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"In the decisions of the Law Courts and in the glossaries of commentators you will see consecutive chapters of the narrative of the progress of the human race."
—Lord Justice Bowen.

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Law Reform.

The inaugural lecture delivered by Professor Ernest Barker, as Rouse Ball Professor of English Law at Cambridge, on the subject of "Law Reform," led Professor Percy H. Winfield to write an interesting and somewhat unconventional article on the same subject in the July number of the "Law Quarterly Review." Professor Winfield seems to regard text-books as the best medium for reform—provided that the text-books are themselves reformed. The model text-book, according to him, should contain the history of the subject of law dealt with, a statement of the law as it is to-day, and suggestions as to what the law should be. While admitting that text-books are the humblest authority, he gives it as his opinion that they are the most important agencies for improving the form, and, to some extent, the substance of the law. He rules out, however, on the ground that they contribute nothing to the science or the form of the reform of the law, all those works which are practically nothing more than digests of the law. There can be no doubt that text-books on the lines advocated would, if written with the authority of knowledge and practice in the law, be of great assistance to those engaged in the task of reform. It is also safe to say that such a method would lead to modification in many cases of accepted legal principles.

There is generally present an underlying idea that simplification of the form of the law should be undertaken, and the method generally suggested is codification. Certain branches of the law can with advantage be codified, and Professor Winfield suggests that it would be advisable to revive the spirit of renaissance that produced in a decade the Bills of Exchange Act, the Partnership Act and the Sales of Goods Act; but codification of certain branches of the law is a very different proposition from codification of the whole of English Law. The latter proposition is impracticable, and, even if practicable, mischievous. Codification of our Criminal Law has been successful. The Common Law, however, as a whole, must be flexible to meet changing conditions. Changes in the substance of the law must be made slowly and piecemeal, and there is much to be said for text-books on the lines suggested as a medium. In this field New Zealand lawyers are more heavily handicapped than their English brethren as they have not such easy access to the sources of historical knowledge. They are not, however, so hampered when considering changes in the form of the law, and this task Professor Winfield, having regard to the amorphism of English law, considers the most important. It is certainly the most urgent, and it is not undertaken because the necessary machinery is not in existence.

Needed changes in rules of procedure under the Judicature Act and under such Acts as the Companies Act and the Bankruptcy Act, are not undertaken because there is no active body accessible to whom suggestions for improvements can be made. The procedure in Divorce is antiquated and cumbersome. A Rules Committee composed of a certain number of Judges, some Barristers and some Solicitors, such as obtains in England, could do much to improve present procedure and make useful suggestions for legislative action.

In litigation in which a subject and the Crown are involved, the subject is at a disadvantage. The incursion of the Crown into spheres of business, hitherto left to private individuals, renders it imperative that the advantages given to the Crown in litigation with the subject should be, if not entirely removed, at any rate, mitigated. At present all the advantages in litigation given to the Crown as a carrier by rail will be enjoyed by the Crown as a carrier by bus. The reasons which exist for protecting the Crown in its business as a carrier by rail do not of necessity exist to protect the Crown as a bus proprietor, and if advantage is taken by the Crown of such rights, when carrying on business as bus proprietor, public resentment is sure to follow. Apart from the substantive advantages enjoyed by the Crown, the subject is cut off from some of the rights, such as that of discovery to which he is entitled when the Crown is not a party. The advantages of the Crown as a litigant should be no greater than the public interest positively demands. Committees and Commissions in England have been set up to enquire into the position of the Crown as litigant, and recommendations involving radical changes have been suggested. Generally speaking the best opinion is that the Crown and the private litigant should, as far as possible, be placed on an equal footing. So far nothing has been done. At the same time the agitation for reform has not been dropped. In New Zealand, where the Crown engages in many more forms of commercial activity than it does in England, the necessity for reform is more urgent, although our Crown Suits Act limits the immunity of the Crown in respect of tort to a greater extent than obtains in England.

It is impossible for the Law Officers of the Crown to be really active in the sphere of law reform, for their time is fully taken up with other duties and in other directions. On the whole the form of statutory legislation is as efficient as can be expected. Improvements in the form of the law and in procedure should come from the Profession. We seem, nowadays, to have got into the habit of waiting for codification and legislation in England before making a move for ourselves. This may in some matters be the safest course; but our own procedure should advance according to our needs, and does not do so. Our Supreme Court Rules are neither full nor simple; they are added to occasionally by further rules made by the Judges, but there has not been for many years any real attempt either to simplify or to expand them. The result is that the Court has constantly to draw on its inherent jurisdiction because of lack of express provision in the Rules. A Rules Committee set up to supervise and revise the Rules of the Court could do much to assist efficiency and economy in process of law, and in this field-work individual practitioners will find ample scope for their energy.

Court of Appeal.

Sim, J.
Ostler, J.
Blair, J.
Smith, J.

July 17, 18; August 27, 1928.
Wellington.

WATKINS v. SCOTT.

Contract—Illegality—Unregistered Dentist—Agreement by Person Not a Dentist to Employ Registered Dentist at Salary to Manage Business—Whether Agreement Illegal—"Practice of Dentistry"—Whether Word "Include" to be Construed as "mean and Include"—Dentists Amendment Act, 1921, Sections 2, 3.

Appeal from a judgment of Reed, J., granting an injunction prohibiting the appellant from practising within a certain area in breach of his agreement with the respondent. The appellant was a registered dentist, and he agreed to manage for the respondent, who was not a dentist, the practice of a dentist which had been carried on by the respondent's former husband at Lower Hutt and Upper Hutt. It was one of the terms of the contract that the appellant, after he ceased to be such manager, should not for a specified term practise as a dentist in the towns of Lower Hutt or Upper Hutt or within five miles therefrom. Notwithstanding the terms of the contract the appellant shortly after the termination of his engagement as manager commenced practice within the prohibited area. One of the questions to be determined on the appeal was whether or not the agreement between the parties was illegal as being contrary to the provisions of Section 2 of the Dentists Amendment Act 1921. Other questions were raised in the Supreme Court but these were not dealt with by the Court of Appeal.

Cornish for appellant.
Macassey for respondent.

SIM, J., delivering the judgment of Sim, Blair, and Smith, JJ., said that Section 2 of the Dentists Amendment Act, 1921, enacted that "no person shall after the thirty-first day of March, nineteen hundred and twenty-two unless he is registered as a dentist under the principal Act practise or hold himself out, whether directly or by implication, as practising or as being prepared to practise dentistry." Subsection 2 of the Section made any person who acted in contravention of the section liable to a penalty of £100. Section 3 of the Act contained the following interpretation of the expression "practice of dentistry" "For the purposes of the principal Act and this Act the expression 'practice of dentistry' shall be deemed to include the performance of any such operation and the giving of any such treatment advice or attendance as is usually performed or given by dentists and any person who performs any operation or gives any treatment advice or attendance on or to any person as preparatory to or for the purpose of or in connection with the fitting insertion or fixing of artificial teeth shall be deemed to have practised dentistry within the meaning of the said Acts," It was not contemplated that the respondent should take any active part in the conduct of the practice, or do in person any of the acts specified in Section 3. It was contended, however, by the appellant that the effect of the agreement was to make provision for the respondent practising dentistry by the appellant as her agent, and that that was intended to be prohibited by the Statute. That contention was rejected by Mr. Justice Reed in the Court below, who held that all that the Act of 1921 intended to prohibit was the performance in person by the unregistered person of any of the operations of a practising dentist specified in Section 3. The question whether that view was right or not depended on the construction of Section 5. The section was not limited in terms to the performance in person of the specified acts by the unregistered person, and might be intended to cover the performance of those acts by an agent. It was not necessary, however, to pronounce a definite opinion on the subject, and their Honours assumed in favour of the respondent that the section referred to performance in person by the unregistered person of the specified acts. Section 2 prohibited any unregistered person from practising dentistry. That *prima facie* would prohibit an unregistered person from carrying on practice by an agent, for, as Mr. Justice Williams said in **Davies v. Splatt,** 29 N.Z.L.R. 548, 550, "an individual who is not a registered dentist who employs a registered dentist at a salary for him is carrying on the practice of dentistry. A man carries on a business who employs servants to work for him, though he may take no hand in the practical part of it." Mr. Justice Reed did not agree with that statement of the law, but it appeared to their Honours to be sound, and to follow necessarily from the application of well recognised rules with regard to the relation of principal and agent. The respondent came, therefore, within the prohibition contained in Section 2, unless she could establish that the effect of Section 3 was to limit the natural and ordinary meaning of the language of section 2. The word used in Section 3 was "include." That word, as Lord Watson said in **Dilworth v. Commissioner of Stamps,** (1899) A.C. 99, 105, "is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the Statute; and when it is so used these words or phrases must be construed as comprehending not only such things as they signify according to their natural import, but also those things which the interpretation clause declares they shall include." It was only where, as Lord Watson said, there was an imperative contract that the word "include" was to be treated as equivalent to "mean and include," and as affording an exhaustive explanation of the meaning which must be attached to the words or expressions. A review of the principal Act and the amending Act of 1921 lead to the conclusion that Section 2 of the Act of 1921 constituted a new departure in dental legislation. That section imposed firstly a prohibition upon the practice of dentistry by unregistered persons. It imposed, secondly, a liability to a fine for breach of its provisions. It specified, thirdly, the exceptions to its operation. The practice of dentistry on behalf of an unregistered person was not one of those exceptions. If the legislature had intended to permit the practice of dentistry, as defined by Section 3, on behalf of a private unregistered person, it would, their Honours thought, have said so in a further exception to Section 2. The imposition of the penal clause in such a section did not, therefore, supply an imperative context requiring that the words of Section 2 should be limited to the meaning specified in Section 3. Their Honours had been unable to find any such context elsewhere in the statute, and the natural and ordinary meaning must be given to the language of Section 2. The result was that the respondent was brought within the prohibition contained in Section 2 and the agreement must be held to be illegal.

OSTLER, J., delivered a dissenting judgment.

Appeal allowed.

Solicitors for appellant: **Webb, Richmond, Cornish and Swan,** Wellington.

Solicitors for respondent: **Menteath, Ward and Macassey,** Wellington.

Supreme Court

Adams, J.

July 24; August 15, 1928.
Christchurch.

IN RE KERR, KERR v. KERR AND OTHERS.

Will—Construction—Trust of Income of Residuary Estate for Children Named—Subject thereto Residuary Estate to be Held in Trust, after Death of Survivor of such Children, for Children Then Living Who Attained 21 of such Named Children—Provision That Grandchildren Should Take Only Share Which Parent Would Have Taken if Residuary Estate Had Been Given Only to Such Children Who Had Issue Living at Death of Testatrix—No Intelligible Meaning—Whether Provision Should be Rejected as Irreconcilable With General Context—Shares of Grandchildren—Whether Illegitimate Grandchild Entitled to Share—Change of Attitude of Courts Towards Claims of Illegitimate Children.

Originating summons for the interpretation of the will of Margaret Kerr. The questions before the Court related to the interpretation of a clause in the will disposing of the income and capital of the residue. By this clause the testatrix directed the trustees to pay the income of the residuary estate to her six named children or the survivors of them, and the issue of any deceased child during the respective lives of the said children in equal shares as tenants in common, but so that any grandchild should take equally between them only the share which their parent would have taken had he or she been living. The clause then provided that subject to the trusts as to income the trustees should hold the residuary estate upon trust after the death of the survivor of the said named children for all or any of the children or child then living of any of the said named children who

attain the age of 21 years if more than one in equal shares as tenants in common, "*but so that any grandchildren of mine shall take equally between them only the share which their parent would have taken if the said trust premises had been given only to such of my said children who had issue living at my death . . .*" The clause contained a gift over "if there shall be no issue of my said children living at the death of the survivor of them."

The testatrix had six children who survived her. Her eldest son John had received his share of her estate in her lifetime. At her death John had five children; her daughter Elizabeth had seven children. All these grandchildren were living. The daughter Mary Ann was a spinster, but had one child, the defendant, Robert Kerr. The other three children of the testatrix had no children living at her death. Since her death four grandchildren had been born who were living.

The questions arising were as to how the residue should be divided among the grandchildren under the above clause, and whether the illegitimate grandchild was entitled to share in the residue.

White for plaintiffs.

Gresson and Twyneham for the children of Elizabeth Ainsley.

Upham for Odie Reay Cummings Kerr and the children of Peter Kerr deceased.

Hamilton for Mary Ann Kerr and Robert Kerr.

Smithson, Junr., for the children of John Kerr, deceased.

ADAMS, J., said that there was no difficulty regarding the disposition of the income. The plain intention of the testatrix was to dispose of the whole income up to the death of the last survivor of the five children who were named together throughout the will, for convenience described as "the named children." The income was to be divided between the survivors or survivor for the time being of the named children and the children of such of the named children as might die leaving children. Grandchildren were to take only the share of income which their parent would have taken if living; that was, per *stirpes* and not per *capita*. The share of any of the named children who died without leaving children was to be divided between the surviving named children. The trust for the payment of income came to an end on the death of the last survivor of the named children.

The first difficulty in the construction of the will was found in the latter part of the gift of the trust premises to the grandchildren. Subject to what might be said as to the passages quoted *supra* in italics it was in the opinion of the Court manifest that (1) the testatrix intended by her will to dispose of the whole of her estate in every event; (2) on the death of the last survivor of the named children the trust fund was to be divided between all or any of the grandchildren who were then living and attained 21; (3) the members of the class of grandchildren were to take the trust fund in equal shares as tenants in common; (4) in the event of there being no member of the class living at the death of the last surviving child of the testatrix, and in that event only, the fund was to go over. That constituted a reasonable disposition such as was not unusual in like cases. But it was suggested that the testatrix intended by the passage in italics to provide that the grandchildren were to take per *stirpes* and not per *capita*. His Honour did not know what was her intention, if any, and was not at liberty to speculate. It was to His Honour's mind plain that if the trust premises had been given to all or any of the parents neither their children nor anyone else could have taken any interest therein under the will. Moreover such a gift would have defeated or been defeated by the whole of the trusts following the trusts as to income. Counsel also submitted that the language should be altered by substituting the words "the death of the last survivor of the said children" or similar words in place of the words "at my death," but that would not make sense of the nonsense. On consideration His Honour was unable to assign to it any intelligible meaning consistent with the general tenor of the will. It was in His Honour's opinion impossible to attribute intention to anyone in relation to it. The only explanation of its presence was that it was placed there by some blundering draftsman or copyist as was said to be the case in **In re Redfern,** 6 Ch. D. 133, and *in* **In re Dayrell** (1904) 2 Ch. D. 496. On the authorities it was clear that words and passages in a will which were irreconcilable with the general context might be rejected, whatever might be the local position which they happened to occupy: **Jarman on Wills,** 6th Edn. 575 to 578 (foot). That was the position here. The passage in question must therefore be rejected.

His Honour then considered whether in the circumstances Robert Kerr, the son of Mary Ann Kerr, though born out of wedlock was to be included in the class of grandchildren who might take interests in the income and capital of the residue. The question was whether having regard to all the circumstances to which one might look for guidance it was clear that the testatrix meant by the word "grandchildren" to include this natural grandchild with the grandchildren born within wedlock. It was contended by counsel for the parties opposed to the claim of Robert Kerr that the question was concluded by the propositions of Lord Cairns in **Hill v. Crook,** L.R. 6 H.L. 265 and **Dorin v. Dorin,** L.R. 7 H.L. 568. In later years, however, His Honour stated there had been an increasing tendency to treat the claims of illegitimates with less strictness, or, as Kekewich, J. said in **In re Parker,** (1897) 2 Ch. 209, to open the door more and more for the admission of those born out of wedlock. In **In re Smilter,** (1903) 1 Ch. 198, 201, 202, Kekewich, J., drew attention to the changing judicial attitude in such cases. That tendency was emphasised by Edwards, J., in **Public Trustee v. Leslie,** (1917) N.Z.L.R. 841, 845-7, where after citing what he called the pregnant words of Lord Halsbury, L.C., and Lindley and Bowen, L.JJ., in **Jodrell v. Searle,** (1890) 44 Ch.D. 590, pp. 605, 609, 610, 613, 614, affirmed on appeal (1891) A.C. 304; the learned Judge continued: "They are an eloquent protest against the inclination to require the claims of illegitimates in such cases to be established with a greater degree of certainty than is required with respect to the establishment of other claims. And they are a protest also against the construction which has been put upon similar wills by other Judges in the past being necessarily adopted as in any sense binding the construction of wills in the present." His Honour referred also to the dicta of Ross, J., in **C. v. D.,** (1916), 1 I.R. 364, and Sargant, J., in **In re Green, Bath and Cannon,** (1914) 1 Ch. 134, 138. The latest case in the House of Lords having a direct bearing on the question was the **National Socy. for the Prevention of Cruelty to Children v. Scottish National Socy., Etc.,** *(1915)* A.C. 207, which was considered and applied in the Supreme Court, and in the Court of Appeal in **Collins v. Day,** (1925), N.Z.L.R. 280. His Honour thought that the present question might be answered on the principles stated and applied in the last-mentioned case. There the fact that the testator had referred to his reputed wife in an earlier will as his "wife Emily Sophia Collins" was relied upon, but the judgments showed that the same conclusion would have been reached on the other evidence had there been no earlier will. It was in evidence and not disputed that the testatrix always treated the defendant Robert Kerr as a grandchild, and he and his mother lived with her all his life until his marriage a month or so before her death; that he worked on her farm without wages; that she always spoke of him as her grandchild and regarded him with the same affection as her legitimate grandchildren; and that on one occasion shortly before her death she told him that she had provided for him. It was true that she did not in express terms say that the provision to which she referred was made by her will, but His Honour thought that was the reasonable inference from what she did say. His Honour quoted the rule as to admission of such evidence as stated in **Hawkins on Wills,** 3rd Edn. 14, 15. Applying that rule to the facts of the present case His Honour was of opinion that by the words "grandchildren," and also by the word "children," where it meant children of the named children, the testatrix meant to include the defendant Robert Kerr, and those words must therefore be so construed. That construction probably went further than the actual decision on the facts of any of the reported cases, but His Honour thought it was in consonance with the principle of the later decisions including **Collins v. Day** (*cit. sup.*), with the trend of judicial opinion, and also with justice, and common sense.

Solicitors for plaintiffs: **Johnston, Mills and White.** Christchurch.

Solicitors for Mary Ann Kerr and Robert Kerr: **Raymond Stringer, Hamilton and Donnelly,** Christchurch.

Solicitors for Odie Reay Cummings Kerr and the children of Peter Kerr, deceased: **Harper, Pascoe, Buchanan and Upham,** Christchurch.

Solicitors for the children of John Kerr, deceased: **Smithson and Smithson,** Christchurch.

Solicitors for the children of Elizabeth Ainsley: **H. Twyneham,** Christchurch.

Reed, J. July 16; 19, 1928. Wellington.

IN RE DALGETY & CO. LTD.

Company—Debentures—Registration—Application for Order Extending Time for Registration of Trust Deed and Debentures—Whether Delay Due to Ignorance of Necessity to Register is "Inadvertence"—Protection of Unsecured Creditors—Form of Order—Companies Act 1908, Section 130.

Motion by Dalgety and Company, Limited, for an order, under Section 130 of the Companies Act 1908, extending the time for the registration of a trust deed securing debentures. The trust deed was dated 11th November, 1925, and was made in England, and the Stock and Debentures secured by it were all issued in England, and there had been due compliance with the provisions of the English Companies Acts as regards registration. It had been recently brought to the notice of the company that the non-registration in New Zealand of the charges created and secured by the said trust deed rendered such charges ineffective against the assets of the company in New Zealand. For those reasons it was desired to register the trust deed.

Cooke in support of application.

REED, J., stated that the deed was a mortgage within the definition in the Act and ignorance of the necessity to register was included in the term inadvertence there used. **Re Jackson and Co.** (1899) 1 Ch. 348. There was, therefore, no reason why the time should not be extended for the purpose required. The only point for consideration was as to the form of the order. There was no form prescribed nor was there any established practice in New Zealand as to such form. In some cases orders had been made in a form based on the order in **In re Byers,** 24 N.Z.L.R. 903. That case related to an extension of time for the registration of instruments under the Chattels Transfer Act, and the form of order was settled by Edwards, J., after consultation with the other Judges. The order purported, *inter alia*, to protect the rights of unsecured creditors of the grantor, and the grantee was required, by the signature of his counsel, to accept the order subject to the conditions imposed. It was right and proper, His Honour stated, that in the case of Bills of Sale such a condition should be imposed. The position was, however, somewhat different in the case of company debentures. The applicant for extension of time was usually the company itself and, when such was the case, the Court was in a position to require a full statement of the company's financial position and on being satisfied that such position was sound and that no creditors were suing the company the conditions might be considerably modified. It was instructive to consider the course of judicial decisions in England upon this question. Section 15 of the Companies Act 1900 (England) was similar to Section 130 (7) of our Act of 1908. In England a Judge was authorised to make an order *inter alia* extending the time for registration "on such terms and conditions as seem to the Judge just and expedient." In New Zealand the Court (which included a Judge thereof) was empowered to make the order "on such terms and conditions as it deems expedient." There was no real difference, for the legislature did not contemplate that its Courts would do an injustice for the sake of expediency. Now in 1901, Buckley, J., in **In re Joplin Brewery Company Ltd.** (1902) 1 Ch. 79, settled a form of order by requiring that the following words should be added to the order extending the time for registration of a debenture :—

> ". . . but this order will be without prejudice to the rights of parties acquired prior to the time when the debentures shall be actually registered."

In 1902 in **In re S. Abrahams and Sons** (1902) 1 Ch. 695, the company having passed an extraordinary resolution for winding up and having appointed a liquidator, a debenture-holder applied for an extension of time to register some debentures. Buckley, J., said :—

> "Unless in very exceptional cases, I think that orders extending the time for registration ought to be qualified as in **In re Joplin Brewery Co.** I am unable to see how, if a winding-up has commenced, an order containing the words inserted in the order made in that case can do anybody any good. If you have secured and unsecured creditors of a company in liquidation, you must, under an order in the form in **In re Joplin Brewery Co.,** first pay the secured creditors in full or to the extent of the assets. If there is a surplus after paying the secured creditors in full, the debenture-holder whose debenture has not been registered in time, and who obtains an extension of time on the terms imposed in **In re Joplin Brewery Co.,** cannot claim priority over but will come in *pari passu* with the unsecured creditors, and this position he would obtain without any order from the Court under Section 15 of the Act of 1900. Such an order as I made in **In re Joplin Brewery Co.** would, in my judgment, be useless to the applicant."

In **In re I. C. Johnson and Co. Ltd.** (1902) 2 Ch. 101, the Court of Appeal varied an order which followed the form in **In re Joplin,** so as to preserve the rights of equality of certain debenture holders *inter se*. Although it was unnecessary to decide the point in that case both Collins, M.R., and Cozens Hardy, L.J., expressed the opinion that the words in **In re Joplin** did not protect creditors who had not actually issued execution. Moreover Collins, M.R., questioned whether a creditor who had not done so ought to be protected by any order. In **In re Anglo-Oriental Carpet Manufacturing Company** (1903) 1 Ch. 914, Buckley, J., discussed **In re I. C. Johnson and Co. Ltd.** In doing so he said that in **In re Joplin,** "I had no intention of deciding anything as to the class of creditors whom that form of words would protect," and after pointing out that the Court of Appeal were "there considering what words ought to be inserted in the order as a condition of giving relief to debenture-holders whose securities had not been registered within the time limited by the Act," expressed surprise that the Court had not inserted words "defining without ambiguity exactly what classes of creditors were to be protected by the order." He then pointed out that the Court of Appeal had practically adopted the form suggested by himself in **In re Joplin.** That left at large the question as to whether "the words preserved only rights against the company's property obtained by creditors who had taken some proceedings to get a charge or a security upon that property, or preserved also the rights of creditors who had not done so to have their debts paid out of the company's assets."

Before the next English case, to which His Honour subsequently referred, was the judgment on the 11th April, 1905, in the New Zealand case of **In re Byers,** in which Edwards, J., doubted whether the common form then in use, in regard to an extension of time for the registration of Bills of Sale, protected ordinary creditors. His Honour cited no authorities and it was improbable that the company cases were brought to his notice and his doubt was possibly occasioned by **Crew v. Cummings,** 21 Q.B.D. 420, which was a case of a Bill of Sale. In that case the point was not actually decided but as observed by Collins, M.R., in **In re I. C. Johnson and Co. Ltd.,** at p. 109 :—"It seems to me that the judgment is given on the footing that, but for the execution put in, the creditor would have taken no rights which would have been interfered with by giving permission to extend the time necessary for the registration of the Bill of Sale."

In the year following **In re Byers** the Court of Appeal in England, in **Ehrmann Bros. Ltd.,** (1906) 2 Ch. 697, definitely decided that the common form did not protect ordinary creditors. It was there held that "rights acquired" only protected rights acquired against or affecting the property charged by the debentures, that is, "rights acquired which could have been enforced in some way against the property had not the extension of time been granted," said Romer, L.J. Cozens Hardy, L.J., said : "My baker or my butcher cannot be said to have in any proper sense at the time when the debt is incurred any right against my property, although if they hereafter sue me and issue execution or take other proceedings they will then acquire a right against my property. There must be some intervening definite act, either by the individual creditor or by some proceedings taken on behalf of the creditors as a body, in order to justify those words 'rights acquired.'"

In **Cardiff Workmen's Cottage Company Ltd.** (1906) 2 Ch. 627, the question of the proper order to make was again before Buckley, J. That learned Judge reviewed several of the cases ending in **Ehrmann Bros. Ltd.,** and said the question to be decided was whether unsecured creditors who should not have acquired "rights" as defined in that case, ought to be protected by specifically so providing in the order extending the time for registration of a debenture. No definite conclusion was arrived at as to whether such protection should be given as being "just and expedient." The pros and cons were discussed and the result might fairly be summed up in the words of the headnote that the Court would not necessarily impose any terms for the protection of unsecured creditors of the company. Since that judgment was given—twenty-two years ago—there was no reported case, His Honour stated, of the question being again before the Courts, and the form given in the last edition of **Palmers' Company Precedents,** Part III, 13th Edn., p. 315, was the old form as settled in **In re I. C. Johnson and Co.,** although it had been definitely decided, as already stated, that such form did not protect the ordinary unsecured creditor. Mr. Justice Buckley, in making the order in the common form, in the **Cardiff Workmens Cottage Company Ltd.,** did so because he was satisfied as to the financial standing of the company applying. He said, however, "that when a case of sufficient magnitude arises it may be well to give notice to some of the unsecured creditors of substantial amount so as to give them an opportunity of being heard, if they so desire, upon the question of what is 'just and expedient' in their interest." His Honour thought that the practice adopted by the English Courts should be followed in New Zealand. In order to enable the Court to decide whether an opportunity should be given to ordinary creditors to be heard, it was essential that a company applying for an extension should, in the supporting affidavit,

in addition to giving full particulars relating to the grounds upon which the application was made, give a very full and complete statement of the financial position of the company with information (1) as to the amount owing to unsecured creditors and the nature of the accounts, i.e., whether ordinary monthly accounts or of long standing; (2) whether there were any judgments outstanding against the company; (3) whether any proceedings were pending for winding-up the company and generally such full and complete information as might be necessary to enable the Court to be fully seised of the position. In the present case His Honour was satisfied that it was unnecessary to insert in the order any words specifically protecting unsecured creditors. An order was made in the form hereafter set out, a form which His Honour would adopt in the future in all cases where satisfied that there was no necessity for any specific protection to be given to unsecured creditors.

UPON READING the motion filed herein and the affidavits of.....sworn and filed in support thereof AND UPON HEARING Mr.....of Counsel for the abovenamed Company THIS COURT BEING SATISFIED that the omission to register the trust deed for securing debentures charged upon the property of the said Company dated the.....day of....., 19....and made between the said Company of the one part and.....of the other part within the time required by The Companies Act 1908 was accidental or due to inadvertence DOTH pursuant to Section 130 subsection 7 of the said Act ORDER that the time for registration of the said Deed be extended for a period of.....days from the date of this order, but that this order be without prejudice to the rights of parties acquired prior to the time when such trust deed shall be actually registered.

His Honour's judgment and suggested form of order were submitted to and approved by the Judges of the Court of Appeal assembled in Wellington.

Solicitors for applicant: **Chapman, Tripp, Cooke and Watson,** Wellington.

MacGregor, J. July 18; 20, 1928. Auckland.

IN RE GREEN EX PARTE BOND AND BOND.

Bankruptcy—Act of Bankruptcy—Return of Nulla Bona on Writ of Sale—Writ of Sale Not Following Judgment—Judgment Against Husband and Wife but Execution Limited to Separate Property of Wife Not Subject to Restraint on Anticipation—Whether Writ of Sale Directed Against Property of Both Husband and Wife Irregular—Onus of Proving Act of Bankruptcy—Bankruptcy Act 1908, Sections 26 (j), 40.

Creditor's petition to have the debtor Green adjudged a bankrupt. The petition was opposed on the ground that the act of bankruptcy on which the petition was founded, namely, a return of "*nulla bona*" to a writ of sale, had not been proved. The return showed that the writ of sale had been issued against the goods of the debtor and of his wife and that neither of them had any real or personal property. The writ of sale did not, however, follow the terms of the judgment by virtue of which it was issued. That judgment which was one by default, although made against the defendants Green and his wife Ellen Green, jointly and severally, ordered that execution be limited to the separate property of Ellen Green not subject to restraint on anticipation. It was contended by counsel for the debtor that the writ of sale was, therefore, in effect a nullity.

A. H. Johnstone and McKay for petitioners.
Ziman and Webster for debtor and oppositing creditor.

MACGREGOR, J., said that the question to be determined was whether on the facts His Honour ought to be "satisfied with the proof of the act of bankruptcy," within the meaning of Section 40 of the Bankruptcy Act 1908. The corresponding section in the English Act had recently been before the Court of Appeal in the case of **In re a Debtor,** (1927) 2 Ch. 367. In that case it was held in effect that the onus was on the petitioning creditor to satisfy the Court that he had *inter alia* a good petitioning creditor's debt, and that if he failed to do so his petition should be dismissed. The earlier bankruptcy case of **Ex parte Chinery,** 12 Q.B.D. 342, showed how strictly words defining or creating an act of bankruptcy should be construed. His Honour referred also to **In re Fraser,** (1892) 2 Q.B. 633, at p. 636, per Lord Esher, M.R. Applying the principles laid down in those cases to the facts of the present case, His Honour did not think that the Court ought to be satisfied with the proof of the act of bankruptcy. It was clear law that the wording of the writ of execution must carefully follow that of the judgment itself: **Cobbold v. Chilver,** 4 M. & G. 62. In the present case the wording of the writ of sale had not followed that of the judgment, but had departed in substance from that wording. The judgment was against both husband and wife, but expressly limited execution to the separate property of the wife, whereas the writ of sale was directed against the property of both husband and wife. How the judgment of default came to be framed in that unusual way could only be conjectured. It might have been by the draftsman inadvertently omitting the essential words: "so far as regards the defendant (married woman)" from the appropriate form of judgment given in the **Yearly Practice** (1926) p. 2287. Two things, however, were fairly clear: firstly, that the writ of sale did not follow the terms of the judgment, and secondly, that the Court had no power at that stage to amend the judgment as entered. In those circumstances His Honour was of opinion that no act of bankruptcy had been proved to have been committed. The writ of sale against the property of the husband and the return thereto were both in His Honour's judgment irregular and therefore ineffectual as against the debtor. It followed that no return had been "made to any execution issued against him or his property on any legal process" in terms of Section 26 (j) of the Bankruptcy Act 1908. There was, therefore no act of bankruptcy available for adjudication.

Petition dismissed.

Solicitors for petitioning creditor: **Stanton, Johnstone and Spence,** Auckland.
Solicitor for debtor: **Trentham C. Webster,** Auckland.

MacGregor, J. August 8; September 3, 1928. Wellington.

MARTIN v. MARTIN.

Divorce—Costs—Unfounded Charges of Adultery Against Respondent and Co-respondent—Collusive Confession Sole Evidence in Support of Charges—Payment of Co-respondent's Costs by Petitioner and Respondent—No Costs Allowed to Petitioner Against Respondent—Divorce and Matrimonial Causes Act 1908, Section 60.

Application by petitioner for costs against the respondent in divorce proceedings. The petitioner had charged the respondent, her husband, with adultery with the co-respondent, her mother. There was no evidence against the co-respondent, and the only evidence against the respondent was an alleged "confession" written by his wife and signed by him, which "confession" it appeared in the course of the proceedings was a collusive document. The case was tried before a jury, which found in favour of both respondent and co-respondent. The petition was accordingly dismissed, but all questions of costs were reserved.

Hain for petitioner, **C. A. L. Treadwell** for respondent, **Howie** for co-respondent submitted written arguments on the question of costs.

MACGREGOR, J., said that he should follow the decision of Hosking, J., in **Mills v. Mills,** (1923) N.Z.L.R. 30. In that case one, Mrs. J., with whom the petitioner charged the respondent, her husband, with having committed adultery, was made a respondent under Section 24 of the Divorce and Matrimonial Causes Act 1908. The female respondent was successful, and the petitioner was ordered by the learned Judge to pay her costs. In His Honour's opinion the same result should be followed in the present case. His Honour thought, further, that the respondent should also be ordered to pay the co-respondent's costs, as was done in **Wade v. Wade,** (1903) P. 16. It was His Honour's duty under Section 60 of the Act "to make such order as to costs as to the Court seems just." To His Honour it seemed just that both parties to such a collusive and disgraceful proceeding should be ordered to pay the costs of the innocent co-respondent. She had been made a respondent under Section 24

of the Act, and had properly incurred those costs in defending herself (with success) against a gross charge which should never have been made against her. The petitioner asked for her costs against the respondent. In view of the facts His Honour did not think her entitled to any costs. In His Honour's opinion there were no reasonable grounds for taking the proceedings. To allow an unsuccessful petitioner costs against the respondent in a case like the present one would be in effect to encourage collusive and groundless proceedings for dissolution of marriage. The petitioner and respondent were both ordered to pay to Mrs. W. her costs on the higher scale (£30) with disbursements and witnesses' expenses to be fixed by the Registrar, the judgment against the petitioner to be in the usual form of judgment against a married woman.

Solicitor for petitioner: **P. L. Dickson,** Wanganui.
Solicitor for respondent: **C. V. Quigley,** Christchurch.
Solicitor for co-respondents: **R. A. Howie,** Wanganui.

Smith, J. August 21 (Wanganui), 25 (Wellington); 28, 1928.

IN RE LOVERIDGE (DECEASED).

Administration—Insolvent Estate—Offer to Purchase Land Belonging to Estate—Application to Court by Official Assignee as Administrator for Leave to Accept Offer—Offer Expiring Before Date of Application—Whether Court Could Approve of Sale on Terms of Offer—Matters Considered by Court—Duty of Administrator—Administration Act, 1908, Sections 61, 63—Bankruptcy Act, 1908, Sections 63 (a), 65,66.

Motion by Deputy Official Assignee in Bankruptcy at Wanganui, as administrator of the estate of Frederic Loveridge, deceased, for an order that the administrator be empowered to accept an offer by one Rowe of £26,000 cash free of encumbrances for the Pohonui farm belonging to the estate. No alternative order was asked for in the motion. The property was at the time of the application being administered under an order of the Court dated 28th August, 1926. Pursuant to this order the administrator, on 13th April, 1927, offered the Pohonui lands for sale by public auction on terms. The only bid at that sale was £6 10s. 0d. per acre, which was not accepted. The Pohonui lands were then offered for sale by public tender on similar terms, but no tender was received. On 16th November, 1927, the administrator again offered the lands for sale by auction on the same terms, with a reserve of £9 per acre, but no bid was received. Since that date, the Pohonui lands had been placed for sale in the hands of twelve leading firms of land and estate agents, but no offers were received except the offer in question. This offer had at the date of the motion expired. Pursuant to leave reserved by the order of 28th of August, 1926, the administrator applied to the Court for leave to accept this offer. Certain beneficiaries were not represented.

Izard for Administrator.
Brodie for Hannah Loveridge and others.
H. F. Johnston for A. F. Loveridge.
Kennedy for A. L. Loveridge.

SMITH, J., stated that the jurisdiction of the Court was that which belonged to the Court in its Bankruptcy Jurisdiction—Section 63 of the Administration Act, 1908. The power of the Assignee in Bankruptcy to obtain the direction of the Court was conferred by Section 65 of the Bankruptcy Act, 1908. That authority was supplemented by Rule 163 of the Bankruptcy Rules. An appeal from any act or decision of the Assignee to the Court was provided by Section 66 of the Bankruptcy Act, 1908. The administrator of an estate being administered under Part IV of the Administration Act, 1908, had power to realise administer and distribute the same in accordance with the law and practice relating to the property of a bankrupt debtor—Section 61 of the Administration Act, 1908. His Honour thought therefore, that the administrator in the estate was entitled to take the opinion of this Court in the same way as, but not otherwise than, an Assignee in Bankruptcy.

In His Honour's opinion the administrator was entitled to ask the opinion of the Court on the propriety of a particular offer for the purchase of a part of the property of the estate, as a question respecting the management of the estate. Before the Court gave its opinion upon such a matter, it was entitled, however, to have before it a valid and binding offer containing all the terms upon which the Court was asked to advise the administrator. The motion in the present case was filed on 25th June, 1928, the day on which the particular offer referred to expired. In those circumstances, Mr. Izard for the administrator, stated that he desired an order authorising the sale at not less than the price stated in such offer. The question for the decision of the Court was whether the Court should approve of a sale on those terms. In His Honour's opinion, no such order should be made. In the first place, the offer expired on 25th June, 1928. The affidavit of service showed that the papers were not served earlier than 28th June. The parties not represented before His Honour were, therefore, entitled to assume that there was no binding offer before the Court for approval. No alternative order had been asked for, and in His Honour's opinion the Court, if it made an order, ought not to make an order differing from that asked for in the motion. The whole of the circumstances of the transaction were open for a rebargaining, and an order merely that the administrator do not sell for a less amount than £26,000 in cash might be off-set by other considerations, such, e.g., as deductions to be made on any deficiency in respect of stock.

Apart, however, from that view of the petition, there were certain aspects of the offer which, if it were a binding offer, would require the Court to pause before making an order approving it. From the affidavits filed it appeared that the total present value of the land and stock was £27,121 5s. 0d., or an excess of £1,121 5s. over the present offer. In His Honour's opinion, that difference was too great to permit the Court to approve of the offer on the present application, even if it were in existence and binding. Furthermore, no proper valuation of the stock had been made. The stock was not mustered to enable the administrator to arrive at the value thereof, and the provisions contained in the offer as to any deficiency were in favour of the purchaser. It was said by Mr. Izard that the Court ought to approve of the present sale in view of the following circumstances, viz., that the Official Assignee had endeavoured to sell, and he had been unable to get a purchaser; that a mortgage of approximately £5,000 was due to the Loan Company, in October next, and that the Company refused to refinance; that certain difficulties arising out of the limitation of area contained in Part XIII of the Land Act, 1924, could be overcome if the sale was made to Rowe; that the land was going back and the administrator had no money wherewith to keep it up; that one of the sons would not leave the property, and that it was difficult to eject him. It was contended by Mr. Brodie for the life tenant that she ought to receive £500 a year, whereas at the present time she was receiving only £300 a year; that there was an accumulated surplus to her credit of approximately £5,000, and that she could not get this amount unless a sale was effected. It was also contended by Mr. Brodie, on behalf of F. G. Loveridge, that he had advanced certain monies to the estate, that there was still a substantial amount owing to him as an unsecured creditor, and that his only chance of obtaining payment was by sale.

With regard to the Official Assignee's objections, His Honou thought they were all met by the fact that he as administrator had authority to sell the land to pay the debts. He had failed to sell by public auction or by public tender. He could, therefore, sell by private contract in one or more lots.—Section 63 (a) of the Bankruptcy Act, 1908. The difficulty imposed by the provisions of Part XIII of the Land Act, 1924, would have to be faced with respect to any sale at all, and was inherent in the property. His Honour saw no reason to suppose that that difficulty could not be overcome by the administrator. The Act was designed to assist compliance with its provisions.—See Sections 376, 377 and 378. A purchaser was necessarily willing to assist. So far as the administrator was concerned, he might, if necessary, sell the land in subdivided areas. Although the administrator ought to have regard to the interests of the beneficiaries, and to be willing to carry out any sale upon which they were substantially agreed, His Honour thought that if the beneficiaries permitted the position to be forced to such an extent that the administrator was required to sell the land to pay the debts, the beneficiaries could have no cause of complaint. As regards F. G. Loveridge, he was in His Honour's opinion entitled to force the position as a creditor if he thought fit. He was not entitled to ask the Court to approve, as against the other beneficiaries, a sale at a price which on the face of the case made by the administrator, was at least £1,121 below the present value of the property. In summarising the position

His Honour thought (1) that the Court ought not to approve of any particular offer unless that offer was effectively binding at the time it was submitted to the Court, so that all the terms of the offer which would become binding if the Court's approval were given might be before the Court for its consideration; (2) that even if Rowe's offer were binding, it showed too great a deficiency upon the admitted present value to permit of an order being made on the present application; (3) that the administrator's primary duty was to manage the estate and pay the debts. He should not sacrifice the interests of the beneficiaries unless obliged to do so, but dissension amongst the beneficiaries might render it necessary for him to proceed entirely according to his own judgment and discretion; (4) that the life tenant and F. G. Loveridge might be entitled to make substantive applications in order to enforce their rights, whatever they might be. The considerations which would arise on such applications were not necessarily the same as those arising on the present application.

Order refused.

Solicitors for Administrator: **Marshall, Izard and Barton,** Wanganui.

Solicitors for life tenant and others: **A. D. Brodie,** Wanganui.

Solicitor for A. F. Loveridge: **Johnston, Beere and Co.,** Wellington.

Solicitors for A. L. Loveridge: **Luke and Kennedy,** Wellington.

Smith, J. August 3; 16, 1928. Palmerston North.

WILLIAMS v. WILLIAMS.

Divorce—Permanent Maintenance—Divorce Granted on Petition of Husband Upon the Ground of Wife's Desertion—Insufficient Evidence to Support Wife's Allegations of Husband's Adultery—Further Evidence of Adultery Obtained After Decree Absolute—Subsequent Petition by Wife for Permanent Maintenance—Power of Court to Make Order for Maintenance in Favour of Wife Guilty of Desertion—Husband's Adultery an Important Consideration—Divorce and Matrimonial Causes Act, 1908, Section 41.

Petition under Section 41 of the Divorce and Matrimonial Causes Act, 1908, for an order for permanent maintenance filed by the respondent in a suit for dissolution of marriage. The husband was the petitioner in that suit; he filed his petition for divorce on 29th August, 1927, and obtained a decree *nisi* on 14th December, 1927, on the ground of desertion. The desertion alleged occurred in October, 1919, when the wife left the home. Evidence was also given on behalf of the husband to show that the wife and her parents had, before the marriage, concealed from him certain facts as to the health of his proposed wife which should have been disclosed to him. In the divorce proceedings the wife alleged familarity of the husband with a Mrs. Townend, although she did not go as far as to file a cross-petition for dissolution of the marriage on the ground of the petitioner's adultery with Mrs. Townend. Ostler, J., after hearing all the evidence and taking the facts into consideration, held that the petitioner had established the ground of desertion against the respondent wife; the wife was not able to adduce sufficient evidence of adultery on the part of the husband. The decree *nisi* was made absolute on 15th March, 1928. On the 17th March, 1928, the petitioner and Mrs. Townend were married; a child was born to Mrs. Townend in May, 1928, which fact, counsel for the respondent submitted, and counsel for the petitioner did not deny, showed that the petitioner and Mrs. Townend must have committed adultery in August, 1927, before the filing by the petitioner of his petition for dissolution.

Oram for respondent.

Ongley for petitioner.

SMITH, J., said that it was well settled that the Court had an absolute discretion in awarding maintenance under Section 41, and a husband, whose conduct was blameless, might be ordered to make provision for his guilty wife where she was without means and unable to earn her own living. In **Ashcroft v. Ashcroft** (1902) P. 270, where the ground was adultery, the Court of Appeal held that where the guilty wife was in delicate health and quite unable to earn her own living, and was entirely without means, and had no friends or relations who would support her, the petitioner who had been guilty of no misconduct and opposed the order should be ordered to pay the respondent £1 per week for life. Similar orders with conditions of review attached had been made in New Zealand in **Earee v. Earee,** 6 G.L.R. 197; **Ridder v. Ridder** (1920) G.L.R. 3; **Robertson v. Robertson** (1916) N.Z.L.R. 700; and **Bolton v. Bolton** (1928) G.L.R. 279. There seemed to be no case in which a similar provision had been made in favour of a guilty wife when the ground for divorce had been desertion. That was, perhaps, not surprising, for when a wife deserted her husband it was not likely that she had need of his maintenance and support. That might be because she had means of her own or because her parents would support her, or because she could earn her own living. In **Geange v. Geange** (1917) G.L.R. 512, where the wife had failed to raise in the petition for dissolution, allegations of cruelty and drunkenness, which she alleged in the subsequent petition for maintenance, Chapman, J., held that those allegations should have been made in the petition for dissolution; that the husband was blameless; and he refused to make an order on the petition, with leave however,. to the wife to apply again if circumstances should alter sufficiently to justify an application for an order. The learned Judge also made it clear that the Court had the same discretion in awarding maintenance to a guilty wife on the ground of desertion as on any other ground.

The specific matters of which the Court must take account under Section 41 were the fortune of the wife, the ability of the husband, and the conduct of the parties. In the present case the wife had no fortune of her own. Her parents had means and she had prospects. The husband was of sufficient ability to pay maintenance, if ordered so to do. As regards the conduct of the parties, the decision of the Court, between the parties, that the wife wilfully deserted the husband, must rank as the paramount consideration. The wife's desertion occurred nine years before the date at which there was evidence of the husband's adultery. By such desertion, the wife exposed her husband to a greater degree than would otherwise have been the case to the temptation of the sex instinct. She might not unreasonably be considered to have known this. Yet the wife had, on the application, shown some merits. At the hearing of the petition in December last, the petitioner knew what the respondent did not know, or could not prove, viz., that at the time he was obtaining a divorce on the ground of his wife's desertion, she was entitled to file her petltion for divorce against him on the ground of his adultery. With the knowledge which he had, the husband played boldly and succeeded. But for this circumstance, His Honour should have dismissed the wife's petition for maintenance. In considering such merits as she had, it was necessary to remember that even if the wife had obtained a decree against her husband on the ground of his adultery, her case for maintenance against him could not have been a strong one. Since leaving her husband, she had resided with her parents who had means. Since the petitioner ceased to contribute to her support in April, 1921, her father had allowed her 25s. a week; she had also maintained herself by conducting art classes, and doing sewing. At the present time she stated that on account of the failure of her general health and of her eyesight she was earning nothing. Her property consisted of £30 in the Post Office Savings Bank, a debenture of the New Plymouth Borough Council for £100, and her piano. During the last seven years, she had not taken any steps to require her husband to contribute towards her maintenance. Viewing all the circumstances, His Honour was not prepared to make an order for maintenance based upon any proportion of her husband's income. Having regard on the one hand, to the inception of the marriage, the course of the married life, and the desertion by the wife of her husband nine years ago, and on the other, to the wife's lack of means, her present inability to earn her own living and to the husband's adultery before the filing of his petition, His Honour thought that the husband should be ordered to pay maintenance to his wife, and he made an order for maintenance allowance of £1 per week, with conditional leave to move to discharge or vary same. In view of the small amount of the order no order for security would be made.

Solicitors for petitioner: **Gifford Moore, Ongley and Tremaine,** Palmerston North.

Solicitors for respondent: **Oram and McGregor,** Palmerston North, Agents for **Weston and Billing,** New Plymouth.

The Rule Against Perpetuities.

THE DECISION IN CAMPBELL v. CAMPBELL.

The decision of His Honour Mr. Justice Reed in *Campbell v. Campbell and Others* (1928) G.L.R. 123, is, it is submitted, wrong. There certain trusts were declared by a testator to take effect until the expiration of twenty-one years from his death. At the expiration of this period the estate was given to all testator's grandchildren who should attain the age of twenty-one years, and His Honour Mr. Justice Reed held this gift infringed the rule against perpetuities. It is to be noted that the gift to the grandchildren was not to those who should be living at the expiration of the said period of twenty-one years from the testator's death and who should attain the age of twenty-one years, but, even if it had been, the disposition could not possibly infringe the rule, for the grandchildren to take must necessarily be ascertained within lives in being and twenty-one years. A little thought will show this is so; but I propose to prove my assertion. Such a gift could be paraphrased as a gift to testator's grandchildren who should attain the age of twenty-one years *and be alive at the expiration of twenty-one years from testator's death.* A gift of this nature without the words in italics (i.e. a gift to grandchildren whether born in testator's lifetime or after his death who should attain the age of twenty-one years) is clearly good. It is a gift to persons who must inevitably be ascertained within lives in being (the lives of testator's own children) and twenty-one years. It follows then that the additional requirement of the grandchildren being alive at the expiration of twenty-one years from testator's death could only restrict the class of grandchildren to take. Only three events could happen:—

Event (a) All testator's children might die in his lifetime.

Event (b) The last survivor of testator's children might die after testator's death, but before the expiration of a period of twenty-one years from testator's death.

Event (c) The last survivor of testator's children might die after the expiration of the lastmentioned period.

If event (a) happened then the grandchildren to take would all be living at testator's death and would be lives in being. The testator could have imposed the condition that such grandchildren must be alive at the expiration of one hundred years from his death before they could take. If event (b) happened then the expiration of a period of twenty-one years from testator's death must necessarily occur before the expiration of a period of twenty-one years from the death of the last survivor of testator's children (the life in being). The condition that the grandchildren to take must be alive at the expiration of the first period is a condition that must be fulfilled within twenty-one years of the second period that is, within a life in being and twenty-one years. The grandchildren to take would of course be alive at the death of the last survivor of testator's children and would attain twenty-one years of age within twenty-one years of the death of such last survivor. If event (c) happened then all the grandchildren to take would be alive at a point of time (the expiration of twenty-one years from testator's death) which would

(Continued at foot of next column.)

The Honourable Mr. Justice Ostler.

His Honour Mr. Justice Ostler was born in the Mackenzie Country, Canterbury, in 1876. Educated in England at Christ's Hospital, London, he returned to New Zealand in 1892, and spent the following eight years farming near Levin. In 1900 he commenced to study law at Victoria College, where he took the degree of LL.B. in 1905. From 1903 until 1907 Mr. Ostler was associate to the late Chief Justice, Sir Robert Stout. For the next three years he practised on his own account at Wellington, and during the same period he was editor of the New Zealand Law Reports. In 1910 he was appointed Crown Solicitor at Wellington, a position which he held until 1915, when he became a member of the Auckland firm of Jackson, Russell, Tunks & Ostler. On 2nd February, 1925, he was elevated to the Supreme Court Bench; on the day before he was sworn-in he was made a King's Counsel.

His Honour Mr. Justice Ostler was a member of the Victoria College Council from 1911 to 1915, and for two of those years was Chairman of that body. He was a member of the Senate of the University of New Zealand from 1915 until 1919. For some years he was President of the Auckland Acclimatization Society. A keen sportsman, he has represented both his University and his Province at football, and shooting and angling still attract him.

(Continued from preceding column.)

occur in the lifetime of the last survivor of testators' children (that is, in a life in being). It follows, therefore, that in each of the three events the gift is good and could not possibly infringe the rule. The decision of Reed, J., is in direct conflict with the decision *In re Mair* (1925) N.Z.L.R. 436, approving the decision of Stout, C.J., in *In re Wilkie*, 19 N.Z.L.R. 581, and see also in support of the view here expressed, *Jarman on Wills*, 6th Edn., 340, 341, where it is said:—

> "A testator is in less danger of transgressing the perpetuity rule whilst providing for his own children and grandchildren than when the objects of his bounty are the children and grandchildren of another, since in the former case he has only to avoid postponing the vesting of the grandchildren's shares beyond their ages of twenty-one years, and then the fact of the gift extending to after-born children would not invalidate it, because all the children of the testator must be *in esse* at his decease, and *their* children must be born in *their* lifetime, so that they necessarily came into existence during a life in being."

His Honour took the wrong road when he said: "the life or death of the widow *or the life or death of any or all of the children* does not affect the period prescribed by one hour." His Honour would appear to have forgotten that a person's grandchildren are the children of his children.

"A LEGAL MINNOW."

The Honourable Henry Hubert Ostler,
Judge of the Supreme Court of New Zealand

Hire-Purchase Agreements and Mechanics' Common Law Liens.

(By F. C. SPRATT, LL.B.)

The case of *Moyes v. Magnus Motors Ltd.* (1927) N.Z.L.R. 906, which raises a question of considerable interest, was the subject of no fewer than three articles in the *Fortnightly Notes* of 1927. In a note by Mr. J. McVeagh, 3 B.F.N. 218, attention is called to a similar case, decided in New South Wales, in 1924, *Associated Motors v. Hawke and Co. Ltd.*, 24 N.S.W. S.R. 592. Since then, two other such cases, one in Scotland, and the other in Victoria, have come before the Courts, and the purpose of this article is to show that *Moyes v. Magnus Motors Ltd.* should not be regarded as rightly decided.

Street, A.C.J., in his judgment in *Associated Motors v. Hawke and Co. Ltd.* (*cit. sup.*) said: "In *Hiscox v. Greenwood*, 4 Esp. 174, it was pointed out by Lord Ellenborough that any claim of that kind" (*i.e.* of a lien) "must be derived from legitimate authority, and in *Buxton v. Baughan*, 6 C. & P. 674, Alderson, B., in summing up to the jury, said: 'If you trust your goods into a man's possession and he makes a bargain about them without your authority, you are not bound by the bargain, and may reclaim the goods.'" No consideration of the principle thus expressed seems to have been given by the learned Judge in *Moyes v. Magnus Motors Ltd.* In his judgment he says: "The respondent company relied upon a particular clause in the agreement to show that Williams had no authority to cause a lien to arise in respect of the car. The question now to be determined is whether that particular clause in the agreement will prevent the lien arising. It must be remembered that the subject of liens as applied to hire purchase agreements is a more or less new one, and that the law is still developing. *Keene v. Thomas* (1905) 1 K.B. 136, was the first case which decided that an implied authority in an agreement of this kind would cause a lien to arise." It may be noted that in *Moyes v. Magnus Motors Ltd.* any authority could only have been implied by disregarding the plain terms of the hire purchase agreement. The terms as to repairs and lien do not appear in the judgment, but are shown in Mr. Barnett's article, 3 B.F.N. 205, to have been to the effect that all repairs should be done at the garage of the owner and that the vehicle should not be parted with so as to give any person a right of lien over it. MacGregor, J., continues his judgment as follows:—

> "Then followed in 1917 the case of *Green v. All Motors Ltd.* (1917) 1 K.B. 625, which was not so specific as to the necessity for finding an authority, express or implied, in the agreement before a lien could arise. I have now before me a report of the very recent case of *Albemarle Supply Co. Ltd. v. Hind and Co.*, 43 T.L.R. 652, which was decided in England in June, 1927, and, of course, could not have been cited to the Magistrate in this case. In that case there was in the agreement a clause expressly negativing any authority to create a lien, but it was nevertheless held that this did not prevent a lien for repairs to a car arising. That decision seems to be in point, and also to accord with substantial justice, and I think I ought to follow it in the present case."

These seem very unsatisfactory reasons for disregarding the general principle laid down by Alderson, B. in *Buxton v. Baughan* (*cit. sup.*). The *ratio decidendi* of *Albemarle Supply Co. Ltd. v. Hind and Co. Ltd.*, is, it is conceived, that stated by counsel for the respondent in *Moyes v. Magnus Motors Ltd.*, namely, that everything there was done with the consent of the owner; in other words, that decision may be supported on the ground, not of an implied authority, but of an estoppel.

Since the decision in *Moyes v. Magnus Motors Ltd.* there has appeared the decision of the English Court of Appeal, affirming the decision of Swift, J., in *Albemarle Supply Co. Ltd. v. Hind and Co.*, the judgment of the Court of Appeal being reported in (1928) 1 K.B. 307. It is submitted, with respect, that, notwithstanding certain expressions used by the Master of the Rolls and the Lords Justices, that case was not one of implied authority, but of ostensible authority, which the owner of the chattel was estopped from denying as against the mechanic. This was the view taken in a recent decision of the Full Court of Victoria—*The Automobile Finance Co. of Australia Ltd. v. Fisher* (1928) V.L.R. 131. The facts of that case are essentially the same as those in *Moyes'* case. The headnote is as follows:—

> "The fact that he has *bona fide* expended labour on a chattel does not entitle an artisan to retain it against all the world until he is paid for his labour. If he has done the work at the request of a person in possession of a chattel who is not the owner, he has a lien upon the chattel available against the owner only if he can show the authority of the owner to have the work done. Such authority may be given by express or implied agreement, or the owner may be estopped by his conduct from denying the authority."

The case is valuable because in it are considered and distinguished the judgments in *Green v. All Motors Ltd.* and *Albemarle Supply Co. Ltd. v. Hind and Co.* Mann, J., who delivered the judgment of the Court, in commenting on the latter case, said: (at p. 138):—

> "The learned Judge before whom this case came for hearing decided it, apparently with some doubt, upon the authority of the recent case of *Albemarle Supply Co. Ltd. v. Hind and Co.* and there are passages in the judgment of each of the Lords Justices in that case which certainly give colour to some of the broad propositions laid down before us. But, in my opinion, in order properly to understand that case it is necessary very carefully to read and understand the facts with which the Court was dealing."

He then stated the facts, and went on:

> "Now, all that Hind and Co. were doing to its cars for years was perfectly well known to the plaintiff, and we have the position that Botfield (the hirer) was carrying on his business and getting his cars repaired by Hind and Co. and was only able to carry on his business by getting the cars so repaired from day to day. In those circumstances it seems to me a very strong case of holding out Botfield as having authority to do what he had done—that which he had done for years, and which alone enabled him to carry on his business, which was known to be that of carrying for hire; and that, I think, is the true reason for the decision. In the judgment of Scrutton, L.J., among other things we find this passage: 'If a man is put in a position which holds him out as having a certain authority, people who act on that holding

out are not affected by a secret limitation, of which they are ignorant, of the apparent authority. The owners can easily protect themselves,' and so on. In effect, that case, I think, amounts to no more than this : that the plaintiff, by its conduct, had indicated in the clearest way to the defendants that Botfield had authority to do all that he was doing, and having so indicated by its conduct it was estopped from saying afterwards, what was the truth, that it had agreed with Botfield that no lien should be acquired against the plaintiff."

A similar case to those of *Moyes v. Magnus Motors Ltd. and Automobile Finance Co. of Australia Ltd. v. Fisher*, came up for decision by the Court of Session in Scotland in the case of *Lamonby v. Foulds Ltd.* (1928) S.C. 89. There the obligation of a hirer under a hire-purchase agreement was "to keep the said motor vehicle and accessories in good repair and working condition (but this shall not authorise the hirer to create any lien thereon for repairs)." The case was fully argued, and amongst the authorities cited were, on the one hand, *Singer v. London and S.W. Railway* (1894) 1 Q.B. 833 ; *Keene v. Thomas* (1905) 1 K.B. 136 ; and *Green v. All Motors* (1917) 1 K.B. 625 ; and on the other hand, *Buxton v. Boughan*, 6 C. & B. 674 ; *London Joint Stock Bank v. Simmons* (1892) A.C. 201, dictum by Lord Herschell, L.C., at p. 215 ; and *Pennington v. Reliance Motor Works* (1923) 1 K.B. 127. *Albemarle Supply Co. Ltd. v. Hind and Co.*, then but recently decided, does not seem to have been brought to the notice of the Court. It was argued for the defenders (the mechanics) that if repairs were done on the order of a hirer of a vehicle, a lien for the cost thereof was created, which was good against the owner, provided that the hirer was in lawful possession when the repairs were ordered. The Court rejected this argument and Lord President Clyde, at p. 95, said :—

"The question . . . is whether, Stewart's (the hirer's) title being limited in character, he could, and did, subject a lorry to a valid lien against the owner, by handing it to the defenders under a simple contract for the execution of repairs. . . . A special lien such as that alleged in the present case is a right which arises as a quality or condition of the contract of *locatio operis faciendi*. It has been judicially defined as 'a contract of pledge collateral to another contract of which it is an incident.' . . . In the case of pledge proper, on the other hand, the right of the creditor arises out of an independent contract. But in both pledge and lien the principle that the possessor of a moveable can give no better right therein or thereto to a third party than he has acquired from the owner applies, unless the owner has personally barred himself, by some actings of his own, from founding on the limited character of the title he actually gave to the possessor."

It is clear from a later part of the Lord President's judgment that he does not question the principle applied in *Keene v. Thomas* (*cit. sup.*) for he says :

"I do not doubt that the obligation imposed by the hire-purchase agreement on (the hirer) to keep the lorry in repair—if it had stood without qualification—would have carried with it by necessary implication a right and title to subject the lorry to repairer's lien."

Lords Sands and Ashmore concurred.

The case of *Pennington v. Reliance Motor Works Ltd.* (1923) 1 K.B. 127, is worthy of note. In it McCardie, J. considered *Keene v. Thomas* (*cit. sup.*) and *Green v. All Motors* (*cit. sup.*) as well as *Singer v. London and S.W. Railway* (*cit. sup.*). The facts were that plaintiff agreed with one E. that the latter should repair his motor car. E., without plaintiff's knowledge, subcontracted the work to the defendants, who, believing that E. would in due course be paid by the plaintiff, and would then pay them, redelivered the car to E. The plaintiff paid E., who did not pay the defendants. Subsequently, in ignorance of the above facts, the plaintiff sent the car to the defendants for repair and the latter claimed a lien thereon for the work done for E. McCardie, J., in rejecting the defendant's claim says, p. 128 : "In *Hiscox v. Greenwood*, 4 Esp. 174, it was pointed out by the Court that a lien of this sort must be derived from legitimate authority," and goes on to quote the words of Alderson, B., in *Buxton v. Baughan*, mentioned at the beginning of this article, and says :—

"That must be the basic principle of these cases, and it must be appreciated before the principle of *Keene v. Thomas* can be understood. That case can only rest on the basis of implied authority and was followed by the Court of Appeal in *Green v. All Motors*, where the facts were similar. Then comes *Singer v. London and S.W. Railway*, which I mention last because it is, to my mind, an exceptional case on the border line. I venture to think that it represents the extreme limit to which the principle can be carried."

Just as McCardie, J., brought the question under the general rule of *Buxton v. Baughan*, so did Lord President Clyde in *Lamonby v. Foulds, Ltd.* (*cit. sup.*) where he said (p. 96) :—

"It is not possible in this connection to draw any distinction between a disposal by way of contract of sale, or by way of an independent contract of pledge, or by way of a contract (for the execution of repairs) of which the incurring of a lien is an incident."

To sum up, the following is submitted as a statement of the law : The possessor of goods under a limited title cannot so deal with those goods as to bind the interest of the owner without his authority or consent—*Hiscox v. Greenwood* (*cit. sup.*) 4 Esp. 174 ; *Buxton v. Baughan*, 6 C. & P. 674. In this connection, no distinction may be drawn between a disposal by way of sale or by way of pledge or mortgage, or by way of a contract involving a lien—*Lamonby v. Foulds Ltd.* (1928) S.C. 89 ; *Pennington v. Reliance Motor Works Ltd.* (1923) 1 K.B. 127. The hirer of a chattel may be impliedly authorised to subject the chattel to a lien—*Singer v. London and S.W. Railway* (1894) 1 Q.B. 833 ; and such authority will be implied where there is an obligation on the hirer to keep the chattel in repair and it is proper that such repairs should be done by a mechanic—*Keene v. Thomas* (1905) 1 K.B. 136 ; *Green v. All Motors* (1917) 1 K.B. 625. But such authority cannot be implied when it is expressly withheld by the terms of the agreement—*Automobile Finance Co. v. Fisher* (1928) V.L.R. 131 ; *Lamonby v. Foulds Ltd.* (1928) S.C. 89 ; *Associated Motors v. Hawke*, (1924) 24 N.S.W. S.R. 591. Even where the hirer is by the terms of his hire-purchase agreement forbidden to subject the chattel to a lien, such lien may arise by reason of ostensible authority, which the owner of the chattel is estopped, by his actions, from denying—*Albemarle Supply Co. Ltd. v. Hind and Co.* (1928) 1 K.B. 307. Such estoppel, however, will not arise from the mere delivery of the chattel into the hands of the hirer, with an obligation to keep in repair—*Automobile Finance Co. v. Fisher* (*cit. sup.*) ; *Lamonby v. Foulds Ltd.* (*cit. sup.*) ; *Associated Motors v. Hawke* (*cit. sup.*).

London Letter.

Temple, London,
1st August, 1928.

My dear N.Z.,

The term ended yesterday, without any appreciable bump, and with it ended another legal year. Defying the march of science and the impatience of the reformer, we adhere stolidly to our Long Vacation from the first day in August till the twelfth day in October; and the fact that we have increased our judicial strength in the King's Bench Division, where the strain is said to be felt, makes no difference to the argument that our Judges must be thus suitably rested if they are suitably to do their work. It has nothing to do with the Judges, really, and I make no doubt that we should cut down their holiday to a month, without compunction, if it suited the purpose of the State. It certainly has nothing to do with the Bar, for no one cares what becomes of the mere advocates, as witness the splendidly awkward way their business is arranged. The truth is that it is the litigant and the witness and the juror who require this long rest; two hundred litigible days in the year is as much as the public cares for, and it is good to have the close season for this not least irksome form of popular sport. I do not know exactly what you do about it at your end, but I suspect that your layman, also, welcomes periods when he is free to do without you!

It has not been a very memorable year, and its tame end was not inappropriate. An astonishing improvement has been registered, as I think I observed last week, in the Judicial Committee of the Privy Council; the usual Board, this last sittings, has been a tribunal of which no one need be ashamed. No very startling developments have taken place elsewhere on the Bench; the Lord Chief Justice's attempts to stir up excitement as to the interference of the Bureaucracy with the Courts are something of a damp squib, for, whatever the future of Democracy may bring forth in this regard, there is at the present no substantial complaint or anxiety, and the Departments make little or no claim to judicial authority. Indeed, in the newly passed Landlord and Tenant Act the suggestion of a non-judicial tribunal, to assess values or to fix terms and periods as between the tenant and the landlord with reference to goodwill and improvement rights, was very timidly put forward and hastily withdrawn when the criticism was made; nor, had it been persisted in, would the new, amateur jurisdiction have been departmental; it would have been professional.

We have our new Judges of the King's Bench Division of course, of whom so little is heard that they may be assumed to be discharging their functions with modest ability. Travers Humphreys, J., seems to have got into no difficulties, in tackling the civil work from which he was so long absent; Charles J., known to his intimates as Cheery Charles and looking that part to the man in the street, seems to have done well enough so far and, upon occasion, to have deported himself with conspicuous discretion; Hawke, J., takes from time to time a strong line, but otherwise, no doubt, strikes that safe level where he succeeded as an advocate. The Chancery Division bench changes not; with the recent addition of Clauson, J., it is, as I have told you, at a higher level, on the whole, than it has ever been in living memory. The Courts of Appeal do their business, under the presidency of the lawyer-faced Master of the Rolls and the enormous, bearded Scrutton, L.J., if without distinction, yet without giving serious cause for criticism. In short, we resume the unexciting levels and the unreportable regularity of peace time; the only pity is that we do not resume the corresponding, appropriate and much-neeed prosperity.

Work is as scarce as ever; there is possibly not a Junior amongst us, at any rate at the Common Law Bar, who has so much work that he is not capable of doing it all himself without diabolical assistance; and I am told it is the same with leaders, so that there is hardly a star K.C. now returning briefs at the last moment and affording the newer lesser lights their opportunity, except Birkett and, possibly every now and then Jowitt. It is said, indeed, that hardly a leading brief has been delivered this term to other than Birkett which Birkett has not returned!

This lack of business, I may mention in passing, is the most disconcerting from the point of view of the youngsters. When I was my devil's age, or, for the matter of that, when I was no further on than is my present pupil "devilling" almost in any amount was to be had for the asking, and much of it paid devilling at that. It fills me with anxiety to see the hungry faces of the young men about me; the hope is that, by the time they are ripe and depend upon being employed, the boom will have befallen and all the golden wisdom we have sown in them will have its soil to grow from, so that they will have had a pleasantly idle youth followed by an honourable briskness in their old age. So may it be; but I confess I see no signs of it. I think that not a few of them have yesterday gone down to the country with some considerable misgivings, as to the lack of promise and as to the undeniable continuation of disquieting alarm which forms the bulk of their harvest from the now completed year. I harp upon this dismal subject possibly at too great length, because until recently I have had about me men more well-to-do than willing, more amiable than ambitious, but now they are gone, and I am in a way responsible for maintaining the spirits of four young men, all of whom are keen and able and for none of whom, except my immediate aid, do I see, at the moment, the least prospect of a chance to make a start!

The only notable matter, left over from the legal and Parliamentary year, is the immense scheme of Local Government and Rating Reform in contemplation; the Bills of it are now in very active preparation and the enacting of them is to begin early in the autumn. There is less law, in them, however, than finance; and some of the formulae, with regard particularly to the calculation of the block grants from the central government to the local authorities, are so complex as not to be understood by anyone save the man who has compiled them, and even he must stay awake o'nights reminding himself of what they do mean if they are to be sure of that much understanding!

Of cases I know of none, worthy of your particular attention, for the period being the last fortnight of the term and year. Edgar Wallace's betting matters are less likely to interest you than (or, shall I say, even than) his output of novels and journalism: the Irish Compensation matter, occupying the attention of the Judicial Committee as the curtain fell, hardly concerns you? It refers to a matter very bitterly felt by men once of Ireland, where loyalty to the Crown

was a virtue likely to be its own and only reward, but not much considered outside the country itself or the ranks of those who suffered. Neither of these cases is a matter of much law; and indeed I have no matters for you which are matters of law, this time. Howbeit, since no doubt you thirst for that kind of beverage, I will once again cause my Young Enthusiast to search round and about, to see if there is anything of sterling value that I have omitted to convey to you. He is in a mood to make a quick search and a violent one: the Vacation has begun, and I still hang about the Temple, calling on him for assistance: it is time we were both off and away, thinks he: if the result of his searching is likely to quieten me and get rid of me (so that he may get rid of himself) he will search like the devil, to find all he possibly can, to fill me up with *data* for use in a fortnight's time for my next letter to you, and, by thus sending me down into the country filled-up, to avoid the risk of my returning to Chambers, in mid-August, and expecting him to do the same!

Wishing myself a very happy Vacation,
As happy as Long, from you all,
I remain,
Yours ever, but never more so than at this moment,
INNER TEMPLAR.

Law Lordship.

Some reasons why Law Lordship has often been referred to as a bed of roses, upon which even the most distinguished advocate would be glad to stretch his weary limbs, are (a) that the remuneration of six thousand a year is adequate; (b) the labours are not too severe and are of a such a character that he might (apart from the vacations) absent himself altogether for a few months without the world being any the wiser; (c) there is glory and honour in a Law Lordship; and (d) it lasts for life. Small wonder then that the voluntary retirement of a Law Lord is an event of great rarity. Three or four only in modern times have resigned their office, and in two instances the step was rendered necessary by considerations of health.

In 1887 Lord Blackburn retired after twenty-eight years of judicial life, through failure of intellectual powers, and in 1893 Lord Hannen, a few months before his death, voluntarily made way for Lord Bowen. Lord Morris, who accepted an hereditary peerage in 1900, is the only known example of a Law Lord who declared himself to be overworked. Lord Russell of Killowen's resignation in July, 1894, was only to enable him to accept the greater honour of Lord Chief Justice.

Professor A. L. Goodhart.

We have been fortunate in securing, through the kind offices of Mr. W. A. Beattie, of Auckland, an article by Professor A. L. Goodhart, M.A., LL.M., of Corpus Christi College, Cambridge, on "Recent Cases on Banking and Negotiable Instruments." Professor Goodhart is the well-known editor of the "Law Quarterly Review," and has written the article specially for this Journal.

Solicitors' Trust Accounts.

Views of Accountants.

The subject of Solicitors' trust accounts was more than once referred to at the annual meeting of the New Zealand Society of Accountants, held recently at Auckland. Mr. E. W. Hunt (Wellington) in his presidential address is reported in "The Accountants' Journal" as saying:—

> "Reference is made in the report to suggestions which have been made by the Council to amend the regulations covering the audit of Solicitors' Trust Accounts. . . . . I would like it to be clearly understood that if these audits have in the past proved ineffective this is entirely due to the fact that the facilities for audit have been ineffective. Had satisfactory regulations been drawn up in consultation with this Society, irregularities such as have occurred could not have continued. There can be no question that these audits can be effectively carried out, but the conditions under which the duties are performed must be on an entirely different basis to that at present obtaining, and I have no hesitation in saying that this basis should, and can be so arranged as to provide an adequate and effective check."

And Mr. Eyre (Auckland) touched on the subject when he said:—

> "There is another matter Mr. President that I would like to bring up. I wonder if the Society has moved in the direction of getting its members put on the same footing as J.P.'s and Solicitors in regard to witnessing declarations. It would be a great convenience to our members if this could be done. At present, in auditing Solicitors' accounts, we have to go to other Solicitors to obtain their signatures."

Again the President replying to some comments of Mr. Beaumont (Auckland) concerning the proposed regulations as to Land Agents' audits, and the printing and numbering of receipt books at the Government Printing Office, said:—

> "If there were a system of receipts whereby solicitors, land agents, and others under similar circumstances had a similar receipt, which could be dated and the numbers checked by members of the Society, it would be a great advantage to the auditors."

At the Half-yearly Meeting of the Council of the Society, held at the termination of the Annual Meeting, a letter was read from the Solicitor-General acknowledging receipt of a letter forwarded by the Society covering proposed amendments to the regulations governing Solicitors' trust accounts audits; the Solicitor-General stated that the proposed amendments would be of great value to him in considering the matter. It was resolved that a sub-committee be set up to take any action which they considered necessary should steps be taken through the Crown Law Office, to amend in any manner the regulations governing such audits.

"As a rule never allow a witness to state that which he is most anxious to mention—for it will surely be either slanderous or irrelevant."—Lord Darling.

Law Practitioners' Amendment Bill.

DEBATE IN LEGISLATIVE COUNCIL.

We publish below the Hansard report of the debate in the Legislative Council on the second reading of the Law Practitioners' Amendment Bill.

In moving, *That this Bill be now read the second time,*

The Hon. Mr. MACGREGOR said,—Sir, this Bill is promoted by the New Zealand Law Society, which has asked me to take charge of it in this Council. I have much pleasure in complying with that request as I heartily approve of the provisions of the Bill, which are so desirable that I think they must commend themselves to honourable members without any argument of mine. Honourable members have no doubt read clause 2, the principal clause in the Bill, so that it is probably unnecessary for me to read it. It would, however, be as well for me to explain in a few words that the New Zealand Law Society is not an association of mere private individuals—it is a statutory body having well-defined duties and functions under the principal Act, which it is now proposed to amend. Several of these functions are of a very important character. For example, the society is required to certify to Supreme Court Judges as to the fitness of candidates for admission to the legal professions, and there are other important functions assigned to the Society. The Bill contains a proposal that had been under discussion by members of the profession for a good many years. Matters were brought to a head, however, at the first general conference of the profession, held in April last at Christchurch, when a resolution was passed approving generally of the principle that is embodied in clause 2 of this Bill. At the same time, a resolution was adopted setting up a committee, comprising the president and the vice-president of the Law Society, with power to add to its members, to frame a definite scheme for submission to Parliament; and the Bill now before the Council is the result of the deliberations of that Committee. After much consideration, the Bill was put into its present form, and the Committee, having drafted and approved of it, submitted it to the Attorney-General and the Right Hon. Sir Francis Bell, who, I understand, expressed approval of the proposal. I think I may suggest to the Council that it is unnecessary for me to urge any further considerations in support of the Bill. The functions of the Law Society itself are so important that honourable members may be quite sure that it is not without a full sense of responsibility that such a proposal as this is submitted to Parliament.

The Right Hon. SIR FRANCIS BELL (Leader of the Council).—I desire to support the Bill and to recommend it to the favourable consideration of the Council. I am not speaking for the Government, but as a very old member of a great profession the honour and credit of which have been besmirched by the dishonesty of some of its members. The profession desires to take upon itself the duty and privilege of indemnifying the public against such dishonesty. The Council will remember that some years ago provision was made for the audit of the trust accounts of solicitors. That duty is still being carried out by the Crown Law Office. But what is the use of auditing the trust account when the solicitor does not put his trust moneys into it? That is the difficulty that we have to meet; and the profession has expressed a desire to be authorised to devise its own scheme. The fact that the rules are to be made subject to approval of three Judges of the Supreme Court is surely a sufficient safeguard that the fund contributed shall not be misused. No doubt one element of the scheme will be provision for insurance, the payment of the premiums to be provided for out of the fees which will be levied. I assume that that will be so, because until the fund reaches a considerable amount the guarantee of the fund would not be a sufficient security to those who still trust their moneys to solicitors. I ask the Council to allow this great profession to protect its own honour and its own credit.

The Hon. Mr. MCINTYRE.—I think this is a most astounding Bill in one respect. There is no section of the community that has objected to legislation by Order in Council more than the Law Society; yet here we find a Bill presented by that society which goes much further than an Order in Council, because the rules made under this Bill will not even come before the Government for approval.

The Right Hon. Sir FRANCIS BELL.—But it does not touch the public. An Order in Council touches the public, but this does not.

The Hon. Mr. MCINTYRE.—This touches the public in that the fund is to be authorised by Parliament; and I fail to see why the Law Society should be allowed to administer that fund, any more than any other fund that is authorised by Parliament. If this were a voluntary fund on the part of solicitors, then they would have every right to say how it was to be administered, but it is to be by law a compulsory levy upon solicitors; and I think it should be placed on the same footing as other funds, and be administered by the Public Trustee. For instance, there is an Assurance Fund established under the Land Transfer Act and collected from land-owners; but it has been administered by the Public Trustee until recently, and is now administered by the Treasury.

The Hon. Sir WILLIAM HALL-JONES.—Who finds that money—the solicitors?

The Hon. Mr. MCINTYRE.—Quite so; but so do the land-owners. I do not see why solicitors should not be placed on the same footing as land-agents and land-brokers.

The Right Hon. Sir FRANCIS BELL.—They are in exactly the same position. They cannot work without a license.

The Hon. Mr. MCINTYRE.—A land-broker certainly does not practise without a license; but the law provides, under section 214 of the Land Transfer Act, that he must provide a fidelity bond for £1,000 and two sureties of £500 which means that he has to find guarantees for £2,000. A land-agent, under the Land Agents Act, 1921-22, section 7, has to find a fidelity bond for £500. Why solicitors have been allowed in the past to administer trust funds without any fidelity guarantee is something that takes some explaining. I think it is absolutely necessary, in the interests of the public, that trust moneys should be guaranteed, and it is regrettable that even the Law Society is not composed entirely of honest men; but it is a good thing for the Public Trust Office. However, it does not seem to me fair that the honest lawyer should be penalised to make good the losses caused by his dishonest colleague.

The Right Hon. Sir FRANCIS BELL.—The honest man would have to find sureties.

The Hon. Mr. MCINTYRE.—Undoubtedly he would have to find his fidelity bond, but he would not be required to contribute every year towards money which may be misappropriated by the dishonest lawyer. Every lawyer should stand on his own bottom and find his own guarantees. I think the Law Practitioners Act requires amendment, but it should be in the direction of compelling lawyers to provide a fidelity bond to a very substantial amount. The Hon. Mr. MacGregor, who is the honourable member in charge of this Bill, stated that this Bill has been drafted by a sub-committee of the Law Society after its last conference; but I suggest to the honourable gentleman that the Bill now before the Council is merely the tail end of the draft Bill as it came from that committee. No doubt the Law Society is endeavouring to protect the profession against the dishonest lawyer—and I give them credit for it—but we know that the Law Society is the closest corporation in the world; and it evidently intends to keep itself so, for it wants to administer its own affairs and not allow them to be administered as other compulsory assurance funds have to be administered—namely, by a Government Department. I merely rose, Mr. Speaker, to point out how inconsistent the Law Society is, when it loudly condemns the Government for Order-in-Council legislation, and then brings down a Bill which is much worse than Order-in-Council legislation, because it is not prepared to even submit its proposals to supervision by the Government as is done in Order in Council.

The Hon. Mr. GARLAND.—I have listened with interest to the Hon. Mr. McIntyre's speech, and I think he has not studied the clauses of this Bill sufficiently; otherwise he would have been aware of the fact that other societies—of which he named one, at any rate—have an indemnity fund. I happen to have been associated with the Land-agents Association since its inception, and that association created a guarantee fund among its members by subscription, and they did not ask the Public Trustee to administer the fund; and the Public Trustee does not, in fact, administer it. Subscriptions are still being paid by land-agents in the city from which I come, and the sum so reserved is a large one.

The Hon. Mr. MCINTYRE.—Voluntarily?

The Hon. Mr. GARLAND.—Voluntarily so far. And unless the subscriptions are paid the association would take very good care to see that a member declining to pay his annual subscription did not receive his license if the association could prevent it.

An Hon. MEMBER.—Another close corporation.

The Hon. Mr. GARLAND.—It is a close corporation—yes. But in years gone by it was found essential that legislation should be secured for the purpose of cleaning up that profession, and it was cleaned up to a very large extent. I do not think there have been any defalcations among land-agents for a great number of years. The promoter of this Bill knows perfectly well, as a barrister and solicitor of the Supreme Court, that the time has come when those who are doing right, and want to continue doing right, must be protected against those who do wrong; and this Bill has for its object the accomplishing of that desire. It does not provide for a voluntary contribution, certainly, but perhaps that is just as well; and those solicitors who do not contribute to the fund which will be created under this Bill will, I assume, either have to get an acceptable guarantee from a reliable company to the satisfaction of the Law Society, or they will have to get out. The time has come when a Bill of this character should be passed, and I think it will be heartily endorsed by the public, who have entrusted moneys to those who ought to take care of them as a sacred trust. And I am proud to say that in a very large number of cases not the slightest suspicion rests upon our legal practitioners. A few have gone off the roll, and it is to control others with a likely tendency that this Bill is promoted; and I, for one, shall certainly support it.

The Hon. Mr. WITTY.—I wish to congratulate the Hon. Mr. MacGregor for bringing forward this measure, and I am rather surprised at the action of the Hon. Mr. McIntyre in belittling the Bill as he has done. It is a coincidence that I was the first to introduce the Land Agents Bill. For six years I endeavoured to get such a measure passed in another place, but without success, until the late Mr. Massey took the matter up, when the legislation was placed on the Statute-book. And it has been of very great benefit to the general public. In connection with the present measure before honourable members, I would like to read the following from a former constituent of mine. I received it only this morning, and it reads:—

"As you have known me all my life, I am appealing to you with regard to the loss of £986, which I paid to J. B. Batchelor, solicitor, of Christchurch, and for whom a warrant of arrest has been issued. From present indications, his estate when put through the Official Assignee's Offices will return little or nothing. My reason for bringing this matter under your notice is that the public accountant who conducted the audit of Batchelor's trust account reported adversely to the Crown Solicitor on the way the books were kept, stating that he was not satisfied and could not certify to their being correct. Batchelor, knowing this, applied for and obtained an extension of time, and it was during that time my business was transacted with him."

The Hon. Mr. NEWMAN.—On a point of order, Sir, I would like to ask whether the honourable gentleman is in order in reading a letter commenting on legislation now before the Council?

The Hon. the SPEAKER.—I am listening very intently. So far there has been no comment on the legislation in the letter that is being read.

The Hon. Mr. WITTY.—The letter continues:—

"The money I have lost was to pay off a new house which was to be our home. It was me who had the warrant of arrest issued, and the police have since informed me that his affairs are in a very bad state. This being so, it seems I shall be the loser of what are practically my whole life savings. By thrift and economy we have managed to get the money for a home, and we are dependent on my wages alone. I feel that if due precautions had been taken, and an investigation been ordered in time, I would not have lost my money. I appeal to you to use your best endeavours in placing my case before the authorities for consideration by way of compensation for the loss I have suffered. I have now to turn to again to buy a home for my wife and family, and if ever a man wanted a bit of encouragement I want it now."

That refers to a man from Christchurch, who has gone and left his clients short of about £10,000. I have known the writer of tha letter since his childhood. He is a man who has worked his way up; and having obtained a home for himself, he sold it with the intention of trying to better himself. The money was transferred to Batchelor, and he immediately decamped with £986 of that man's money. In circumstances such as these, if ever a Bill was needed for the protection of the public against solicitors, it is a Bill as has been introduced by the Hon. Mr. McGregor. On the whole, solicitors are honest men; but amongst them you will always find some one who is not honest. We must protect the public against dishonest men in the profession, and I am surprised that the Hon. Mr. McIntyre should suggest that we are trying to make the honest men pay for the dishonest men. Solicitors themselves are only too glad, I am sure, to have a bond for their benefit collectively, just as the land-agents have. With regard to land-agents, a man not of good character cannot obtain a license to carry on.

The Hon. Mr. MCINTYRE.—Neither can a lawyer.

The Hon. Mr. WITTY.—There are ways and ways. However, they have not to run the gauntlet as the land-agents have, and if any one objects to a land-agent being given a license that agent is refused a license. I welcome this Bill, for it is in the interests of the public; and we have a duty to safeguard them as far as we can.

Bill read the second time.

Bills Before Parliament.

Electric Wiremen's Registration Amendment. (HON. MR. WILLIAMS.) As reported from Labour Bills Committee. Board may authorise any person (though not qualified to be registered under Section 8 of the principal Act) competent to carry out limited class or classes of electrical-wiring work (including electrical-wiring work in connection with any specified premises but not elsewhere) and who has been employed or engaged for at least three years in the class or classes of work to be registered under principal Act. Persons registered only in respect of maintenance work to do such work only in case of emergency—such work to be inspected within twenty-four hours by registered electrical wireman or holder of provisional license. Register to be kept of such persons. Offenee to employ or permit any such person to do unauthorised electrical wiring work; offence for any such person to do any unauthorised electrical-wiring work. Previous limited registration under principal Act valid.—Clause 2. Section 17 of principal Act amended by inserting after the words "an electrical wireman" the words "or to require him to be the holder of any certificate or license other than one issued by the Board."—Clause 3. Wiring of premises to be done by registered electrical wireman or by holder of a provisional license with or without apprentices or improvers working under his supervision and in his presence. Section 18 of principal Act repealed.—Clause 4. Amendments to Section 19, 20, and 21 of principal Act.—Clauses 5, 6 and 7. Clause 8 reads:—

> "If the Board has reason to believe that any registered Inspector of electrical wiring is not satisfactorily carrying out his duties it may appoint a person registered under the Engineers Registration Act, 1924, as an Electrical Engineer, or Inspector of Electrical Lines on the Staff of the Public Works Department, or an Inspecting Engineer, to enquire and report to it as to the competency of the Inspector. If as a result of such inquiry and report the Board is satisfied that the Inspector is incompetent it may cancel his registration as an Inspector, and no appeal shall lie against its decision."

Section 25 of principal Act amended.—Clause 9. Offence not to give to Inspector or authorised person information as to person doing any electrical-wiring work.—Clause 10. Notwithstanding anything in Justice of Peace Act, 1927, proceedings may be instituted in respect of an offence under principal Act within twelve months.—Clause 11. Section 27 of principal Act amended.—Clause 12. Governor-General empowered to make regulations by Order in Council as to control of stage lighting.—Clause 13. Principal Act to bind Crown for certain purposes.—Clause 14.

Licensing Amendment Bill. (RIGHT HON. MR. COATES) This Bill having been rejected on the third reading in the Lower House is not here summarised.

Motor-Vehicles Insurance (Third Party Risks). (HON. MR. ROLLESTON.) "Company" has same meaning as in Accident Insurance Act, 1908; "Motor-vehicle" and "Owner" have same meaning as in Motor-vehicles Act, 1924; "Registrar" and "Deputy Registrar" mean those appointed under latter Act.—Clause 2. Owners of motor-vehicles required to insure against liability to pay damages on account of accidents caused through, by, or in connection with the use of such motor-vehicle in New Zealand resulting in death of, or bodily injury to, any person. Every such contract of insurance to be made with a company carrying on in New Zealand the business of accident insurance; Government Accident Insurance Office deemed to be such a Company.—Clause 3.

Companies willing to undertake business in terms of Act to notify Registrar.—Clause 4. Owners to pay insurance premiums with annual license fees.—Clause 5. On payment of premium company nominated by owner deemed to have contracted to indemnify him from liability to pay damages (inclusive of costs) on account of death of, or bodily injury to, any person or persons sustained or caused by or through or in connection with use of motor-vehicle in New Zealand. Limit of liability of company—£2,000 for any passengers; £20,000 for all claims by passengers; otherwise liability of company unlimited as to amount. Liability of Insurance Company under any contract of insurance not to extend to indemnify owner against (i) Claims by any person living with owner as a member of the same family or by relative of a degree of relationship not more remote than the fourth; (ii) Claims by servants of owner; (iii) Claims by passengers other than passengers for hire.—Clause 6. Contract of insurance to enure in favour of owner for time being; owner to give notice of sale or disposal within seven days.—Clause 7. Offence to make false statement for purpose of effecting contract of insurance: fine £100; but contract not avoided thereby: otherwise nothing to limit company's rights against person making false statement.—Clause 8. Foregoing provisions to apply to motor-omnibuses licensed under Motor-Omnibus Traffic Act, 1926; Section 13 of that Act repealed.—Clause 9. In case of death or insolvency of owner (or winding-up, in case of body corporate) liability of owner to be a charge on insurance moneys; two or more such charges—priority in order of dates of accidents; every such charge enforceable by way of action against company in same way as if action were one for damages against owner.—Clause 10. Owner to give to Insurance Company notice of all accidents affecting motor-vehicle, and of consequent actions.—Clause 11. Insurance Company may settle claims.—Clause 12. Insurance Company may apply to Magistrate for cancellation of driver's license on ground that safety of public being unduly endangered; right of appeal to Supreme Court, Part X of Justice of the Peace Act, 1927 applying.—Clause 13. Application of moneys received by Deputy Registrar by way of premium under Act.—Clause 14. Governor-General may by Order in Council make regulations prescribing rates of premiums, forms of notices, etc.—Clause 15. Penal rates of insurance premiums in certain cases.—Clause 16. Act to bind Crown.—Clause 17.

Public Reserves, Domains, and National Parks. (Hon. Mr. McLeod.) Repealing Public Reserves and Domains Act, 1908, and all its amendments, and Sections 18 and 19 of Land Act, 1924, and substitution therefor. Many alterations mainly in matters of detail.

Cinematograph Films. (Right Hon. Mr. Coates.) As reported from Cinematograph Films Bill Committee. Censorship of films and posters.—Clauses 3-11. Registration of films.—Clauses 12-22. Storage, transport and projection of films. Clauses 23-26. Provisions for securing renters and exhibitors quota of British films.—Clauses 27-35. Restrictions on advance bookings and relief from blind bookings.—Clauses 37-39. Miscellaneous.—Clauses 41-43.

Workers' Annual Leave. (Mr. Sullivan.) Every worker to be given fourteen days' leave on pay after each period of twelve months' continuous service.—Clause 3. Continuity of employment not deemed to be interrupted by certain breaks.—Clause 4. Method of calculation of remuneration for period of leave.—Clause 5. Offences by employers.—Clause 6. Act to be read subject to awards and industrial agreements in certain cases.—Clause 7. Payment in lieu of leave in certain cases of less than 12 months' employment.—Clause 8.

Magistrates' Courts. See supra p. 177. As reported from the Statutes Revision Committee and passed by Legislative Council, the Bill permits service of process without leave of Magistrate or Clerk "by any person authorised by the Magistrate specially in that behalf as occasion requires; or by the party at whose instance the same was issued or his solicitor or any one appointed by such party or his solicitor."

"Suppose," said Byles, J., the learned author of "Byles on Bills," one day to counsel who was engaged in arguing a point on Section 17 of the Statute of Frauds, "that I were to sell you my horse, do you mean to say that I could not recover the price unless," etc.

"No, my Lord," replied the learned counsel, "the section applies only to things of the value of £10."

Legal Literature.

Scale of Conveyancing Charges in New Zealand.

Second Edition. By David Ferguson.

(pp. 141. Butterworth & Co. (Aus.) Ltd., and Whitcombe and Tombs Ltd.)

The first edition of this work appeared in 1922, and after a life of over five years was rendered obsolete by the recent alterations in the Conveyancing Scale; a new edition was thus necessitated. In the present edition the scheme of its predecessor is retained, the Scale itself being printed in large type, and the relevant rulings of the New Zealand Law Society being interpolated in smaller type throughout the Scale. The author's view that the provisions of the Scale as to collateral securities apply only to the mortgagee's solicitor's costs would seem to be sound, as also his submission that the mortgagor's solicitor's fee for perusing a collateral security should be one-third of that which the mortgagee's solicitor is entitled to charge. Mr. Ferguson suggests a minimum fee of £1 11s. 6d. Practitioners using Appendix "B" should, however, bear in mind that the mortgagor's solicitor's fees shown under the heading "Collateral Securities" are calculated upon that basis, and that the Scale, somewhat curiously, contains no express provision on the point. The extended tables of fees shown in Appendices "A" to "E" are exceedingly valuable, for their use cannot fail both to save time and to avoid the possibility, always present, of miscalculation of the amount of the Scale fees. There is no Dominion Scale of Notaries' fees, but there are various Scales in use in different centres; these are all contained in this work. Included also are lists of disbursements payable under various Statutes including amongst others the Stamp Duties Act, the Land Transfer Act, the Companies Act, the Judicature Act, and the Bankruptcy Act, and also the N.Z. Institute of Surveyors' Scale. The work is thoroughly up-to-date and should prove indispensable to every conveyancer.

New Books and Publications.

Women Under English Law. Second Edition. By I. Crofts, M.A., LL.B. (Butterworth & Co. (Publishers) Ltd.). Price 6/-.

Lushington's Law of Affiliation and Bastardy. Fifth Edition. By Albert Lieck. (Butterworth & Co. (Publishers) Ltd.) Price 12/6.

Ferguson's Scale of Conveyancing Charges Within New Zealand. With the Rulings thereon of the Council of the New Zealand Law Society. Second Edition. By David Ferguson. (Butterworth & Co. (Aus.) Ltd. and Whitcombe & Tombs Ltd.). Price 17/6.

Income Tax Law and Practice. Second Edition. By Cecil A. Newport, F.C.R.A. (Sweet & Maxwell). Price 12/6.

Modern Railway Law. By E. E. Williams (Stevens & Sons). Price £1/9/-.

Bench and Bar.

We regret to record the death of Mr. Henry Clayton Brewer, for many years Registrar of the Supreme Court at Auckland, and Secretary of the Auckland Law Society. Mr. Brewer was born in Tasmania in 1850, and spent the first eighteen years of his life in Tasmania and Victoria. In 1868 he was appointed associate to his uncle, Mr. Justice Chapman, at Dunedin, and in 1872 was admitted as a Barrister and Solicitor of the Supreme Court. In 1875 he became Clerk in the Resident Magistrate's Court at Oamaru. He later became Clerk of the Magistrate's Court, Dunedin, and was then appointed receiver of gold revenue at Naseby. In 1879 Mr. Brewer was appointed Deputy-Registrar and Deputy-Sheriff at Dunedin, which position he held until June, 1881, when he became Registrar at Auckland. He was also Registrar and Marshal of the Colonial Court of Admiralty at Auckland. He retired in 1903 owing to ill-health, and after practising on his own account for a time, became Secretary of the Auckland District Law Society. He relinquished the latter position about five years ago.

We are informed that the late Sir William Sim had contemplated bringing out, early next year, new editions of Stout and Sim's Supreme Court Code and his work on Divorce, and had already done a considerable amount of work in this direction. His son, Mr. W. J. Sim, of Duncan, Cotterill & Co., Christchurch, will carry the new editions to completion.

The annual competition for the W. J. Hunter Cup was held at the Shirley Golf Links, Christchurch, on Thursday, 20th September, when members of the Canterbury and South Canterbury Law Societies played in fine weather. Somewhere about fifty players teed off, the winner, Mr. T. A. Wilson, of Waimate, returning a card ten strokes ahead of the next. The first eleven were as follows :—

T. A. Wilson	Waimate ..	87 — 20		67
V. W. Russell	Ashburton ..	86 — 9		77
A. T. Donnelly	Christchurch..	89 — 12		77
R. C. Abernethy	Christchurch..	83 — 6		77
C. W. Webber	Timaru ..	87 — 9		78
C. A. Stringer	Christchurch..	89 — 10		79
J. Dolph	Christchurch..	83 — 3		80
C. S. Penlington	Christchurch..	84 — 4		80
G. T. Weston	Christchurch..	91 — 10		81
W. R. Lascelles	Christchurch..	94 — 12		82
E. J. Corcoran	Rangiora ..	90 — 8		82

After the match tea was provided by Mr. K. Neave, President of the Canterbury Law Society, and Lady Stringer presented the Cup to the winner, who, in responding, expressed thanks to Mr. Neave for his generous hospitality.

Consequent upon the retirement from practice of Mr. James Walsh the firm of Walsh & Smith of Winton, has been dissolved. The business is being carried on by Mr. O. A. B. Smith, under the same style as previously.

Mr. C. J. Prain, previously with Messrs. Russell, Son & Meredith, has commenced to practise on his own account at Invercargill.

Messrs. Gibbard & Yortt, of Dannevirke, have opened offices in the National Bank Buildings, Rangitikei Street, Palmerston North, and their practice will in future be carried on in both towns.

The firm of Brooker and Wallace, Wellington, has been dissolved. The practice will be continued by Mr. E. H. Brooker, under the same style as previously.

Prior to his departure to take up his duties as Registrar of the Supreme Court at Hamilton, Mr. G. S. Clark, who for a long period of years has been Deputy-Registrar at Wellington, was presented by the Wellington practitioners with a canteen of silver and a substantial cheque. The presentation was made in the Supreme Court Library, in the presence of a large gathering of members of the Profession, by Mr. H. F. Johnston, President of the Wellington District Law Society.

At the same ceremony, on behalf of the common law clerks of the Wellington legal offices, Mr. A. B. Buxton presented Mr. Clark with a suit case and a travelling rug.

The following admissions to the Profession have been made recently at Invercargill, by His Honour Mr. Justice Ostler: Mr. S. Ritchie (Barrister); Messrs. G. C. Broughton and H. E. Russell (Solicitors). Mr. Russell is a son of Mr. Eustace Russell, senior partner in the firm of Russell, Son & Meredith; Mr. Broughton is a son of Mr. F. W. Broughton, District Land Registrar at Christchurch, and is a brother of Mr. G. M. Broughton of the firm of Mitchell & Broughton.

The following admissions to the Profession have been made recently at Christchurch: A. C. Perry, LL.B. (Barrister and Solicitor), and J. K. Moloney, who has been in practice on his own account (Barrister).

Mr. A. E. L. Dodd, has taken over the practice formerly carried on at Helensville by Mr. W. E. Barnard.

Rules and Regulations.

Cook Islands Act, 1915. Amendment to Clause 1 of regulations relating to Aitutaki wharf and cargo sheds.—Gazette No. 68, 13th September, 1928.

Health Act, 1920. Hairdressers' (Health) Regulations Extension 1928. Principal regulations to come into force in the Boroughs of Morrinsville and Paeroa, as from 30th September, 1928.—Gazette No. 67, 6th September, 1928.

Land Act, 1924; Land Transfer Act, 1915. Revocation of regulation of 21st January, 1919, re reduction of purchase money or interest due in respect of a lease or license, and substitution therefor.—Gazette No. 67, 6th September, 1928.

Maintenance Orders (Facilities for Enforcement) Ordinance 1922 (Fiji). New Zealand declared to be a reciprocating State.—Gazette No. 68, 13th September, 1928.

Maintenance Orders (Facilities for Enforcement) Ordinance 1927 (Territory for the Seat of Government of the Commonwealth of Australia. New Zealand declared to be a reciprocating State.—Gazette No. 68, 13th September, 1928.

Reciprocal Enforcement of Judgments Act, 1927 (Queensland). New Zealand declared to be a reciprocating State.—Gazette No. 68, 13th September, 1928.