

THE BRIEF



The Official Journal of the Irish Institute of Legal Executives
2012 Issue

In this Issue . . .

ILLEX Profile:
The Hon. Mrs. Justice
Susan Gageby Denham

Plus . . .

Mary McAleese
Legal Executive Scholarship
Scheme Launched

Australian Institute of
Legal Executives

The Munster Council of the
Irish Institute of Legal Executives

Launch of new Legal Executive
HETAC Programme



The Brief

2012 ISSUE



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Legal Disclaimer

The Brief adopts an independent and inquiring approach towards the law and the legal profession. It is published for the benefit of members of the Irish Institute of Legal Executives and therefore aims to keep them properly informed of developments in the law and legal practice.

As part of this objective, The Brief will act as an authoritative source of information on Institute activities and policies. From time to time The Brief may cover controversial issues. The editorial team shall have the final decision on matters of editorial policy or content but always strive to preserve and to enhance the good name of the Irish Institute of Legal Executives and its members.

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MESSAGE FROM THE PRESIDENT

Hello Members

This year is a very exciting one for IILEX- We celebrate our 25th Anniversary. As a Founding Fellow, I am very proud to be the President in this year of celebration.

To mark our 25th Anniversary we intend launching what we refer to as our 'Paper for Stakeholders'. This paper seeks to give rights to Legal Executives within the Legal Services Bill. We are currently lobbying the Minister in this regard. Basically we want Rights of Audience in the Courts, Conveyancing Rights, Judicial and Partnership rights enjoyed by other lawyers. These rights are given to Legal Executives in the Chartered Institute of Legal Executives in the UK and we want similar for our members.

We are in the process of creating a CPD programme to keep Legal Executives up to date with their Legal Education. It is vital to our achieving any powers and rights under the Legal Services Bill that we constantly keep ourselves advised on changes to legislation, case law, practice and procedures.

To celebrate our 25th Anniversary we are hosting a Dinner in the Saint Stephen's Green Hibernian Club on the 19th October and we would like to invite all of our members to attend. Further details will be on our website www.iilex.ie. Would Founding Fellows and indeed members generally please send photographs and/or Articles about IILEX down through the 25 years and we will display them on the night and publish some of them in our next edition of 'The Brief'.

We had a wonderful day on the 30th August 2012 when Professor Mary McAleese former President of Ireland and her husband Senator Martin McAleese came to Griffith College to announce 'The Mary McAleese Legal Executive Scholarship Scheme'. This Scholarship was developed with Griffith College and IILEX and will give opportunities to candidates who would not otherwise have had the opportunity to fulfil their potential. It will cover the costs of completing the HETAC Level 7 Diploma in Legal Studies and Practice. This is a wonderful opportunity for worthy candidates to complete a Diploma course and to further their careers in law. On behalf of everyone in IILEX we are deeply thankful and honoured to Professor Mc Aleese and her husband Martin who is one of the Trustees to the Trust Deed for believing in this Scholarship and for their involvement in it.

Finally, I want to thank you, our members for your continuing loyalty to IILEX during these hard economic times. We want to reflect your concerns and represent you in the fullest way, so please do not hesitate to contact us on any matter and we will do our best to assist in any way we can.

Veronica
Veronica Duffy President



The Hon. Mrs. Justice Susan Gageby Denham



Mrs. Justice Susan Denham was educated at Alexandra College, Dublin; University of Dublin, Trinity College; King's Inns and Columbia University, New York, U.S.A. She was called to the Bar in 1971 and became a Senior Counsel in 1987. As a barrister she practised on the Midland Circuit and in Dublin, a general practice with a specialisation in Judicial Review cases. Appointed a Judge of the High Court in 1991, in December 1992 she was the first woman appointed a Judge of the Supreme Court. Judgments of the Supreme Court may be accessed on www.courts.ie

Judge Denham chaired the Working Group on a Courts Commission established by the Government to review the management of the Courts, which published six reports and two working papers, leading to the establishment of the Courts Service in November 1999, these reports may be found at www.courts.ie. Judge Denham was a member of the Interim Board, and of the Board of the Courts Service 1999 to 2001, and chaired the Family Law Development Committee until 2001; chaired the Courts Service Board 2001 to 2004; and the Finance Committee 2001 to 2004. Currently chairs ISIS, the Steering Committee established to plan for and provide a system of information on sentencing.

Judge Denham was the Hon. Sec. of the Committee on Judicial Conduct and Ethics which in 2000 presented a report advising the establishment of a Judicial Council in Ireland. This is a matter which Judge Denham has advocated for over ten years.

Judge Denham was part of the Irish delegation which, with Holland and Belgium, established the European Network of Councils for the Judiciary (ENCJ) and she continues an involvement in this Network.

Judge Denham is the Chairperson of the Committee on Court Practice and Procedure, which advises on the need for change in various areas of the operation of the courts. One such recommendation has seen the establishment of a Commercial Court in Dublin, which uses state of the art technology in its deliberations. The Committee has also advised on the establishment of a new administrative infrastructure for the Courts Rules Committees. These reports may also be seen on the above website.

In December 2006 the Government established a Working Group on a Court of Appeal, chaired by Judge Denham. The Working Group presented its report to the Minister for Justice, Equality & Law Reform recommending

the establishment of a general Court of Appeal, it was published in 2009. The Report and the Executive Summary are on www.courts.ie.

Judge Denham is a Bencher of the Honorable Society of King's Inns, and an Honorary Bencher of the Middle Temple in London.

From 1996 to 2010 Judge Denham was Pro-Chancellor of the University of Dublin. In July 2002, Queens University, Belfast, presented Judge Denham with an honorary LL.D.

Judge Denham has spoken at conferences on many topics over the years. See, for example, the oration on the 21st Century Judge given to the Australasian Institute of Judicial Administration, a copy of which may be found on their website www.aija.org.au.

**Article by kind permission of
Chief Justice
Mrs Susan Denham**

Mary McAleese Legal Executive Scholarship Scheme

Launched at Griffith College, August 30th 2012

Former President of Ireland, Mary McAleese, has launched the first Scholarship scheme for trainee Legal Executives at Griffith College Dublin and Cork, entitled the Professor Mary McAleese Legal Executive Scholarship Scheme.

This launch took place on Thursday the 30th of August, at the Conference Centre in Griffith College Dublin, with both Professor Mary McAleese and her husband, Senator Martin McAleese, present. Representatives from the Irish Institute of Legal Executives and the President of Griffith College, Diarmuid Hegarty, were also present at the launch.

This Scholarship scheme, which is now open to applicants, will provide opportunities to students around the country to undertake a legal executive qualification,

thereby lifting certain barriers which may have existed otherwise, and furthering their career prospects.

Under the Scholarship scheme, students who are enrolled on the Level 7 'Diploma in Legal Studies and Practice' programme, which is run by Griffith College in both Dublin and Cork, as well as by distance/online learning, may apply for funding on the grounds of merit and financial need in respect of his or her instruction on the programme.

President of Griffith College, Diarmuid Hegarty has said of the award,

"The legal team at Griffith College has worked hard in association with IILEX to develop a Legal

Executive course that will arm students with the most up-to-date theory and practical skill-set to be an asset to any legal practitioner. "

The Institute was represented by Veronica Duffy President, Gabriel Canning Chairman, Mary O'Dwyer Director of PR/Communications and former Director of Education Maria Kielty. The President of IILEX Veronica Duffy, a Trustee to the Trust Deed, thanked Professor Mary McAleese for the great honour of lending her name to the Legal Executive Scholarship Scheme and said that she would endeavour to choose candidates who reflected this honour, persons with qualities of diligence integrity and decency.



Back Row Left to Right:
Ronan Fenelon, Cliona Dineen, Gabriel Canning, Frank Crummey, Senator Martin McAleese, Diarmuid Hegarty, Maria Kielty, Mary O'Dwyer, Professor Wallace Ewart and Jacque Ryan

Front Row:
Veronica Duffy, Professor Mary McAleese and Siobhan Leonard

A BOOK REVIEW

In 2012 Dublin celebrates the 100th Anniversary of the death of Bram Stoker

Dublin is famous for the writer James Joyce and there are Joycean scholars in all parts of the world, but Dracula, The most famous book of all time known in every corner of the world, was also written by a Dubliner and is better known than the author himself. So where on earth did such a book emerge from? and what kind of person wrote it? You might be

in the book such as Abraham Van Helsing appropriately named after his father, was a repository of wisdom, doctor, barrister and psychic detective. It is said there is a little of himself also in all of Dracula's major characters.

This year 2012 Dublin celebrates the 100th Anniversary of his death.

He wrote many novels, short stories and also works of non-fiction



surprised to know this book came from the mind of a man who amongst other things was a legal scholar, a fact not widely known!

ABRAHAM (BRAM) STOKER 1847-1912 listed himself in the 1891 Census as Writer, Barrister! and Theatre Manager, Born in Dublin 8 November 1847. He lived in Marino, at the hub of late Victorian social and artistic life his friends belonged to an exclusive circle, Oscar Wilde, Mark Twain, Sir Arthur Conan Doyle, Gladstone, Whistler & Tennyson. He was called to the bar in 1890 but never practised law. His mother was from Donegal and during his early prolonged childhood illness it is said that she told him fairytales and he amused himself with fantasy adventures that might have stimulated his imagination! Real life characters

including The Duties of Clerks of Petty Sessions in Ireland (1879)!

Dracula was written in 1897, is about Jonathan Harker and the grim adventure on which he embarked, it was no customary incident in the life of a solicitor's clerk sent out to explain the purchase of a London estate to a foreigner. 'Solicitors clerk! his wife would not like to see this in his diary'. Solicitor, for just before leaving London he got word that his examination was successful, and he was now a full-blown lawyer. This English lawyers journeys to Count Dracula's Transylvanian castle were to discuss a routine real estate transaction, but title deeds are the last thing on the Count's mind. Told through the diaries and letters of the chief characters, Dracula is gripping and immediately draws the reader



into the shadowy tale and through the almost 500 pages. Many movies were based on the tale as well as dramatised readings and plays. Many versions of Dracula have been published by various publishing houses. A Transatlantic Press Edition published in 2012 is a compact edition and in recessionary times for sale in Eason's at only €2.99 is a worthwhile read if not only to find out what all the fuss is about, and why Dracula once written by a Dublin man became so famous!

Bram Stoker also wrote The Judge's House! This is a short story, written in 1891. It is published in the Travelman Series a unique concept in mini book format that unfolds and is ideal for travel. Malcolm Malcomson was studying for an examination and made up his mind to go somewhere to read by himself, and he came upon a Jacobean style fortified house once the property of an infamous judge, the very spot he was looking for. Another great tale by a master storyteller.

Book Review for 2012 by Mary Foley FIILEx





THE BURREN LAW SCHOOL CO. CLARE

Law and a variety of law texts, one dating back to the 8th century.

The Annual Burren Law School, held in North Clare (adjacent to Ballyvaughan) the first weekend in May, aims to recreate the tradition of legal learning associated with the Brehon Law Schools, allowing the past to illuminate the present in what is characteristically a very stimulating weekend. It is of interest to the public at large as much as to members of the legal/ caring professions, historians and relevant interest groups both national and international. Each year a different theme is debated.

The Opening Address of the Burren Law School is generally given by a distinguished jurist or leading academic who together with the contributions of other notable

figures provide a very insightful background to the particular theme being debated and how modern society has evolved over the years.

The Burren Law School is run by a Trust dedicated inter alia to the natural and cultural heritage of the Burren.

It maybe well worth attending this event some time in the future in order to gain an insight into this exciting era of the Brehon Law and learn how its influence has had an ever lasting effect in various facets of Irish society

Close by Newtown Castle, seat of the O'Lochlainns - Chiefs of the Burren, is the site of the O'Davoran Law School, one of the three law schools situated in the Burren. Between the years 1563 and 1569, Domhnall O'Davoran and his pupils compiled the manuscript now known as Egerton 88, containing an invaluable glossary of Brehon

**Mary O' Dwyer, FIIEx
BA in Public Management, Diploma
in Professional Legal Studies
Dir of PR/Communications IILEX**

IRISH LAW AWARDS - 2012

The Irish Institute of Legal Executives is delighted to announce that its President, Veronica Duffy, was awarded 'BEST LEGAL EXECUTIVE 2012' by the Irish Law Awards on 4th May last in the Shelbourne Hotel.

FOUR MEMBERS OF IILEX WERE SHORTLISTED FOR THIS AWARD:-

Veronica Duffy, Maria Kielty, Dr. Chris Neilson and Sheila Williams.

The award ceremony was attended by The Minister for Justice Equality and Defence Mr. Alan Shatter. The main sponsor of the event was National Irish Bank and it was hosted by Miriam O'Callaghan.

Other Winners included

William Fry – Best Law Firm

Lifetime Achievement Award – Moya Quinlan



TOP TIPS FOR MARKETING YOURSELF

Brenda Dooley is an executive coach and mentor.
www.brendadooley.ie



We all know that the employment market is very tough at the moment and it is important that we all stay relevant in our jobs, organisations and the key to this is to continually market yourself. You need to be aware of how you project and

present yourself on a daily basis to everyone with whom you come in contact, including your bosses, your colleagues and your clients. You never know when a promotional, developmental or even an employment opportunity might arise

and you must be ready for it.

Below are my 10 Tips for marketing yourself more effectively inside and outside of your organisation and it doesn't even have to involve social media!!

Tip #1 Impressions Count

The impact that we make on people in the first few minutes of contact is based 60% on visual messages, 33% on vocal messages and only 7% on content. People are inclined to believe the evidence put before them, so appearances do count. The way you package yourself through your image and professional persona is like an advertisement, so present yourself appropriately and with confidence.

Tip #2 Perception is reality

People will judge you on how you come across. How you seem is how you will be, so you need to take steps to influence the perceptions of people, and particularly of people with no previous knowledge of you and no information other than what is in front of them. So think about and develop the type of image you want to project.

Tip #3 Associate yourself with success

Being seen as being associated with success is a key element to marketing yourself. Sign up to lead projects that are going to deliver results; offer to chair that high profile committee; do that media briefing etc. Be on the lookout for getting involved in high profile opportunities where you can showcase your skills.

Tip #4 No one buys sight unseen

You will seldom buy something sight unseen, so if you want to market yourself effectively, then get out there, be seen and be visible to your bosses, your colleagues and your clients. Develop a high profile within your organisation, network with contacts in other areas, attend functions, and be seen to be involved in the wider business community.

Tip #5 Accentuate the positives

Organisations are competitive places, so don't undersell yourself to your colleagues or bosses. Concentrate on showcasing your positives and strengths while working independently on developing your weaker areas.

Tip #6 Be nice to do business with

Develop a reputation among your colleagues, clients and bosses, for being nice to do business with. Be responsive, knowledgeable, willing to share, enthusiastic, professional, fair and be known for your straight dealing.

Tip #7 Unique Perceived Benefit

Identify what is your Unique Perceived Benefit or your Unique Selling Point. What makes you different from the competition? Think about this and then promote it to your advantage.

Tip #8 Eager Beaver

A rising tide lifts all boats, so develop a reputation for enthusiasm and you will infect those around you with the same enthusiasm and motivation to get things done. Volunteer to take on new projects, develop new products and services, and contribute strategically to organisational goals and be seen to deliver.

Tip #9 Widen your horizons

While we are all focussed on doing the business, delivering a service, or managing our clients, we sometimes tend to forget the broader perspective. Those individuals who are successful at marketing themselves tend to develop themselves outside of their own specialised area, so look at the bigger picture and be seen as a strategic thinker.

Tip #10 Keep working on yourself

Learning should be life-long, so ensure you keep growing through continuous professional development and stay relevant.

In conclusion, don't forget, people are a bit like icebergs, only 10% of our selves is visible to the outside world, and we tend to get judged only on that which others can see. Why not make sure that what they do see is packaged and presented in such a way as to make you stand out from the crowd?

FELLOWSHIPS PRESENTED TO MEMBERS 2012

Congratulations to Mary O'Dwyer, Fintan Hudson & Dara O'Coighlign on receiving their Fellowship from the Institute this year.

Mary O'Dwyer B.A. in Public Management, Dip. in Legal Studies our Communications Officer has extensive experience in the Public Service – Irish Land Commission. – (Examiners' Registrar Branches as well as Court Clerk to Registrar of Judicial Commissioner of the ILC the late Ms. Justice Mella Carroll, High Court Judge) and laterally the Department of Justice Equality & Law Reform, to name but a few of the departments she worked in over her term of service until her retirement recently.

Fintan Hudson Peace Commissioner, Dip Legal Studies, presently a Legal Consultant, is International Liaison & Hon Vice President of Irish South African Association, was invited to Bullawayo, Zimbabwe during the year to receive an award for services to projects (HIVAids).

Dara O'Coighlign Dip Legal Studies is a Commissioner for Oaths and served on Council in the capacity of both Dir. of PR/Communications and Treasurer over the years.



Commissioner for Oaths Appointment

Congratulations to Rose P. Buggle, Fellow and Member of IILEX on being appointed a Commissioner for Oaths by the Supreme Court.



Griffith College Cork Conferring

Conferring of students who undertook the Certificate in Professional Legal Studies (IILEX/Griffith College) and the Diploma in Professional Legal Studies (IILEX/Griffith College) took place in the magnificent surroundings and setting of St. Fin Barre's Cathedral Cork City. Gabriel Canning and I were honoured and delighted to be representing the Irish Institute of Legal Executives together with Fellow Hon. Life Member Frank Crummy.

Eight Students were conferred with a Certificate in Professional Legal Studies namely Brian Barron, Katy Caws, Jason Coyle, Natalie Kennedy, Deirdre Lyne Mary Mannix-Cronin, Ben O'Brien and Therese O'Brien and fifteen students were conferred with

a Diploma in Professional Legal Studies, Katy Caws, Gentzane Corrales, Nicola Coyne, Donal Cronin, Emer Feehely, Ruth Kelly, Mary McCarthy, Sandra McSherry, Mary Moynihan, Ben O'Brien, Therese O'Brien, Alina Paleczna, Mary Slavin-McNeill, Clare Stone and Breda Virgo.

We were addressed by Mr. Diarmuid Hegarty President, Griffith College and Councillor Kenneth O'Flynn Deputy Lord Mayor of Cork. Both gave practical yet inspirational words of wisdom to all the students being conferred on the day. The ceremony rewarded the students for all their hard work and their achievement of reaching their goals.

After conferring there was an opportunity to meet with some of the students in the Imperial Hotel

and to hear what they would like the Institute to achieve going forward and what the course meant for them and how they would like to use the course and their experiences for their future.

Congratulations to all.

Sebina Grisewood and Gabriel Canning



Sandra McSherry with her son

Launch of new 'Legal Executive' HETAC programme



The official launch of the new legal executive programme, recently validated by HETAC, took place in Griffith College Dublin on Thursday December 8th, 2011. This programme is now at Level 7 on the National Framework of Qualifications and is titled the "Diploma in Legal Studies & Practice", recognised by ILEX and validated by HETAC. It remains the only programme in Ireland to be recognised by the Irish Institute of Legal Executives and runs in Griffith College Dublin, Griffith College Cork and by distance/online learning.

This new ILEX programme was officially launched by Mr. Frank Crummey, founding member of the Irish Institute of Legal Executives. Mr. Crummey gave an excellent and very entertaining speech to the attendees, with special guest, the President of Griffith College, Mr. Diarmuid Hegarty. The launch was attended by many members of the Irish Institute of Legal Executives including President Ms. Veronica Duffy, Director of Education, Ms. Maria Kielty, Ms. Rose Buggle, Ms. Mary O'Dwyer, Ms. Mary Foley and Chairperson Mr. Gabriel Canning. All representatives from ILEX generously gave their time to the students who attended to advise



them on any queries they had. The Course Director of the programme, Clíodhna Dineen and Director of Law in Griffith College, Mr. Ronan Fenelon were also in attendance accompanied by many members of the lecturing team on the ILEX programme. Despite the stormy conditions many students turned out to celebrate the launch of this excellent programme and enjoyed the company of the entire ILEX team, as well as the food and wine. It made out to be a very enjoyable evening for all.

From left to right:-

Clíodhna Dineen, Griffith College Cork, Rose P. Buggle, Director ILEX and Penny Su Pu ILEX Member at the Launch of the Special Purpose (HETAC Level 7) Diploma in Legal Studies & Practice in December 2011 at Griffith College Dublin.

The new Diploma in Legal Studies and Practice runs over one year or two years, depending on what works better for the student. It covers a whole range of modules covering both theory and practice such as 'Professional Ethics and Skills for Practice', 'Civil Litigation', 'Criminal law', 'Company law' and 'Employment law'. This Level 7 programme prepares the student for life as a Legal Executive as well as opening other doors, such as entry into Griffith College's Level 8 Degree in Law programme – the LLB in Irish Law. The team at Griffith College is always happy to speak with anyone considering this programme, which has a start date of September 2012. If you have any queries don't hesitate to contact the Course Director clíodhna.dineen@gcc.ie



IRISH TOWNS in CAPETOWN, SOUTH AFRICA

The island known as Robben Island is linked with the great Nelson Madiba Mandela, where he was kept as a prisoner for 23 of his 27 years, the balance was in Pollsmoor prison and finally he was confined to a house in Capetown prior to his release. What is not known is that on the island there is an Irishtown and to this day there stands a magnificent Celtic cross monument on the island where the town once stood. . The Irish connection with its namesake due to the number of Irish medics and nurses that were stationed there when the island was used for hospitalising persons emigrating to South Africa.. A great number of these immigrants were being quarantined because of illness and, indeed, leprosy. However, the island could have housed a much different visitor from Ireland, save for the opposition from the inhabitants in Capetown.

On the mainland in 1849, a proposal was made to establish a convict settlement at the Cape for prisoners sentenced in the British Isles for transportation. The scheme was all but accomplished when in September 1849 the prison ship "Neptune" anchored in Table Bay, several hundred metres from Robben Island. On board were 288 prisoners, most of them Young Ireland revolutionaries and a handful of wayward English troublemakers. The most celebrated convict on the "Neptune" that hot summer in Table Bay was John Mitchel, the Young Ireland leader who had been sentenced to 14 years transportation for treason. Meanwhile, a petition from the Capetown Municipality spoke of the Young Irelander convicts as avowed and determined enemies

of the Royal Constitution, who are not infrequently possessed of a great talent energy and enterprise. A Mr. John Fairbairn of the Anti- Convict Association was quick to warn that there

European races. In principal the Irish who came to South Africa were generally skilled or semi-skilled, were not destitute and came because they wanted to come, not because they had to



Aerial view of Roben Island

intellectual revolutionaries could in time have an unsettling and devastating effect on the Cape and were best sent to that other and less sophisticated island; namely Australia. Indeed, that was the outcome. However, had this scheme succeeded, transportation to the Cape may well have become the order of the day, with the resulting increase in the white population and indeed of the Irish section within that population.

The Irish as an ethnic race in South Africa is and was always small compared to other

flee Ireland through economic or sectarian necessity. Indeed, the Irish of the time both Protestant and Catholic worked and socialised in harmony together and there was never any tension amongst them.

There was another Irishtown in Capetown itself, south of the city at a place called "Newlands", where the Irish worked at the local brewery and lived in little cottages at the back of the Table Mountain and which today has some very desirable homes for the wealthy , with street names such as Kildare and Dublin.

Finally, for the record there was a healthy representation of Irish men on the judicial benches and these included Justices Cook, Campbell, Dwyer, Fitzpatrick, Gallwey, O' Connor, Sheil, Lipington (an Afrikaner from Cork) and Ward.

Fintan Hudson, FIILEX, PC, Dip.LS
Director of the Irish Institute of
Legal Executives
International liaison Officer,
Irish South African Association
(Capetown)



Australian Institute of Legal Executives



Warm greetings from the Institutes' of Legal Executives Australia. To the members of our sister Institute in Ireland – warm greetings from Down-Under!

We have been asked to give you a synopsis of how Legal Executives are faring in Australia. This article has been prepared on behalf of The Institute of Legal Executives (Victoria) and The Institute of Legal Executives (Australia) Limited.

The Victoria Institute incorporated in 1966, very much along the lines of ILEX (UK), and the Australia Institute incorporated in 1994 with one of its objects being to preserve the status and integrity of Institutes of Legal Executives in Australia. There is an active Institute in Western Australia, and a similar organisation in South Australia.

Probably a good place to start is to explain the structure of the Victoria Institute, which is the membership vehicle at the moment. We have three main levels of membership: Provisional, Associate, and Fellow (the latter including Fellows (Retired) and Fellows (Honorary Life Member) who are in subscription sub-categories of Fellow). In addition we have the categories of Affiliate and Accountancy, which are roughly equivalent to the Associate category but with different prerequisites.

All Fellows, and those enrolled in other categories, enjoy the same privileges, with the exception that only Fellows:

- may formally vote on matters affecting the Institute, and refer to themselves as 'Legal Executives', in accordance with our Constitution; and
- have the right under the Evidence (Miscellaneous Provisions) Act 1958 (Victoria) to witness Statutory Declarations and take Affidavits, and to certify certain copy documents.

Accordingly, the requirements to be admitted as a Fellow are more stringent than those of the other categories. Generally these requirements are:

- 8 years' service in the legal (or related) profession (full-time or part-time equivalent);
- 5 of those years served at Senior Law Clerk (Managing Clerk) level;
- completion of formal study (the level of academic completion required can depend upon the length of Senior Law Clerk service); and
- satisfactory completion of our Examination in Legal Ethics (or equivalent).

The membership base is employed in private firms in diverse areas such as Probate, Conveyancing, some Litigation and Family Law; some are employed by Government or other organisations, whilst others have Licensed Conveyancer or Migration Agent qualifications.

In Australia, only Australian Legal Practitioners may engage in legal practice, give legal advice, do legal work and provide legal services (or refer to themselves as Lawyers), and non-legal practitioners must work under the direct supervision and on the instructions of Australian Legal Practitioners; with some exceptions such as Licensed Conveyancers carrying on a conveyancing business.

Some of the services the Institute provides are:

- Production of The Legal Executive on a bimonthly basis;
- Production of austilex on a bimonthly basis in conjunction with the Australia Institute;
- Seminars and Networking opportunities;
- Maintenance of an Employment Register for members seeking employment¹;
- Regular surveys on 'market salaries' and similar matters;
- Ongoing representations, often

in conjunction with the Australia Institute, to other organisations and Government to maintain and improve the status of the Institutes and members.

We have not held another 'Institute' Conference since our Inaugural two-day Conference in 2005; however, this is mainly due to the fact that the Law Institute of Victoria now holds an annual Legal Support Conference specifically aimed at our members' needs, and is good enough to involve us in its planning and to invite our Council members and the CEO to chair sessions throughout the day.

There are also many 'community' services the Institute provides:

- Speakers at Educational Institutions on legal careers and education;
- Seminars, some of which members of the public can attend in addition to members;
- Submissions to Government, some in conjunction with the Australia Institute, on matters of public interest or community concern.

We also contribute to the community in other ways, such as the CEO's participation in the annual St. Vincent de Paul national 'CEO sleepout', which raises money to combat homelessness.

A number of employers actively seek to employ members of, or persons enrolled with, the Institute; and Legal Executives are particularly sought after, with Employment Notices regularly appearing in The Legal Executive.

We are best known in Victoria, which is particularly aided by the Law Institute of Victoria's very kind hosting and maintenance of our website www.legalexecutives.asn.au. However, we continue to persevere in our aim to have the Institutes recognised on an Australia wide basis, and to gain the rights and privileges Legal

Executives currently have in Victoria for Legal Executives across the Nation.

We are also very fortunate in that we enjoy close ties with the New Zealand Institute of Legal Executives Inc.; and regularly exchange information and ideas and attend their Conferences.

We understand some exciting developments are occurring in Ireland, and wish you all the very best in your endeavours. We hope that you will keep us apprised of your progress.

Endnote: Our CEO and the NZILE Executive Officer have recently 'resolved' that they would love to visit you in Ireland and are eminently suited to be ambassadors for their respective Institutes, so watch this space ...

¹ not an Employment Agency but more of a professional 'matchmaking' service

The Institute endeavours to hold a number of Networking functions in various locations during the year. The most recent function was held on 12 June 2012 at Fountains Restaurant in Box Hill, organised by Vicki Askew, Honorary Secretary, and Sally Laycock.

In complete contrast, on 21 June 2012 the CEO again participated in the St. Vinnies annual CEO sleepout.

This is now an Australia wide-event specifically held by the St. Vincent de Paul Society in order to raise money to address homelessness. The participants are only allowed to bring a sleeping bag and pillow, and are provided with a dinner of soup and rolls. Participants are also provided with two cardboard boxes which they may sleep on or under in an open area (in Melbourne the event was held at Etihad Stadium). This time of year is snow season in the southern States, so it was a cold and restless night for many. However, the participants returned to a warm home the next day, unlike the perennially homeless who continue to suffer.

After surveying the membership and lengthy consideration by the Council, and with thanks to NZILE



and the Law Institute of Victoria for their assistance, the Institute has resolved to transition from a calendar year to a financial year, commencing on 1 January 2013. The Institute has just completed its regular Salary Survey of the membership, which provides a 'market' viewpoint as compared to award salaries and benefits. Details of the results will be provided to IILEX should any of its members be interested.

Australian Ilex Council Members:

From left to right:-

Margaret Knez (President),
Marcelle O'Donohue (Council Member), Vicki Askew (Hon. Secretary/Treasurer), Cathy Corcoran (Council Member), and Roz Curnow (CEO) at the Strategic Planning Meeting on 13 October 2011

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Our Philosophy:

Everyone employed in the legal profession is important; every task done well, whether it be mundane or carried out at a high level of responsibility, contributes to a better profession.

***Experientia Docet Sapientiam:
Experience Teaches Wisdom.***

John Loneragan 'The Governor'

John Loneragan is a native of Bansha, Co. Tipperary. He served in the Irish Prison Service for over 42 years. He was Governor of Mountjoy Prison for over 22 years and Governor of the top security prison at Portlaoise for 4 years. He retired in June 2010 and later that year his autobiography "The Governor" was published. His philosophy is that change, personal or otherwise, cannot be enforced on people, and believes that

real and meaningful change only comes about through dialogue, consent and agreement. He is convinced that people change from the inside out. He suggests that the big task for all of us as human beings is to find the humanity in others and then to nurture it. He argues that the more we are in touch with their own humanity the more likely we all are to treat others with humanity. Following is an extract from "The Governor", the autobiography of John Loneragan, former governor of Mountjoy Prison and published by Penguin Ireland in 2010.

DRUGS

During most of my time as governor of Mountjoy Prison, the question I was most often asked was "How do they get the drugs into the prison?" And the next most popular question was "Why don't you stop the drugs getting into the prison?" Most people believed that it was a pretty simple thing to do. Even when I explained that it was impossible to stop drugs getting into Mountjoy, many still believed that I was either closing my eyes to the problem because it was too tough to take on, or deliberately allowing drugs in because they helped to keep the lid on tension in the prison.

Nothing could be further from the truth. Drugs ruined the prison service during my time in it, and undermined a lot of the best and most positive programmes in prisons. So much of the bullying and violence in prison is directly related to drugs, whether it is prisoners owing money for drugs or prisoners refusing to carry drugs. Most of the trustee jobs that prisoners had in the old days had to be eliminated because they were put under severe pressure to move drugs around the prison. Prisoners working on the prison grounds or in the officers' mess, going out to work every day or on temporary release to family events, are under extreme pressure to use their hard-earned extra privileges to carry drugs.

A young man going out on temporary release to attend his child's First Holy Communion, who has perhaps never used a drug in his life, will be approached in the prison before he goes out, and told that a supply of drugs will be dropped off at his house – and he will be left with no illusions what the consequences will be if he refuses to bring them back into the prison. Now he is in a dilemma: if he doesn't bring the drugs back he will be attacked and beaten up or, worse still, cut up; if he brings them back there is every possibility that he is going to get caught. If he gets caught he will be in trouble with two sides: he will be classified as a drug supplier by the prison authorities, and he will be regarded as a "grass" by the drug users. He has to decide whether to bring back the drugs knowing these risks, or not to return at all, being unlawfully at large, being rearrested and having his sentence extended.

Parents, partners, other family and friends may be coerced into bringing in drugs because the addicted prisoner is threatening to commit suicide or to harm himself. If they succumb and are caught, they are brought to the gardai and charged with possession of drugs with intent to supply. Families are often blackmailed by third parties to bring in drugs. They are blackmailed to pay money into accounts to pay for the drug debts of their imprisoned family member. A staff member who uses illicit drugs himself or herself is open to blackmail. And there is always the possibility that staff will bring in drugs for financial reward. It is impossible to access how common this is as it is so difficult to get evidence, but during my time in the service two officers were charged and convicted of bringing in drugs and contraband. The whole drug scene is one horrible mess for everyone, with few winners, except for a small number of wealthy godfather figures who stay far away from the action on the ground.

A prison is not an underground dungeon where prisoners are isolated and secluded twenty-four hours a day, seven days a week. The Irish prison system operates on what is called a free association basis. Prisoners share recreation areas, workshops, classrooms and exercise yards with other prisoners. It's the only way a prison can work; otherwise, prisoners would have to be kept completely



separated and isolated from each other, something many prisoners wouldn't be able to cope with and would make them crack up. Not only this, but such a system would be a logistical nightmare and prohibitively expensive to run.

Drugs are so minute that they're almost impossible to detect. People can swallow them and conceal them on their bodies. A tiny package, say something the size of a box of matches or a packet of chewing gum thrown over the boundary wall into a yard where 150 prisoners were walking around, will disappear in seconds. By the time staff organise a search of all the prisoners – because that's what would have to be done – the drugs have gone, just vanished. Prison rules require that all searches are carried out in privacy, so they could not be done on the spot. Even if searching prisoners in the yards was permitted, the reality is that other prisoners would mill around and it would be logistically impossible to carry out searches thoroughly.

For years Mountjoy has been bedevilled with drugs and mobile phones being thrown in over the walls from the houses in Glengarriffe, off the North Circular Road. Young fellows climb onto the roofs of houses right across from the D yard and throw the drugs over the wall. A mesh fence was erected to stop packages getting over, but even that didn't eliminate the problem. The owners of the houses on Glengarriffe Parade have a legitimate grievance because their houses are often damaged as a result of this. Though the prison is under no obligation to do so, the trades staff at Mountjoy repair the damage as quickly as possible; however, it is still terribly disruptive and frightening for residents. It is an absolute scourge and the only solution is to have a full-time garda presence on the road. While the local gardai do their best, they just don't have the resources to man a patrol full time. The Dochas Centre has a similar problem, with drugs and phones coming over the wall and into the courtyards from the North Circular Road on a daily basis.

Over the years a lot of effort was made to counteract this by erecting high fencing and putting netting over the exercise yards, but nothing was 100 per cent successful. Placing netting over the yards created a claustrophobic feeling and reduced natural light, and prisoners often climbed onto the netting or damaged it. In early 2010 the IPS agreed to erect netting over the D yard. However, it's still not straight forward. The exercise yards are relatively big and accommodate up to 150 prisoners on outdoor recreation; they are used by the prisoners to play football. If pillars are erected in the centre of the yards to support the netting, they will prevent football from being played. In addition, they will have to be climb-proof; otherwise the prisoners will climb up and drag the netting down. The netting itself will have to be so high that the prisoners are not able to form themselves into a human pyramid to get up onto it or to pull it down or seriously damage it. And not surprisingly it's very expensive to erect; estimates as high as 200,000 euro were being mentioned as the cost of erecting netting over D yard. So it was an ongoing battle to try to prevent drugs getting into the prison, and it's very difficult if not impossible when there are such a high number of seriously addicted people in prison. In 1996, the Trinity College psychologist and criminologist Dr. Paul O'Mahony, who had done research on addiction levels in Mountjoy when he was with the Department of Justice in 1986, repeated his research. The proportion of heroin-addicted prisoners had increased from 31 per cent in 1986 to 67 per cent in 1996. I believe the figure for 2010 would be close to 80 per cent.

Of course the best way of resolving drug addiction is prevention. Many prisoners come from drug-infested areas, where much of the local culture is built around and dependent on drugs, where the psychological and emotional pain is so strong that they have to get drugs to get away from their reality. The objective must be to prevent young people from as young as ten and eleven years old getting involved in drugs in the first place, because once they become addicted, it's an uphill task and in all too many cases an almost impossible one. Many prisoners use prison to get their heads together, as they say themselves, but most of them don't tackle their addiction. So while they might not take drugs for a long period, they are not cured of their addiction and it can surface again, and nearly always does. I've always said that drug addiction is usually a symptom of something much deeper inside the person. Many people use drugs to kill the pain within them, and that is why I actually believe that drug treatment cannot be enforced on people. People need to want to do it, they must consent and they must be committed to becoming drug-free, otherwise it's just a cosmetic exercise. I'm afraid that type of personal commitment is not always forthcoming from prisoners. The addicted person must reach the point when he himself says "I want help".

Occupation and activities are an integral part of the solution. A psychologist in Mountjoy once pointed out to me that their work was often frustrated because when they would try to motivate prisoners to take up some activity, there were no such things in place. It's hard to talk to drug-addicted people about overcoming their addiction when the only activity available to them is walking aimlessly around exercise yards day in, day out.

CONFERRING CEREMONY AT GRIFFITH COLLEGE DUBLIN - NOVEMBER 2011

Rose Buggle, Maria Kielty, Mary O'Dwyer and Frank Crummey, Directors from the Board of ILEX attended at the Dublin Conferring Ceremony on the 11th November 2011. Once again it was a splendid occasion. We met with the academic staff of the College who included Mr. Diarmuid Hegarty, President of Griffith College, Mr. David Langwallner, Dean of the Law Faculty, Ms. Siobhan Leonard, Head of the Law School, and Mr. Ronan Fenelon, Director of the Law School.

20 students graduated with a Certificate in Professional Legal Studies.

22 students graduated with a Diploma in Professional Legal Studies.

Mr. Diarmuid Hegarty, President presented parchments to all students who obtained Certificates and Diplomas in Professional Legal Studies as accredited by ILEX in conjunction with Griffith College. The best student performance on the Diploma



Stage of the Irish Institute of Legal Executives Professional Legal Studies Programme was presented by Frank Crummey and was awarded to Lisa Donnelly of Lyons Dermody Solicitors, 42 Parnell Square, Dublin 1. Ms. Donnelly was awarded a Distinction grade in her examinations and we congratulate her wholeheartedly on such an achievement and our best wishes go to all students including, Christina Cutcliffe, Tim Coughlan, Catherine Lawler and Justin Harmon who we chatted

Lisa Donnelly of Lyons Dermody Solicitors accepting her award from Mr. Frank Crummey

with on the day. See photographs in this Brief of some of the students on their special day.

Peter Sutherland S.C. and former Attorney General was honoured and presented with the Griffith College Distinguished Fellowship Award.



The Munster Council of the Irish Institute of Legal Executives



The Munster Council is a new initiative. It began last March when the Central Council in Dublin put three of its Cork members in contact with each other. The President, Veronica Duffy and the Chairman, Gabriel Canning spoke with Munster members at the Imperial Hotel in Cork in April and from there the first Regional Branch of ILEX was formed known as 'The Munster Council'. Since then, a lot of time, effort and hard work has been put in and we can now proudly say that the very first regional branch of the Institute, the Munster Council, is now up and running with eight council members.

Members have been appointed to Council as follows:-

Chairperson - Rose Delea
Vice Chairperson - Eileen Fehin
Secretary - Deirdre Butler
Treasurer & Director of Regional Councils- PRO - Deirdre Kelly
 Pasqualine Cosgrave
Council Member & Director of Education (Munster) - Yvonne Kennedy
Council Member - Aoife Dunne
Council Member - Alexandra Carey

The Central Council envisages that the success of the Munster Council will set a precedent for all other Regional Councils to be formed in the near future.

We would like to take this opportunity to thank everyone on the Central Council for all their help and support in getting the Munster Council up and running.

Having a Regional Branch is of the utmost importance. We hope to improve the status of Legal Executives and offer assistance to the members within the Munster region. Our aim is to promote the role of Legal Executives. We are presently working in conjunction with the Central Council towards the setting up of a CPD type system for all Legal Executives.

We hope to reconnect with former members and welcome new members to the Institute. In that regard we have met with Griffith College Cork to discuss promoting the Diploma in Legal Studies and Practice course, which was developed in consultation with the Irish Institute of Legal Executives. We are also currently in discussion with Griffith College Cork to

From Left to Right:

Deirdre Kelly, Eileen Fehin, Aoife Dunne, Deirdre Butler, Yvonne Kennedy and Rose Delea

arrange for the Munster Council to meet with new students to the course and speak to them about becoming members of ILEX. We are also endeavouring to market the course to businesses, industries, law firms in Munster and the Cork Chamber of Commerce.

We welcome everyone's input and ideas to help us to move forward, so please do not hesitate to contact us by e mailing munsterregionalbranchiilex@gmail.com.

We would also like to hear from anyone who would be interested in joining us as a member of the Munster Council.

We will be organising a number of social evenings throughout the year, not forgetting the 25th Anniversary Celebrations, and we hope you will all join us.

MUNSTER COUNCIL
IILEX

“The Standard of Judicial Review and the Separation of Powers”

Mr Justice Frank Clarke is Judge-in-residence with Griffith College's Law Faculty.

On 19 April 2012 he delivered one of a series of lectures, this time on

“The Standard of Judicial Review and the Separation of Powers”

He opened by citing the legal jargon used by lawyers, explaining how this was not – in most cases – meant to render arguments mysterious but rather as shorthand, a simple, often Latin phrase encapsulating key legal precepts and functioning

“as a shorthand by which a whole range of information can be conveyed or identified as defining the nature of the debate” and actually making “discourse between lawyers a lot easier”.

He did admit, however, that sometimes the Latin was used needlessly to lend exoticism when a blunt English phrase would as easily serve the purpose.

The main theme of his lecture was the proper understanding of “deference”. Any suggestion that this was redolent of some sort of cap-doffing by a judiciary deferring to administrative decisions or determinations by public bodies was rejected. It should be stressed here that the title of the lecture refers not to some opinionated value judgment passed on judicial reviews past but to the “test” or “threshold” of

“whatever limitations the courts may place on the extent of the degree of scrutiny to be exercised over the decisions of public bodies.”

The State and public bodies enjoy no immunity from scrutiny and are owed no “deference” in that sense. Justice Clarke spells out the position clearly:

“the Constitution invests the Oireachtas with the power to make laws.”

All such laws must be compatible with the Constitution, from which it follows that no laws thereafter enacted by the Oireachtas may compromise the constitutional rights of the citizen.

The decision by the Oireachtas to devolve certain powers to individuals (ministers, for instance), statutory bodies etc. are limited.

“If the law conferring that decision-making power is inconsistent with the Constitution then the courts should strike it down.”

There is a caveat here, however. The courts may not meddle in the technicalities and expertise of the bodies concerned. Their

“proper role is to decide only whether the decision in question is lawful and not whether it is correct.”

The courts are thus not a rival authority with equal competence and expertise, but an agency expert in legalities and called upon to deliver a judgment upon the legalities of decisions made.

Most factual disputes between the state and the citizen, when referred to the Courts, are decided on the basis of

“the balance of probabilities”

or, in a small number of cases,

“by the criminal standard of proof beyond reasonable doubt”.

In the case of matters involving bodies or agencies or agents to which the Oireachtas has lawfully delegated decision-making powers in certain tightly circumscribed areas, then, providing that the body, agency or agent has adhered to its lawful remit, its decision can only be appealed to the courts if it can be argued that its decision was somehow unlawful. The court pronounces upon the legalities of the decision rather than upon its correctness. The outcome of that devolved decision-making process stands unless it can be shown to have been somehow contrary to law. The court's deference is towards the decision-makers remit rather than to its outcome, in which it has no interest, unless some trespass against law can be demonstrated.

In practice this often requires them to hear evidence from outsiders who command the expertise which a judge cannot be expected to possess in a given sphere, in determining, say, whether the technicalities of a patent have been infringed. In that sense the courts defer to the remit and decision-making of public bodies, provided that the remit itself and any determination reached thereafter conform with the law and with the Constitution.

So what about private bodies? Where a voluntary association purports to operate in conformity with voluntarily accepted rules and codes, the courts have no role, assuming that the object and

activities of the association concerned are within the parameters of the law and its voluntarily self-imposed rules are properly observed.

Justice Clarke invoked the GAA as an example of a voluntary, private body governed by codes voluntarily embraced and agreed. The courts will not meddle in GAA disciplinary affairs

"because all members of the association have signed up to an agreement that it is that body, and not the courts, which is to decide questions of discipline."

He enters another caveat at this point, making the perfectly reasonable point that "if the relevant body does not conform to its own rules, or if there is a fundamental failure to provide constitutionally guaranteed fairness in the process, then the courts can intervene." The courts will pronounce upon the legalities and the constitutionality of proceedings only. From the Constitution and the laws

"there is no opt-out clause".

Justice Clarke's conclusion is that in place of "deference" with its connotation of "cap-doffing", the simple expression "respect" might be preferred. The court respects the rights of voluntary bodies (provided they are governed properly and abide within the law) and of public bodies because

"it is a respect for the law itself."

"Persons are bound by the decision-making role of whatever body is involved. For the courts not to pay an appropriate level of respect would, in my view, be for the courts to almost ignore the law itself."

That said, Justice Clarke's view in his summation was that the courts are rightly reluctant to second-guess a decision made by a body to which the power of reaching decisions has been lawfully accorded as it amounts to breaking the law to suggest that "the courts should make decisions which the law gives to others". His conclusion was that

"the courts should respect the decisions of public persons or bodies who have, as a matter of valid law, been given decision-making power", out of "respect not so much for that person or body as such but rather a respect for the constitutionally valid law which has given that person or body the power to make the decision in question"

After the lecture, Justice Frank Clarke, of the Supreme Court then launched the Free Legal Advice Centre (FLAC) project of the Law Faculty of GCD.

This project is student run and aims to deliver free and accessible legal advice to staff and students of the college. Basic legal advice on a wide range of matters will be available through legal advice clinics which will take place every two weeks during term and students will work with solicitors and barristers to assist those who attend.

Students will also work on producing basic legal advice documents throughout the term on topical matters for students and staff including employment rights, immigration matters, and landlord/tenant relationships. The students will be undertaking research as part of their participation in the project which will aim to develop a greater understanding of how the current state of the law impinges of those most in need or most vulnerable in society.

The faculty is proud to support this new development which allows students to develop their clinical legal and research skills and also allows them to apply their growing legal knowledge for the benefit of others in society.

**Publication by kind permission of the Honourable
Mr. Justice Frank Clarke, Supreme Court**

**Maria T. KIELTY, FIIEx
P.Gd.Dip.-Comm.Oaths.
Dir. Education 2007-2012**



Remembering Michael Doyle FIILEX



The Institute is very saddened to hear of the death of Michael Doyle of Griffith Avenue Dublin on 26th July 2012. He passed away unexpectedly at the Mater Hospital where he had been for a short time. Michael was an esteemed member of the Irish Institute of Legal Executives from its foundation, gave many years of his time as a Director on the board and was the Company Secretary for a time. Michael was such a pleasure to work with, his colleagues always enjoyed his company, a really genuine person and a thorough gentleman, always cheerful and smiling and had time for everyone. He put in many hours helping to organise any event that the Institute held and took great interest in furthering the role of the Legal Executive Lawyer and in the recognition they deserved. We held a Golf Classic at Balbriggan Golf Club some years ago,

each legal executive firm put forward a team of four to play on the day, from my recollection Michael was not a golfer, but being master of the golf cart for the day gave him the greatest pleasure as he got to meet each and every team throughout the day and he was in his element. He was a people person. We enjoyed a wonderful dinner in his company afterwards.

Michael grew up in Rush County Dublin. Michael had over 35-years experience in debt collection holding positions in pre-legal and legal debt collection in a number of financial institutions including UDT / First Southern Bank, Woodchester Bank and GE Money and subsequently headed up the legal debt collection team in Simon Broderick & Co Solicitors. In 2003 Michael established SML Debt Recovery to provide pre-legal collection services to financial institutions and SMEs. SML was acquired by Everyday Debt Management Group in 2009. Michael held a diploma in Legal Studies. When Michael was on business in any office he always found time to chat to his Legal Executive colleagues and they were always appreciative. He was very highly thought of both by his colleagues and by those for whom he worked.

To his family, his wife Cathy (Catherine), their sons Michael, Paul & Cian, his brothers Eamonn & Gerry, his sister Nora, we offer our condolences. We know they will have many fond memories of Michael to remember always, for Michael was that kind of person, every moment in his company was a pleasure.

*But if the while I think on thee,
dear friend,
All losses are restored,
and sorrows end.*

W. Shakespeare.

Brehon Law in Ireland

If you delve into the mists of time and the bye-gone-days you will be fascinated to learn that the Irish people were subject to a native system of law called the Brehon Law consisting of statutes that governed everyday life and politics in Ireland. This system of law which flourished comprised a code of rules and principles that were abided by the people. The absence of either a court system or a police force during this era would suggest that the people had a strong respect for the law.

Basically the system developed from customs which had been passed on orally from one generation to the next. The law dating from the Celtic era was written down for the first time in the 7th century AD and is said to reflect the laws of pre-Christian Ireland.

The Brehon Law was administered by a class of people called Brehons, otherwise Judges. The word "Brehon" is an Anglicisation of *breitheamh* (earlier *brithem*), the Irish word for a judge. Early Irish Law" was often referred to within the law texts as "*Fenechas*", the law of the *Feni*, or the freemen of Ireland. More recently it has been anglicized as "Brehon Law". These texts reflect the traditional laws of pre-Christian Ireland mixed with Christian influence and juristic innovation. These secular laws existed in parallel, and occasionally in conflict, with Canon law throughout the early Christian period. The Brehons who were successors to the Celtic druids

and whilst similar to judges their role was more akin to that of an arbitrator. Their task was to preserve and interpret the law rather than expand it. This system of Law survived in Ireland until the 17th century when it was finally supplanted or taken over by English common law

The laws were a civil rather than a criminal code, concerned with the payment of compensation for harm done and the regulation of property, inheritance and contracts: the concept of state-administered punishment for crime was not a feature of the system. penalties were defined in great detail. The law differed many ways from that of the present day in so far that restitution rather than punishment was prescribed for wrong doing. Cases of homicide or bodily injury were punishable by means of the "eric fine" the exact amount determined by a scale. Capital punishment was not among the range of penalties available to the Brehons.

In many respects Brehon Law was considered quite progressive. During that era readers will be surprised to learn that the law recognised that Divorce was provided for on a number of grounds, after which property was divided according to what contribution each spouse had made to the household. Irish society was male-dominated, but women had greater freedom, independence and rights to property under the Brehon Laws than in other European societies of the time. A husband was legally permitted to hit his wife to "correct" her, but if the blow left

a mark she was entitled to the equivalent of her bride-price in compensation and could, if she wished, divorce him. Property of a household could not be disposed of without the consent of both spouses. However, women were still largely subject to their fathers or husbands and were not normally permitted to act as witnesses, their testimony being considered "biased and dishonest".

In addition, it recognised equality of rights between the genders as well as showing much concern for nature and the environment.

The laws fell into disuse after Ireland was progressively divided over the years into Norman-controlled zones, one English-controlled zone (The Pale), and native Irish kingdoms. Although the Norman barons eventually adopted Irish culture and language and married in with the native Irish, Ireland remained divided between Norman-Irish kingdoms and Gaelic-Irish kingdoms. Due to this, the Brehon Laws would never be re-adopted on an official basis, although some modernized concepts survive in the laws of the Republic of Ireland.

Mary O' Dwyer, FIIEx
BA in Public Management,
Diploma in Professional Legal Studies
Dir of PR/Communications IILEX



Caught on Camera!

IILEX Members out and about over the previous months



1. Fintan Hudson with friends at Capetown Library
2. Irish Law Awards 2012 - **article on page 7**
3. Launch of Mary McAleese Legal Executive Scholarship Scheme - **article on page 5**
4. Launch of Mary McAleese Legal Executive Scholarship Scheme - **article on page 5**
5. **Left to right:** Catherine Lawler - Criminal Court Logger; Christina Cutcliffe - Allied World Assurance Company; Lisa Donnelly - (Recipient of the Frank Crummy Cup) Messrs Lyons Dermody, Solicitors; Justin Harmon - Self Employed; Tim Coughlan - Probate Office



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