

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1933.

A BILL

To amend the law relating to solicitors and conveyancers; to provide for admission of conveyancers as solicitors and to discontinue the grant of certificates to persons to practise as conveyancers; to make provision with respect to the keeping and examination of accounts of solicitors and conveyancers; to provide for the establishment and administration of a solicitors' fidelity guarantee fund; to make better provision for the investigation of charges of professional misconduct; to amend the Legal Practitioners Act, 1898, and certain other Acts; and for purposes connected therewith.

Legal Practitioners (Amendment).

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Legal Practitioners (Amendment) Act, 1933." Short title, citation, and commencement.

(2) This Act shall be read and construed with the Legal Practitioners Act, 1898, which is referred to in this Act as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Legal Practitioners Act, 1898-1933.

(4) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment of Act No. 22, 1898.

(a) (i) by omitting from section one the words and figures "Part IV—Conveyancers—ss. 16-20" and by inserting in lieu thereof the words and figures "Part IV—Conveyancers—ss. 16-20B"; Sec. 1. (Headings.)

(ii) by inserting at the end of the same section the following headings :—

PART VII.—Trust Accounts—ss. 41-43.

PART VIII.—The Solicitors' Fidelity Guarantee Fund—ss. 44-62.

PART IX.—The Solicitors' Statutory Committee—ss. 63-72.

(b) (i) by inserting in section three after the definition of "Barrister" the following definitions :— Sec. 3. (Interpretation.)

"Chief Justice" means the Chief Justice of the Court and includes an Acting Chief Justice, and in the absence from duty of the Chief Justice and Acting Chief Justice means the senior puisne judge of the Court.

"Conveyancer"

“Conveyancer” means a certificated conveyancer to whom a certificate has been granted under this Act.

“Council” means the council of the Institute.

(ii) by inserting in the same section after the definition of “Court” the following definition:—

“Institute” means the Incorporated Law Institute of New South Wales.

(iii) by inserting in the same section after the definition of “Judge” the following definitions:—

“Moneys” includes an instrument for the payment of money in any case where the instrument may be paid into a bank.

“Moneys received for or on behalf of any person” includes moneys held for or on behalf of any person whether originally received for or on his behalf or not.

(iv) by inserting in the same section at the end of the definition of “Solicitor” the following words: “and in Parts VII, VIII, and IX of this Act includes a conveyancer.”

3. The Principal Act is further amended—

(a) by inserting after section thirteen the following new section:—

Further amendment of Act No. 22, 1898. New s. 13A.

13A. (1) A conveyancer who has attained the age of thirty years and is desirous of being admitted as a solicitor shall not be required to pass any examination before entering into articles of clerkship, or to serve under such articles for more than four years.

Conveyancers.

(2) If a conveyancer who has attained the age of thirty years and is desirous of being admitted as a solicitor—

(a) has for at least five years since he became entitled to practise as a conveyancer been a managing clerk in the office of a solicitor practising in New South Wales; or

(b)

- (b) has for at least ten years practised as a conveyancer in New South Wales, or has for at least ten years since he became entitled to practise as a conveyancer been employed in New South Wales, whether in the Public Service or otherwise, in work relating to conveyancing or to documents of title,

such conveyancer shall not be required to enter into or serve under any articles of clerkship.

(3) Subject to the provisions of this section a conveyancer who is desirous of being admitted as a solicitor and who has passed such examinations in law and complied with such conditions as are prescribed, and who satisfies the Court that he is a fit and proper person to practise as a solicitor, shall, upon having his name on his own application removed from the roll of conveyancers, be entitled to be admitted as a solicitor.

(4) This section shall apply to conveyancers to whom a certificate has been granted either before or after the commencement of the Legal Practitioners (Amendment) Act, 1933.

- (b) by inserting after section twenty the following new sections :— New ss. 20A, 20B.

20A. A certificate to practise as a conveyancer shall not be granted after the commencement of the Legal Practitioners (Amendment) Act, 1933, except in the case of an applicant who has made an application under section seventeen of this Act before such commencement or within twelve months thereafter, and except in the case of a person whose name is restored to the roll of conveyancers. Discontin-
tinuance of
grant of
certificates.

20B.

20B. (1) The Court shall have the like summary jurisdiction over a conveyancer as it has over a solicitor, including power to remove his name from the roll of conveyancers and to cancel his certificate to practise as a conveyancer, or to suspend him from practice for any period.

Summary jurisdiction over conveyancers.

(2) The Court may, if it sees fit, restore to the roll of conveyancers the name of any person whose name has been removed therefrom.

4. The Principal Act is further amended by inserting after section forty the following new Part:—

Further amendment of Act No. 22, 1898.

PART VII.

New Part VII.

Trust accounts.

Trust accounts.

41. (1) All moneys received for or on behalf of any person by any solicitor shall be held by him exclusively for such person, to be paid to such person, or to be disbursed as he directs, and until so paid or disbursed the moneys shall be paid into a bank in New South Wales to a trust account, whether general or separate.

Payment into bank. Act 1931, No. 46 (N.Z.), s. 46.

(2) The moneys shall not be available for the payment of the debts of any other creditor of the solicitor, or be liable to be attached or taken in execution under the order or process of any Court at the instance of any such creditor.

(3) Nothing in this section shall be construed to take away or affect any just claim or lien which any solicitor may have against or upon any of the moneys.

42. Every solicitor shall keep accounts of all moneys so received by him in such a manner as to disclose the true position in regard thereto, and to enable the account to be conveniently and properly audited.

Keeping of accounts.

43. Wilful failure by any solicitor to comply with any provision of section forty-one or section forty-two of this Act shall be professional misconduct

Summary jurisdiction over officers of Court.

and

and shall accordingly, if the Court thinks fit, be ground for the exercise of the summary jurisdiction of the Court.

5. The Principal Act is further amended by inserting after Part VII, as inserted in the Principal Act by this Act, the following Part:—

Further amend-
ment of Act
No. 22, 1898.
New Part VIII.

PART VIII.

THE SOLICITORS' FIDELITY GUARANTEE FUND.

44. This Part shall apply with respect to every solicitor who is for the time being engaged in the practice of his profession, either on his own account or in partnership with any other person, but shall not apply to any solicitor who is not so engaged.

Application
of Part VIII.
Act 1931,
No. 46(N.Z.),
s. 72.

45. (1) There shall be a fund, to be called the Solicitors' Fidelity Guarantee Fund.

The fund.
Ibid. s. 73.

In this Part "the fund" means the Solicitors' Fidelity Guarantee Fund.

(2) The fund shall be the property of the Institute, and shall be held in trust for the purposes set out in this Part.

46. All moneys belonging to the fund shall, pending the investment or application thereof in accordance with this Part, be paid into a bank in New South Wales to the credit of a separate account, to be called the Solicitors' Fidelity Guarantee Fund Account.

Separate
bank account.
Ibid. s. 74.

47. The fund shall consist of—

Moneys of
the fund.

- (a) all sums paid to or on account of the fund by solicitors, either as annual contributions or as levies in accordance with the provisions of this Part;
- (b) the interest from time to time accruing from the investment of the fund;
- (c) all moneys recovered by or on behalf of the Institute in the exercise of any right of action conferred by this Part;
- (d) any other moneys that may be lawfully paid into the fund.

Ibid. s. 75.

48. There shall from time to time be paid out of the fund as required— Expenditure. Act 1931, No. 46 (N.Z.), s. 76.

- (a) the amount of all claims, including costs, allowed or established against the fund as provided in this Part;
- (b) all legal expenses incurred in defending claims made against the fund or otherwise incurred in relation to the fund;
- (c) all refunds made to solicitors or to their personal representatives pursuant to section sixty of this Act;
- (d) the expenses involved in the administration of the fund including allowances to members of the Council or the committee of management in respect of their services and their reasonable travelling expenses incurred in connection with the management of the fund;
- (e) the expenses involved in the administration by the Council of this Part or of Part IX;
- (f) any other moneys payable out of the fund in accordance with this Part or with the rules made under the authority of this Part.

49. The accounts of the fund shall be audited annually by an accountant approved of by the Prothonotary and appointed for the purpose by the Council. Audit. Ibid. s. 77.

50. The fund shall be administered by the Council on behalf of the Institute. Administration. Ibid. ss. 78, 79.

The Council may by resolution delegate its powers in relation to the fund or any of such powers to a committee of management, consisting of not less than three nor more than five persons being members of the Institute.

Any such resolution may be at any time in like manner rescinded or varied.

Any member of the Institute may be appointed a member of the committee of management notwithstanding that he may not be a member of the Council.

51. (1) Except as provided in subsection three of this section every solicitor with respect to whom this Part applies shall during the month of October in each year pay to such person as may from time to time be authorised by the Council to receive the same such annual contribution as may from time to time be prescribed by rules made under the authority of this Part, being not less than three pounds nor more than ten pounds in any year.

Contributions.
Act 1931,
No. 46 (N.Z.),
ss. 80, 81.

(2) If any solicitor who is not during the month of October in any year engaged in the practice of his profession either on his own account or in partnership with any other person commences after the said month of October in any year to practice as a solicitor on his own account or in partnership with any other person, he shall thereupon become liable to pay, and shall pay to the person authorised to receive the same under subsection one of this section, the amount of the prescribed annual contribution for that year.

(3) No further contributions in accordance with this section shall be made to the fund at any time while the amount of the fund, including any investments thereof, and after deducting the amount of all unpaid claims and other liabilities outstanding against the fund, is not less than one hundred thousand pounds.

(4) For the purposes of this section a year shall be deemed to commence upon the first day of October, and to expire upon the thirtieth day of September next following.

52. (1) If at any time or times the fund is not sufficient to satisfy the liabilities of the Institute in relation thereto, the Council may by resolution impose on every solicitor with respect to whom this Part applies, for payment into the fund, a levy of such amount as it thinks fit, not exceeding ten pounds.

Levies.
Ibid. s. 82.

(2) The amount of the levy shall become payable on a date and in a manner to be fixed by the Council.

(3)

(3) A solicitor shall not be required to pay by way of levy under this section more than ten pounds in any one year nor more than fifty pounds during the whole period of his practice as a solicitor.

53. If any solicitor with respect to whom this Part applies does not pay any contribution or levy as required by this Part, the Council shall report to the Prothonotary that the solicitor has not paid the contribution or levy, as the case may be.

Failure to pay contribution or levy.

The Prothonotary shall make due record of the fact, and so long as the contribution or levy remains unpaid the solicitor shall not be entitled to practise as a solicitor.

54. Any moneys in the fund that are not immediately required for the purposes thereof may be invested in any manner in which trustees are for the time being authorised to invest trust funds, or on deposit, for such period as the Council deems proper, with the Colonial Treasurer or with any bank or corporation prescribed as a bank or corporation to which trust moneys may be paid under section fifteen of the Trustee Act, 1925.

Investment of fund.
Act 1931,
No. 46 (N.Z.),
s. 83.

55. (1) Subject to the provisions of this Part the fund shall be held and applied for the purpose of reimbursing persons who may suffer pecuniary loss by reason of the theft, misappropriation, or misapplication by a solicitor with respect to whom this Act applies, or by his servant or agent, of any moneys or other valuable property entrusted to him, or to his servant or agent, in the course of his practice as a solicitor, including any moneys or other valuable property as aforesaid entrusted to him as a solicitor-trustee.

Application of fund.
Ibid. s. 84.

(2) No person shall have any claim against the fund in respect of any theft misappropriation or misapplication committed before the commencement of the Legal Practitioners (Amendment) Act, 1933.

In respect of any theft misappropriation or misapplication that may be committed after the commencement of that Act no person shall have a claim

claim against the fund unless notice of such claim is given in writing to the Council within twelve months after the claimant has become aware of the theft misappropriation or misapplication.

56. (1) The Council may receive and settle any claim against the fund at any time after the commission of the theft misappropriation or misapplication in respect of which such claim arose, but no person shall be entitled, without leave of the Council, to commence any action in relation to the fund unless and until the claimant has exhausted all relevant rights of action and other legal remedies available against the defaulting solicitor or any other person in respect of the loss suffered by him.

Claims against the fund, Act 1931, No. 46 (N.Z.), s. 85.

(2) The amount which any person shall be entitled to recover from the fund shall be the amount of the balance of the loss suffered by him after deducting from the total amount of such loss the amount or value of all moneys or other benefits received or receivable by him from any source other than the fund in reduction of such loss.

But the amount which any person shall be entitled to recover from the fund shall not in any case exceed two thousand pounds.

(3) No amount shall be paid or payable out of the fund as interest on the amount of any judgment obtained or of any claim admitted against the fund.

57. In any action brought against the Institute in relation to the fund, all defences which would have been available to the defaulting solicitor shall be available to the Institute.

Defences. *Ibid.* s. 86.

58. On payment out of the fund of any moneys in settlement in whole or in part of any claim under this Part, the Institute shall be subrogated, to the extent of such payment, to all the rights and remedies of the claimant against the solicitor in relation to whom the claim arose, or, in the event of his death or bankruptcy or other disability, or the assignment of his estate, against his personal representatives or other persons having authority to administer his estate.

Subrogation. *Ibid.* s. 87.

59. (1) No moneys or other property belonging to the Institute, other than the fund, shall be available for the satisfaction of any judgment obtained against the Institute in relation to the fund, or for the payment of any claim allowed by the Council; but if at any time the fund is not sufficient to provide for the satisfaction of all such judgments and claims, they shall to the extent to which they are not so satisfied, be charged against future accumulations of the fund.

In sufficiency of the fund.
Act 1931,
No. 46 (N.Z.),
s. 88.

(2) The Council may in its absolute discretion having regard to the rules set forth in subsection three of this section, determine the order in which the judgments and claims so charged against the fund shall be satisfied, and may, if the amount accumulated is not sufficient to satisfy all such judgments and claims in full, satisfy any such judgment or claim in whole or in part.

(3) In applying the fund towards the settlement of such judgments and claims the Council shall have regard to the following rules, but this direction shall not limit the discretion of the Council :—

- (a) the Council shall take into consideration the relative degrees of hardship suffered or likely to be suffered by the several claimants in the event of their claims against the fund not being satisfied in whole or in part;
- (b) claims for amounts not exceeding five hundred pounds shall, except in special circumstances, be satisfied in full before claims for amounts exceeding five hundred pounds are satisfied to a greater extent than five hundred pounds;
- (c) where all other considerations are equal, claimants shall have priority as between themselves according to the dates of the judgments or the dates when the claims were admitted by the Council, as the case may be.

60. In the event of the death or on the retirement from the practice of his profession of any solicitor in respect of whom no claim has been made under this Part, or if any such claim has been made, in respect of whom such claim has not been sustained, the Council may in its discretion pay to him, or to his personal representatives, as the case may be, a sum not exceeding the aggregate amount of his contributions to the fund.

Death or retirement of solicitor.
Act 1931,
No. 46 (N.Z.),
s. 91.

61. (1) For the purpose of safeguarding the fund, the Council may at any time appoint an accountant to examine the accounts of any specified solicitor or firm of solicitors, whether a member or members of the Institute or not, and to furnish to the Council a confidential report as to any irregularity or alleged or suspected irregularity in the accounts of such solicitor or solicitors that may be disclosed by such examination or as to any other matter that in the opinion of such accountant should, in the interest of the fund, be further investigated.

Examination of account.
Ibid. s. 92.

The Council may, if it thinks fit, exercise the power conferred by this subsection upon the request and at the expense of any client of a solicitor or firm of solicitors, but in any such case the examination shall be confined to the accounts relating to the affairs of such client.

(2) Every appointment made under this section shall be in writing, and shall, if approved by the Prothonotary, be signed by him and by the president or two members of the Council.

(3) Upon production by such accountant of the instrument of his appointment as aforesaid he may require the solicitor or solicitors in respect of whom the appointment has been made, or any servant or agent of such solicitor or solicitors, to produce to the accountant and any assistant of the accountant, all books, papers, accounts, securities, or other documents relating to the business or accounts of such solicitor or solicitors, and to give all information in relation thereto that may be reasonably required of him or them, and if any such

such person without lawful justification or excuse, the proof whereof shall lie on him, refuses or fails so to do, or otherwise hinders, obstructs, or delays the accountant in the performance of his duties or the exercise of his powers under this section, he shall be guilty of an offence, and shall be liable to a penalty under subsection six of this section.

Such offence shall also be professional misconduct and shall accordingly, if the Court thinks fit, be ground for the exercise of the summary jurisdiction of the Court.

(4) No accountant appointed to make any examination of accounts for the purposes of this section shall communicate any matter which may come to his knowledge in the course of such examination to any person except in the course of his report to the Council.

No assistant of any such accountant shall communicate any matter which may come to his knowledge in the course of the examination to any person except to the accountant appointed to make the examination.

(5) It shall not be lawful for any member of the Council or any of its officers to publish to any person any information disclosed in such report except in the performance of his duty.

(6) Every person who commits a breach of any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding *fifty* pounds.

62. (1) For the purposes of this Part the Council may make rules for all or any of the following purposes:—

- (a) prescribing the amount of the annual contributions to the fund to be paid by solicitors with respect to whom this Part applies;
- (b) providing for the investment of so much of the fund as is not immediately required for the purposes thereof;

(c)

Rules made
by the
Council.
Act 1931,
No. 46(N.Z.),
s. 93.

- (c) prescribing forms of notice to be given to the Council in relation to claims against the fund, and the conditions subject to which and the extent to which the Council may settle any such claims without recourse being had to legal proceedings ;
 - (d) prescribing the duties of accountants appointed to conduct an examination of any accounts pursuant to this Part, and prescribing also the duties of the solicitor or solicitors concerned in relation thereto, and the circumstances in which such solicitor or solicitors may be required to pay the cost of such examination ;
 - (e) generally, for such other matters as may be considered necessary for the purpose of giving full effect to the intent of this Part of this Act ;
 - (f) imposing penalties not exceeding *fifty* pounds for any contravention of the rules.
- (2) The rules made under the authority of this section shall—
- (a) be submitted to the Governor for his approval ;
 - (b) when approved by the Governor be published in the Gazette ;
 - (c) take effect from the date of publication or from a later date to be specified in the rules ;
 - (d) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.
- (3) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the rules have been laid before such House disallowing any rule or part thereof, the rule or part shall thereupon cease to have effect.

6. The Principal Act is further amended by inserting after Part VIII, as inserted in the Principal Act by this Act, the following Part :—

Further amendment of Act No. 22, 1898.

PART IX.

THE SOLICITORS' STATUTORY COMMITTEE.

63. (1) There shall be a committee, to be called the Solicitors' Statutory Committee, to inquire into and report upon any charge or question as to the professional misconduct of any solicitor.

The committee. Act No. 3714, 1928 (Vict.), s. 15.

(2) The committee shall consist of not less than three and not more than seven members, and any solicitor, whether a member of the Council or of the Institute or not, shall be eligible to be a member of the committee.

(3) The members shall be appointed by the Chief Justice, and shall hold office as prescribed.

(4) The committee shall appoint, for such time not exceeding the prescribed period as it thinks fit, one of its number to be the chairman thereof.

(5) A quorum of the committee shall consist of at least three members.

(6) The proceedings of the committee shall be conducted in accordance with such rules as may be prescribed.

(7) The committee shall, in addition to the powers conferred by this Part, have such further powers necessary or convenient for the due fulfilment of its functions as may be prescribed.

(8) No act or proceeding of the committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken, or commenced there was a vacancy in the office of any one member.

64. (1) Any person who claims to be aggrieved by the professional misconduct of any solicitor may make a charge thereof in writing to the Council or the committee.

Charge of professional misconduct. *Ibid.* ss. 16, 18.

Any such charge received by the Council shall be forthwith referred by it to the committee.

(2)

(2) The committee may require that further particulars be given of any charge, and that any charge be verified by statutory declaration.

65. The Court, a judge, or the Council may refer to the committee for inquiry any question as to the professional misconduct of any solicitor which appears to the Court, judge or Council to require investigation.

Questions as to professional misconduct. Act No. 3714, 1928 (Vict.), ss: 16, 18.

66. (1) The committee may by writing under the hand of the chairman summon before the committee at a time and place named in the summons any solicitor in respect of whose professional misconduct any charge has been made to the committee, or any charge or question has been referred to the committee, and may inquire into the charge or question.

Summoning of solicitors. *Ibid.* s. 18.

(2) If the solicitor does not attend at the meeting to which he has been summoned or at any adjournment thereof, the committee may proceed with the inquiry in his absence.

67. The provisions of sections eight, nine, ten, eleven, and twelve, and of Part III of the Royal Commissions Act, 1923, shall apply, *mutatis mutandis*, to and with respect to the inquiry, provided that for the purpose of this Part of this Act sections nineteen and twenty of the Royal Commissions Act, 1923, shall be read as if the words "twenty pounds" were substituted for the words "two hundred pounds."

Royal Commissions Act, 1923. *Ibid.* s. 18 (1) (c).

68. (1) After the inquiry the committee shall make a report to the Court or judge or Council or such of them as may be prescribed.

Report. *Ibid.* s. 20.

If the committee is of opinion that the solicitor has been guilty of any professional misconduct, the committee shall make a report thereon to the Court, and transmit with the report a copy of the evidence taken on the inquiry.

(2) The report shall state the findings of the committee in relation to the facts of the case, and if

if any member of the committee dissents, the report shall state the fact of dissent, and specify the findings from which he dissents.

(3) The Court may refer the report back to the committee for further inquiry or for amendment, and may review any finding of fact therein.

(4) Upon motion and upon reading the report the Court may act thereon, and with or without further evidence make such order as the Court thinks fit.

69. (1) Notwithstanding any other provision of this Act any person who but for this Act would have been entitled to apply to the Court to remove the name of a solicitor from the roll, or to apply to the Institute to require a solicitor to answer any allegation contained in a statutory declaration, shall be entitled so to apply, whether the matter complained of has or has not been inquired into by the committee, and whether the application is based on professional misconduct or on any other ground.

Application
to Court.
Act No. 3714,
1928 (Vict.),
s. 21.

(2) The Institute may in any like case make a like application to the Court.

(3) Upon any application under this section the Court may—

- (a) deal with the application ;
- (b) refer the matter to the committee for inquiry and report ;
- (c) require the committee to transmit to the Court a report upon any inquiry held by the committee into the same subject-matter ;
- (d) take the reports into consideration upon the hearing of the application.

(4) The provisions of this Act with respect to any question referred to the committee by the Court or a judge shall apply, mutatis mutandis, to and with respect to any matter referred to the committee by the Court under this section.

70. (1) Notwithstanding any other provision of this Act, where any charge is made to or any charge or question is referred to the committee, and before the committee makes its report, the Court or a judge on the application of the Institute or of any person concerned may in any case where in the opinion of the Court or the judge the circumstances warrant the appointment appoint a special committee to inquire into and report upon the charge or question.

Special
committee.
Act No. 3714,
1928 (Vict.),
s. 22.

(2) The special committee shall to the exclusion of the statutory committee have the powers and be subject to the duties of the statutory committee in respect of the charge or question, and the provisions of this Act and of any rules of court relating to the statutory committee shall apply, *mutatis mutandis*, to and with respect to the special committee.

71. (1) The Institute shall, in addition to its existing powers and functions, have the following powers and functions, that is to say—

The
Institute.
Act 1931,
No. 46 (N.Z.),
s. 63 (2).

- (a) to take such steps as may be necessary or proper for or with respect to the investigation in accordance with this Act of any charge or question as to the professional misconduct of any solicitor ;
- (b) to institute prosecutions and other proceedings for the breach of any statute rule or regulation relating to the practice of the law or to the preparation of deeds or instruments relating to real or personal estate ;
- (c) to oppose any application for admission as a solicitor, or for restoration to the roll of solicitors, or for employment by any solicitor ;
- (d) to appoint any barrister or solicitor to appear before any court in any of the matters referred to in this section.

(2) Any prosecution or proceeding referred to in paragraph (b) of subsection one of this section may be instituted in the name of the Institute by the

Act No. 3714,
1928 (Vict.),
s. 14.

the president or any vice-president or any other person duly authorised by the Council in that behalf.

Every such prosecution or proceeding shall, unless it is proved to the contrary, be deemed to be instituted by and on behalf of the Institute.

72. (1) The Council may appoint any person to investigate any charge or question as to the professional misconduct of any solicitor, and to present the same to the statutory committee, and may appoint any barrister or solicitor to appear before the committee.

The Council.
Act No. 3714,
1928 (Vict.),
s. 17.

(2) The Council may appoint any barrister or solicitor to appear before any court in any matter affecting the Institute or the members thereof or in which the Institute is directly or indirectly concerned or interested, and any barrister or solicitor so appointed shall have audience in any court in any such matter.

Ibid. s. 13.

7. Any managing clerk who has attained the age of fifty years or who within twelve months after the commencement of this Act attains that age shall be entitled to be admitted without examination to appear, practise, and act, and to continue to appear, practise, and act as a solicitor upon—

Managing
clerks.

- (a) production to the Court of a certificate from two practising barristers of at least twenty years' standing, of whom one shall be a King's Counsel, and from two solicitors of at least twenty years' standing that the applicant possesses the experience, knowledge, and ability necessary to practise as a solicitor; and
- (b) satisfying the Court that he is of good fame and character, and that he has been for a period of at least twenty years engaged as managing clerk to a practising solicitor or solicitors.

The words "managing clerk" shall mean any person who for a period of twenty years has been engaged in the transaction and management of such matters of business as are usually transacted by solicitors.