

# Selden Society

We are pleased to announce the publication of Vol. 125 in our annual series:

## Irish Exchequer Reports 1716-34

Cases argued and determined in the Courts of Exchequer and Chancery in Ireland

edited by

Andrew Lyall LL.D.

The publishing of material from outside England is a new departure for the Selden Society, but Ireland was at the time united to the crown of England and its courts part of the same jurisdiction supervised from Westminster. Members of the ILHS will know that very few older reports from Ireland have been edited in modern times. This volume will help to fill the long gap between Davies (1615) and the late 18th century.

Vol. 125 consists of a transcription of MS 71 of the Singleton Collection at Columbia University, with a full introduction and notes by the editor. The manuscript came from the collection of Henry Singleton (1682-1759), king's prime serjeant in Ireland (1726) and chief justice of the Common Pleas in Ireland (1740). The reports appear to be verbatim, with counsel arguing and judges intervening, followed by their judgments. They begin when Sir Geoffrey Gilbert was chief baron 1715-22, but the great bulk cover 1728-34. They include the only known notes of decisions of Alan Broderick, Viscount Midleton LC. Dr Lyall has supplied biographical notes for him as for all the other main participants including, in addition to Singleton himself, Thomas Marlay CB, St Leger B, Wainwright B, Lord Wyndham LC, Cornelius Calaghan, Serjeant Bettesworth, Eaton Stannard and Gorges Edmond Howard. There is also information as to Jonathan Swift's connections with lawyers and his lampoon of Bettesworth.

The introduction traces the development of the Exchequer in Ireland from its beginnings. It compares Exchequer and Chancery procedure in Ireland and England in the 18th century, drawing on the work of Howard, whose published works on the equity and common law sides of the Irish court are invaluable as having no counterpart in England in this period.

Among procedural topics the editor surveys the development of the *quominus* fiction, the practice of referring issues of fact for jury trial by a feigned action at common law, civil arrest and bail, civil outlawry, the tenure of judges in 18th-century Ireland, the office of the Master of the Rolls in Ireland, and the position of legislation and Poynings' Act.

On substantive law the reports show a developing commercial economy hampered and confined by the Navigation Acts, but with some evidence of judges in Ireland resisting their effect. Also seen developing are equitable remedies in relation to conditional bonds, with the condition itself held to give rise to an obligation. To this, practitioners responded with the conditional bond with a warrant of attorney, by which if the condition occurred, the attorney would allow judgment by consent or default, to prevent the issue of loss going to a jury. In Ireland this became the 'Kerry bond' with the warrant of attorney contained in the bond itself. These reports contain the earliest known examples.

The Penal Laws against Catholics distorted the legal system, compelling ambitious lawyers to convert to the Church of Ireland to be able to progress in their practice. By contrast the Quakers' role in commerce and trade was recognised, with statute allowing them to affirm rather than swearing oaths; which itself gave rise to litigation. In this and many other instances, the reports give insights into the social and economic conditions in Ireland in the period.

The volume has 640 pages with 11 illustrations including a full-colour frontispiece portrait of Singleton. It is case-bound uniform with the Society's annual series. It is issued free to Selden Society members as part of their entitlement for the year 2008. Members of the ILHS should use the privilege order form sent to them for purchasing copies at £40 each. The retail price (from Selden) in sterling is £60 plus £5 for packing and postage, and in dollars \$120 plus \$10 for packing and postage. Please complete the appropriate order form below.

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