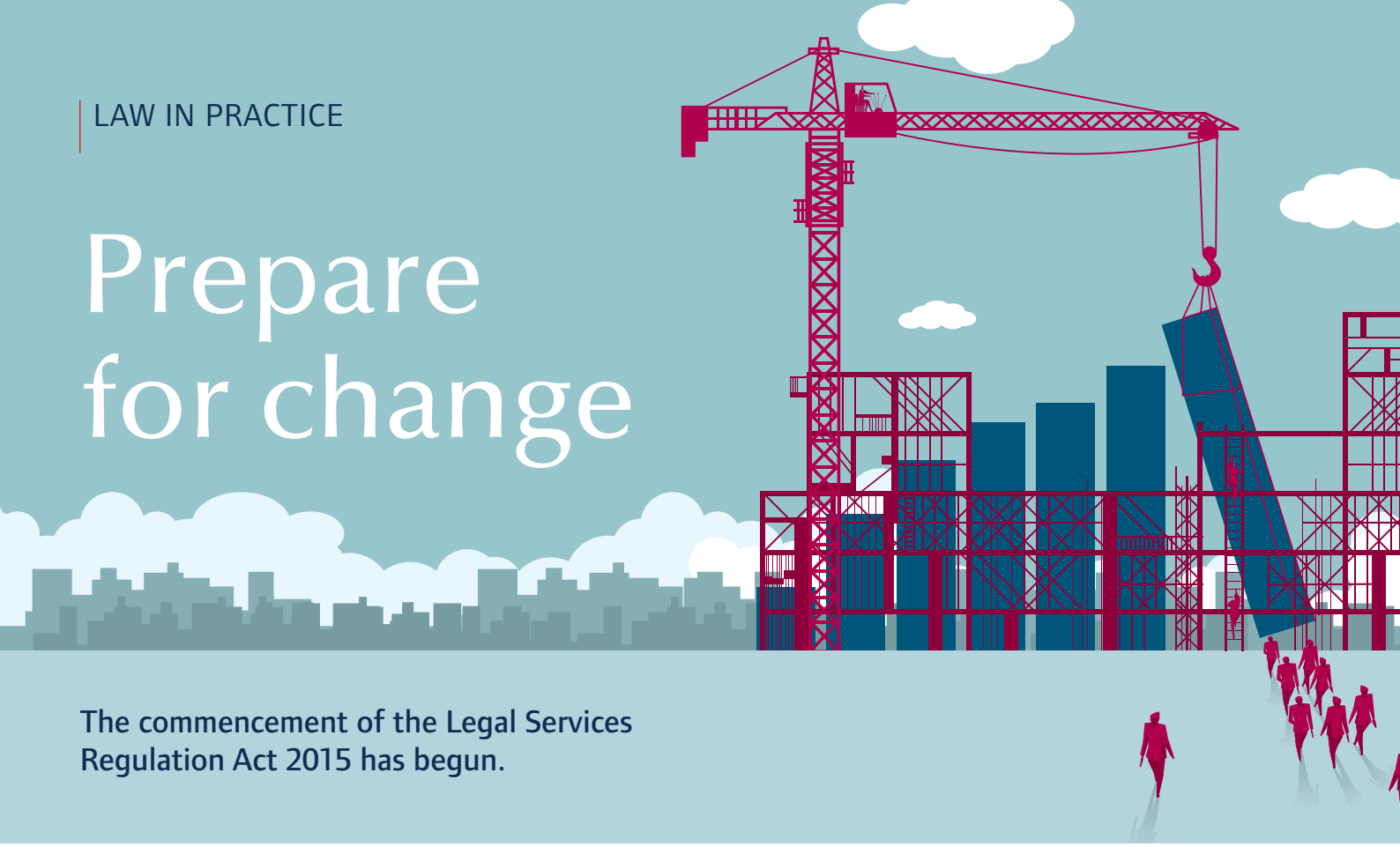

The commencement of the Legal Services Regulation Act 2015 has begun.

Brendan Savage BL

Introduction

Certain parts and sections of the Legal Services Regulation Act 2015 (the "LSRA 2015" or the "Act") have now been commenced. The Legal Services Regulatory Authority (the "Authority") was established as of October 1, 2016. This article will consider a number of the more relevant provisions that are now in force, as well as the functions that have so far been conferred on the Authority.

Part 1

As of July 19, 2016, Parts 1 and 2 of the Act (with certain exceptions) have been commenced.[1] Part 1 of the Act entitled 'Preliminary and General' contains a number of standard provisions concerning, for example, regulations and orders made under the Act (section 3), and expenses incurred in the administration of the Act (section 4). Section 2, 'Interpretation', is of critical importance as the definitions inform the operation of the entire legislative scheme. Of interest to practitioners is the fact that this section sets out to provide statutory definitions of concepts that are fundamental to legal practice, including: 'legal advice'; 'legal practitioner'; 'practising barrister'; 'qualified barrister'; and, 'professional code'.

Part 2

Part 2 of the Act, entitled 'Legal Services Regulatory Authority', provides for the establishment of the Authority. Pursuant to section 7 of the Act, October 1, 2016 was nominated as establishment day for the Authority.[2] Sections 8-12 set out the legislative framework for the establishment of the Authority and for the appointment and removal of members of the Authority.

Section 13, 'Functions of Authority', describes the general parameters within which the Authority will function. Under this section, the Authority is conferred with two general and broad functions, namely: (a) to regulate the provision of legal services by legal practitioners; and, (b) to ensure the maintenance and improvement of standards in the provision of legal services in the State.[3]

The remaining subsections of section 13 offer some insight into the manner in which the Authority will seek to achieve the general functions or objectives. For example, it shall have the power to keep under review and to advise the Minister in respect of the admission requirements of the Law Society and the King's Inns,[4] and the availability and quality of the education and training for barristers and solicitors.[5] The Authority will also have a role in promoting public awareness in respect of legal services[6] and in keeping the Minister informed of developments in respect of the provision of legal services.[7] The Act also stipulates that the Authority will be independent in the performance of its functions[8] and that in performing its functions, the Authority will have regard to certain prescribed 'objectives', namely:

- protecting and promoting the public interest;
- supporting the proper and effective administration of justice;
- protecting and supporting the interests of consumers relating to the provision of legal services;
- promoting competition in the provision of legal services in the State;
- encouraging an independent, strong and effective legal profession; and,
- promoting and maintaining adherence to certain 'professional principles'.[9]

The professional principles are set out under section 13(5) of the Act. They provide that legal practitioners shall act with independence and integrity, shall act in the best interests of their clients, and shall maintain proper standards of work. Two further and important professional principles are also identified. Section 13(5)(b) provides that legal practitioners who appear before any court shall comply with such duties as are rightfully owed to the court. Section 13(5)(c) provides that subject to certain professional obligations and duties, the affairs of clients are to be kept confidential.

While section 13 has brought about the establishment of the Authority and will see the Authority function immediately within defined and limited parameters, certain important provisions have not been commenced as of yet. As matters stand, the Authority does not have a role in specifying the level and nature of professional indemnity insurance cover,[10] nor will the Authority have a role in maintaining the roll of practising barristers.[11]

Similarly, and until such time as section 13(2)(e) is commenced, the Authority will not establish or administer a system of inspection of legal practitioners.[12] Importantly, and in relation to the investigation of complaints under Part 6 of the Act, 'Complaints and Disciplinary Hearings in respect of Legal Practitioners', the Authority has not as yet been given the power to receive and to investigate complaints.[13,14] Consequently, the comprehensive regime of disciplinary regulation envisaged under Part 6 is yet to be commenced and the various professional bodies will continue to regulate the conduct of practitioners for the moment.

The meetings and business of the Authority are to be conducted in accordance with section 14 of the Act. Section 16 of the Act envisages the establishment of committees to assist the Authority in the performance of its functions. The Authority has also been given the power to appoint consultants and advisers.[15] The Authority is to furnish a report to the Minister on an annual basis,[16] as well as a strategic plan every three years.[17]

Legal privilege

Section 18 relates to legal privilege and this section provides that nothing in the Act shall compel a person, other than a person to whom subsection 2 applies, to disclose any information or documentation that the person would otherwise be entitled to refuse to produce on the grounds of legal professional privilege.

Under subsection 2 and "[n]otwithstanding the relationship between, or rights and privileges of, a legal practitioner and his or her client", a legal practitioner shall, if so required by the Authority (or by a person authorised by the Authority) provide the person with any information or documentation which is required by the Authority for the purpose of enabling the Authority to discharge its functions under the Act.

The section does contain one important limitation on the use to which any such information may be put and section 18(3) states that the information or documentation provided by a legal practitioner may only be used for the purpose of enabling the Authority to discharge its functions under the Act in relation to legal practitioners.

It remains to be seen how this provision will be invoked and relied upon by the Authority in practice. While the limitation identified above is of note, it does little to limit the scope of subsection 2, the effect of which would appear to be to compel a legal practitioner to divulge otherwise confidential and privileged material in any case where the Authority states that the material is required to enable it to discharge any of its functions under the Act (not just its investigative and disciplinary functions).

Codes of practice and professional codes

The Authority may issue codes of practice having regard to the general functions identified above, as well as the section 13(4) prescribed professional objectives.[18,19] A code of practice issued by the Authority may relate to the provision of services by legal practitioners generally, or may be focused and directed to a particular cohort.[20] Prior to issuing a code of practice, the Authority is obliged to consult with the professional body whose members will be subject to the proposed code and with any other interested parties.[21]

October 1, 2016 not only marked the date of establishment of the Authority but also the commencement of a number of time periods within which certain activities are to be performed by the Authority and by other parties under the Act. In relation to professional codes,[22] section 23(6) provides that the professional bodies are required to furnish to the Authority with a copy of all professional codes within one month of establishment day.[23] Upon consideration of the relevant professional code, the Authority may issue notices where the code is found to fall foul of section 23(1) subsections (a)-(c). Where the Authority proposes to issue a notice under section 23, the Authority shall first notify the professional body concerned (and any other professional body it considers appropriate), and then invite and consider representations.[24]

Further developments

Parts 1 and 2 of the LSRA 2015 are framework provisions to enable the Authority to carry out its other functions under the Act. The Authority is now established and held its first meeting on October 26, 2016. It is only a matter of time before other provisions of the Act are commenced, which will have a substantial bearing on almost every aspect of practice. The following parts are of particular interest:

- Part 3, which will see the introduction of a comprehensive scheme of inspection and inspectors appointed under section 37 of the Act who will have the power to carry out inspections for the purpose of investigating any complaint made under the Act[25] – they may also carry out inspections with a view to ensuring compliance with any obligations imposed on practitioners under the Act;[26]
- Part 6, which will see the introduction of a new and all-encompassing scheme of disciplinary regulation, which will see the new bodies and committees to be established under the Act[27] given the powers to investigate complaints, to hold inquiries and to rule on the professional conduct of practitioners;[28]
- Part 8, which will govern the operation of alternative business models;
- Part 9, which imposes certain obligations on practising barristers, to include the requirement that all barristers called to The Bar of Ireland and who intend to provide legal services as barristers, apply to the Authority to have their names entered on the roll of practising barristers;[29]
- Part 10, which introduces a new legal costs regime;
- Part 12, which sets out a new regime for the granting of patents of precedence; and,
- Part 14, entitled 'Miscellaneous', which introduces, among other things, a provision that will have an impact on certain aspects of criminal law practice.[30]

The commencement of these substantive provisions of the LSRA 2015 will bring about changes to the way that legal practice is conducted in this jurisdiction. A familiarity with the key provisions at this time should ensure as smooth a transition as is possible to the new regime when it becomes fully operational.

Members of the Legal Services Regulatory Authority

Mr Don Thornhill, Chairman
Angela Black
Deirdre McHugh
Gerry Whyte
Stephen Fitzpatrick
Dermot Jewell
David Barniville SC
Joan Crawford
Eileen Barrington SC
Geraldine Clarke
James MacGuill

References

1. S.I. No. 383/2016 – Legal Services Regulation Act 2015 (Commencement of Certain Provisions) Order 2016. Section 5 (Repeals) – has not been commenced.
2. S.I. No. 507/2016 – Legal Services Regulation Act 2015 (Establishment Day) Order 2016.
3. Section 13(1).
4. Section 13(2)(a)(i).
5. Section 13(2)(a)(ii).
6. Section 13(2)(g).
7. Section 13(2)(h).
8. Section 13(3).
9. Section 13(4).
10. Section 13(2)(c) – currently not commenced.
11. Section 13(2)(f) – currently not commenced.
12. See also Part 3 – Inspections – Legal Practitioners, sections 37-44 of the Act.
13. Section 13(2)(e) – currently not commenced. See also Part 6 – 'Complaints and Disciplinary Hearings in respect of Legal Practitioners', sections 49-94 of the Act.
14. Sections 31 (power to charge and recover fees), 33 (annual report on admission policies of legal professions), 35 (order to prohibit contravention of Act), and 36 (prosecution of offences) have also yet to be commenced.
15. Section 17.
16. Section 21.
17. Section 20.
18. Section 22.
19. "Code of practice" is defined under section 2 as "a code of practice issued under section 22, and includes part of such a code".
20. Section 22(2).
21. Section 22(3).
22. "Professional code" is defined under section 2 as "any code of conduct, code of practice, rule, regulation, practice note, guideline or other code, including any part thereof, relating to the provision of legal services by its members – (a) that has been adopted by or on behalf of a professional body, or (b) to which members of a professional body, as a condition of their membership of that body, are otherwise subject".
23. This author understands that the Authority has been furnished with both the Code of Conduct for The Bar of Ireland adopted on July 23, 2014, and the Code of Conduct for The Bar of Ireland adopted on July 25, 2016.
24. Section 23(3).
25. Section 38(a).
26. Section 38(b).
27. To include the Complaints Committee established under sections 68 and 69 and the Legal Practitioners Disciplinary Tribunal established under section 74.
28. See in particular s.81 (inquiry by disciplinary tribunal).
29. Section 134.
30. Section 215 places certain restrictions on the entitlement of a legal practitioner to withdraw from a case where a client is in custody.

Maurice Gaffney SC – 1916-2016

In May of 2014, the headline piece of an article in the *Irish Independent* read "Father of The Bar (97) gets 'legal Oscar'". It included a photograph of Maurice waltzing with Miriam O'Callaghan outside the Four Seasons Hotel. He had just received a lifetime achievement award for outstanding legal service over a significant period of time. Nobody could have deserved it more. However, Maurice wasn't just an outstanding lawyer. He was an outstanding person.

Over the last number of weeks since he stopped coming to his desk to the left under the clock, we have all reflected on what Maurice meant to us. It wasn't simply his kindness, his compassion, his understanding, his humour, his charm. It was the fact that all these characteristics and more were wrapped up in such a wonderful human being.

On the odd occasion that Maurice was not sitting at his desk, colleagues would ask with concern: "Where's Maurice"? But the next day he was there as constant as the moon.

When asked by Miriam O'Callaghan, what was the secret of his longevity, he answered: "The company of young people, above all the opposite sex". It was very hard to approach Maurice without him being in the company of young people. He often remarked that the friendship of his colleagues meant everything to him. He became an institution.

His early life is well known. Born to Patrick and Margaret Gaffney in Co. Meath, the family moved to Stoneybatter and then to Upper Gardiner Street. By the time he attended NUI, the family had moved to Tolka Lodge, Finglas Bridge, Co. Dublin.

After school at Earlsfort Terrace, Maurice joined the Jesuits and thereafter became a teacher of history in Glenstal Priory, Co. Limerick, teaching notables such as Freddy Morris, the future President of the High Court. The Benedictines had a profound effect upon him and he often returned to the Priory to recharge and pray. Those close to him believe that he exemplified the rules of St Benedict in that he was never proud, drowsy, lazy, a grumbler or a detractor.

However, teaching was not his destiny. By the early 1940s, while in his thirties, he did a law degree and became a student again at the King's Inns. There, he met the love of his life, Leonie Lehane. In fact, she was called to the Bar the year before him in June of 1953. He was called on February 19, 1954. He devilled with Paddy MacKenzie BL on the Eastern Circuit. They were very different people but became firm friends. Never flamboyant, he did the work that others didn't – conveyancing, probate, landlord and tenant. He was often briefed by his lifelong friend, Moya Quinlan née Dixon. His devils recalled papers arriving with a note from her saying: "Please let me know the sum you filled the enclosed blank cheque for"!

Maurice married Leonie and had two wonderful children, Patricia and John. He always felt that his clients got two barristers for the price of one as Leonie acted not only as a secretary, but as a sounding board and mentor.

Success came slow as it did in those days, but within a decade, he was one of the Leaders of the Circuit. So much so, that he was sought out as a master, as much for his wisdom and experience, as for his temperament. In Michaelmas of 1966, Esther McGann née Hogan became his first devil. She made quite an impact in the predominately male environment of the Law Library.

After Esther, it was Harvey Kenny in 1967, then Esmond Smyth in 1968 and finally Patrick Keane in 1969. In 1970, he took silk with Ronan Keane.

Over the next 40 years, he became a very successful silk in every area of work, from personal injury to banking. Indeed, he was unique in that there was no area of the law in which he did not practise, including the Commercial Court. His quiet, confident and courteous manner always put clients at their ease. Never given to histrionics, his style was always soft and low key, as when he explained to Mr Justice Butler in a bailment action against Dublin Airport that when his client's car was stolen from the car park, his client must have said to himself: "O deary me, my brand-new sports car has been stolen". Judge Butler interjected: "Mr Gaffney: or words to that effect".

His devils remember him being an exacting taskmaster, correcting their pleadings like the school teacher he used to be. He was keen on clarity of legal expression and a stickler for clear language.

Maurice had a secret love – high-performance cars. He could be seen driving a fancy Alfa Romeo at a time when Italian fast cars were not the norm on the streets of Dublin. When he changed his car in 2008, he researched the car with the lowest CO_2 emissions, settling on a Toyota Prius, which he jokingly told Helen Callanan that he would change in ten years. He nearly did.

As a career-long member of the Benevolent Society of the Bar of Ireland, he delivered meals on wheels till recently. On one occasion, Maurice delivered a hot lunch to an elderly man, who proudly proclaimed: "I am 87, would you ever think it?" Maurice smiled benignly and said nothing. The then 94-year-old simply got back into his car without saying a word.

My fondest memory of practice was being led by him in a personal injury case before Mr Justice Cross in the last three years. When we ultimately negotiated a settlement, Maurice was somewhat disappointed that he would not get to cross-examine the defendant. While Maurice lived to a great age, he was ageless. He was a solver of other people's problems, a labour which delighted him. He was and will remain our moral compass, a beacon.

It is a testament to his kindness, passion, understanding, spirituality and faith that he touched so many of us and we all have our own personal fondest of recollections. To Leonie, Patricia, John and the rest of his family, we extend our condolences. They are grieving as we are grieving, but in a very real way Maurice has not left us. He remains with us and has become part of the fabric of what we are. It is just that he is not in today.

DN

Time to get tough

To stop notorious criminals, we need to make their lives as uncomfortable as possible.

Arran Dowling-Hussey BL

There has been much discussion in the Irish media during 2016 as to whether the policing and criminal justice framework in the country is adequate to deal with a number of indiscriminate murders, arising from a well-reported feud between two criminal gangs. In 1996, when a notorious crime gang murdered a journalist, the then Government instigated a crackdown, which saw the Criminal Assets Bureau (CAB) established. There were initial concerns that the CAB would not survive the constitutional challenges that followed. It did. The CAB has since seized millions of Euro from criminals. While some asset seizures have taken years to conclude, the CAB has generally been seen as a success. Indeed, it has been said that it served as the model for the establishment of similar organisations in other jurisdictions. However, since then, the UK parliament has passed the Serious Crime Act 2007, which employs innovative measures to deal with restrictions on the movement of criminals. Where the Republic of Ireland may have fallen behind is in dealing with criminal gangs by the use of lifetime offender management programmes.

Impede offenders

The Serious Crime Act 2007 has allowed the UK to very much impede the room infamous British criminals such as Terry Adams and Curtis Warren have to reoffend. Adams has been repeatedly described as the head of the London-based Adams family, which is also known as the 'A-team' or the 'Clerkenwell Crime Syndicate'. The Adams family has developed a Keyser Söze-like reputation, and was until recently seen as the premier criminal gang in London, with a fortune in the tens, if not hundreds, of millions of pounds.

After his 2007 conviction for money laundering and subsequent seven-year imprisonment, Adams was made subject on release to a financial reporting order as allowed for under the 2007 Act. Once released on parole, he was required to set out regular reports of any expenditure over £500 to the authorities. In 2011, a year after his release, he was convicted of breaches of the reporting order and sent back to prison.

Liverpool gangster Curtis Warren was described in *The Sunday Times'* 1998 Rich List as a property developer said to be worth £40 million. In reality, he is a notorious drug dealer who has spent most of the time since 1998 in prison. When Warren came towards the end of his last term of imprisonment, for a 2009 effort to traffic drugs into the States of Jersey, the High Court in London ordered, on foot of an application by the Director of Public Prosecutions (England and Wales), prohibitive restrictions on Warren's access to mobile phones and telephone kiosks, his ability to hold multiple bank accounts, and his rights to hold more than £1,000 in cash on his person. The operation of the order, which was the first of its type, has not yet been tested in practice, as the States of Jersey subsequently successfully obtained a £198m confiscation order. This massive sum was said to be the total proceeds that Warren had made in his entire criminal career and in default of paying this amount, he is presently serving a further term of imprisonment of ten years.

Get them when we can

In short, it is suggested that, notwithstanding the differing constitutional frameworks in the two neighbouring jurisdictions, it is time in light of the 2016 Hutch/Kinahan feud, to employ the methods that UK courts have used against Messrs Adams and Warren against Irish criminals. No doubt, aside from the constitutional issues arising, it will be remarked that the Irish counterparts of Adams and Warren are more freewheeling in terms of their geographical location and they are as much outside of the State as they are in it. Be that as it may, many of those said to direct the upper echelons of the gangs have been flying in and out of Dublin Airport and have been driving around using, one would presume, Irish passports and driving licences. During these periods in the country, the State could look to restrict the right to hold mobile phones and bank accounts, and indeed to restrict travel.

Notwithstanding the gravity of the crimes committed, these proposals may be unpalatable to many. However, such distaste will fade if it leads to an extended lull in the shooting on our streets. As gunmen roam the capital with impunity, it is suggested that more innovative measures need to be considered.

Who we are

The Irish Penal Reform Trust (IPRT) is a charity working for a more humane and effective penal system, one which contributes to less crime and safer communities.
It is the only organisation dedicated to improving penal policy in Ireland and provides an invaluable resource for policy makers and advocates.

What We Do

- Campaign for a humane prison system in Ireland
- Promote effective responses to crime, with rehabilitation at the core
- Build capacity in prison litigation
- Run CPD events on Prison Law
- Work constructively with others for progressive reform of the Irish penal system

What You Can Do

- Increasing our membership will demonstrate the support that exists for penal reform in Ireland.
- Become a Friend of IPRT (From €250 per annum over 3 or more years)
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To join now go to **www.iprt.ie/friends**

Visit: www.iprt.ie
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Write: Irish Penal Reform Trust
MACRO,
1 Green Street,
Dublin 7.

"As a judge, what happens in prisons is important to me. I became a 'Friend of IPRT' because I have followed IPRT's work over the years and have seen the value it brings for prisoners, for those who maintain our prisons and for Irish society in general. IPRT deserves our full support to continue and expand this vital work."
Judge Catherine McGuinness,
also former President of the Law Reform Commission

IPRT
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