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Erasmus Smith and Tipperary Grammar School

by Marcus Bourke

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Just over 50 years ago, on 5 April 1938, a private Act was passed by Dáil Eireann — there was then no Senate — which effectively transferred to Catholic ownership what had for two-and-a-half centuries been a prestigious Protestant boys college in the town of Tipperary. As private Acts go, the Erasmus Smith Schools Act, 1938 is a short piece of legislation. The key to understanding it is to be found in the phrase ‘change of times and circumstances’ which occurs in one of the explanatory recitals to the Act. It was a phrase that those who first used it (the legal advisers to the Governors of the Erasmus Smith Schools) were to regret ever using.

The non-lawyer who perseveres in reading to the end of this eight-page Act will probably find it somewhat different from any other Act he may have had to read. After no less than ten recitals explaining why it is needed comes the Act itself. It contains only seven sections, all but one admirable for their clarity and brevity. The exception, however (section 4), runs to over 28 lines and manages to pack over 300 words into one sentence. This includes two breath-taking provisos that are a relic of the days when conveyancing lawyers (by whom the drafting of private Acts was then usually done) were, like Victorian journalists, paid by the line, if not the word.

The drift of the Erasmus Smith Schools Acts, 1938 — if one may use a modern colloquialism — is clear. In order to avoid further costly litigation between them, a deal had been done between the Governors of the Schools and the Attorney General of the Irish Free State. This agreement, which is reproduced in the Schedule to the Act, allowed the Governors to retain ownership of the High School in Dublin, as well as the Drogheda and Galway grammar schools.

In return the Governors were to hand over to the Minister for Education the Tipperary Grammar School. In addition, the Minister was to get property and funds of the Erasmus Smith Endowment valued at over £65,000, and the Governors were to retain an identical amount to use for Protestant education. The purpose of the Act was simply to give effect to this unusual example of legal horse-trading.

The 1938 Act ended a saga which began almost 300 years earlier, in the bloody half-century which had witnessed the 1641 Rising, Cromwell’s Irish visitation and the Williamite wars. Effectively, by turning to their (and their descendants’) advantage the principles of an alien legal system imposed on their forbears during the previous two centuries, the Catholic inhabitants of the barony of Clanwilliam (in which Tipperary town is situated) finally obtained a substantial share in a wealthy educational trust, which had been denied to them for over 260 years by Protestant-dominated political regimes.

This article attempts to explain the complex background to this unique chapter in Irish educational history. It also recounts how it ended half-a-century ago.

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Erasmus Smith was born in Leicester, England in 1611. When 17 years old he was apprenticed to a London Turkey merchant — that is, one trading with Turkey, rather than one rearing fowl for



Christmas — and at 24 he became a freeman of the influential and prestigious Grocers' Company in London.¹ Although little is known of his father, Sir Roger Smith, other relatives of Erasmus sided with Cromwell against Charles I. A cousin, Henry Smith, was one of the judges at the king's trial in 1649 and signed the warrant for his monarch's death.

A nephew, Sir Edward Smith, was one of the Commissioners of the Courts of Claims in Ireland. In that capacity he had a hand in the transfer, after the 1641 Rising, of vast tracts of land from the dispossessed and rebellious Irish to soldiers and supporters of Cromwell — among the latter class being his own uncle Erasmus. Erasmus ultimately ended up owner of over 46,000 acres of land in various parts of Ireland.²

In 1643 Erasmus Smith's father Sir Roger assigned to his son his share in what was known as the Irish adventure. Smith senior had been one of those who had advanced money to the Cromwellian cause, on the promise of later getting grants of land from the dispossessed Irish banished by Cromwell to Connacht.

Between 1647 and 1654 Erasmus Smith gradually increased his share in such 'adventures', and also became a principal supplier of corn for the army in Ireland. By the mid-1650s this astute London businessman had retired to become an extensive Irish land-owner, with one Joseph Damer of Shronell (outside Tipperary town) as his principal land agent.³

Many of the original adventurers were not prepared to take up land in Ireland, partly because of what a later age would call the security situation there. As a result, a market grew up in Dublin in which shares in the Irish adventure were bought and sold; it appears that Erasmus Smith, being on the spot, was able to add to his holdings cheaply. He acquired a fashionable house in St. Stephen's Green, Dublin, where he was a neighbour of the celebrated 'Buck' Whaley. It speaks volumes for the character of Smith that he became a friend of this dissolute figure.

By the mid-1660s Erasmus Smith, who from 1661 to 1666 had a seat in parliament for the Louth borough of Ardee, had become owner of tens of thousands of rich Irish land, spread over several counties and in all four provinces. In particular, he became owner of a part of the barony of Clanwilliam in county Tipperary, and obtained from Charles II the right to hold fairs and markets in the town of Tipperary, the geographical capital of Clanwilliam.

Under a royal charter of 1669 Smith, concerned lest the restored monarchy might deprive him of some lands he had wrongly acquired west of the Shannon (reserved for the mere Irish), voluntarily established an endowment under which free grammar schools were to be opened in the towns of Galway, Drogheda and Tipperary.⁴ It is with the last of these, Tipperary Grammar School, that the controversy which culminated in the 1938 Act was concerned.

For most of the nineteenth century Tipperary Grammar School — even more so than its sister institutions in Galway and Drogheda — was one of the leading boys colleges in Ireland, wholly Protestant in character. Known locally as the Abbey School, it was run by a board of governors which included such influential establishment personages as (Protestant) bishops, High Court judges, provosts of Trinity College, Dublin, other prominent holders of high official posts under the Dublin Castle administration, and even that champion of Dublin's poor, the eccentric Dean of St. Patrick's Cathedral, Jonathan Swift.

Patronised by the well-to-do from all parts of Munster, Tipperary Grammar School gave a sound classical education and sent many of its boys to Trinity College, and thence to the Protestant Church. Operating from a fine riverside site just conveniently away from the noise and bustle of the nearby market town, the original school building had been erected from the stones of the old pre-Reformation Augustinian Abbey (thereby explaining, if not justifying, the local title of the Abbey School), which had been demolished for that purpose.



An older generation of Tipperary townspeople, only dead in the past 50 years, used to recall the immaculately turned-out boys from the Abbey (dressed in uniforms that included Eton collars), marching through the town in almost military precision every Sunday morning to their reserved pews in St. Mary's Church of Ireland church in John Street, clutching their prayer-books and led by their teachers.⁵

In many ways the boys were as much a sign of the conquest as the redcoats up in the enormous barracks at the far end of the town. There is surely something faintly appropriate in the fact that the doors of Tipperary Grammar School were finally closed (as a Protestant institution, at least) by the troops of an independent Irish State during its Civil War of 1922-1923.

Pillar of the Protestant establishment though Tipperary Grammar School undoubtedly was, it was rarely without its small quota of Catholic boys. Unable, because of the Penal Laws, to get their sons a proper education elsewhere, the prosperous and ambitious businessmen of Tipperary town and the immediate vicinity discreetly patronised the Abbey almost from the start.

Amongst the famous Catholic products of the School were the Fenian John O'Leary (1830-1907), son of a prolific and thrice-married local shopkeeper, and the Royal Irish Constabulary officer, Thomas St. George McCarthy (son of a local magistrate), who in 1884 was one of the seven founders of the Gaelic Athletic Association.⁶

As to religious instruction, the crucial factor in the whole Erasmus Smith saga, attendance at classes in this subject was — in practice at any rate — not obligatory, and (needless to say) the Catholic boys never took part in the weekly visit to the Protestant church. Since, despite the demolition of their friary, Augustinian friars are known to have ministered locally up to the mid-1800s, it was possibly they who ensured the loyalty to the old faith of the O'Learys, the McCarthys and others with Papist parents.⁷

As for Erasmus Smith himself, the fact that he managed to get a royal charter to set up his schools has probably alerted the observant reader to the fact that he survived the downfall of the Puritan regime and the restoration of the monarchy under Charles II. Indeed, in the final litigation in 1931 the Governors of the Erasmus Smith Schools implicitly admitted that their benevolent founder had managed with impunity to break the property laws of both the Cromwellian and Restoration regimes!

At the age of 58 Smith married, and when he died in 1691 in his 80th year he was survived by nine children. A daughter married a Barry, who dutifully took the name Smith-Barry. A descendant of his was Arthur Hugh Smith-Barry, the leader of the landlord syndicate in the Plan of Campaign 100 years ago, and later the first and last Lord Barrymore; hence the frequent occurrence in title-deeds in Tipperary town to this day of the surname Smith-Barry.

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The exclusively Protestant character of Tipperary Grammar School was confirmed by rules drawn up in 1712 by the Governors for the conduct of the Erasmus Smith schools. Every pupil was obliged to attend twice daily for prayers, to attend the weekly Sunday service and to be duly confirmed by the Protestant bishop. As already mentioned, in practice some of these requirements were never rigidly enforced.

Almost two centuries were to elapse before it occurred to anyone to question the legal basis for the religious stamp which the early Governors had imprinted on the grammar schools. By then, however, the position of the Protestant faith had, in effect, become so entrenched in all three schools that it called for the ingenuity of modern lawyers before litigation, challenging the



way the funds had been used (or misused) for so long, could be embarked on with any reasonable prospects of success.

Yet even a cursory glance through the various pieces of legislation and legal instruments on which the Erasmus Smith Endowment was founded seems to reveal (perhaps in hindsight) at least an arguable case for the proposition that the character of the schools, as it evolved under influential official aegis, was not what these documents intended. Nor was it, one could also argue, even in accordance with the wishes of Smith himself.

A basic deed of 1657, for example, explicitly described Smith's object as merely to bring up 'in the fear of God and good literature and to speak the English tongue' children of poor tenants on his lands. A Bill of 1662 providing for the application of the Endowments funds in Galway referred to 'the better education . . . of poor children', and to their being taught 'the principles of true religion' — which, after all, could change from time to time, as they did briefly when a Catholic sat on the English throne.⁸

Even the 1669 Charter, perhaps the seminal document setting up the Erasmus Smith Endowment, merely declared the object of the trust to be 'the education of . . . poor children . . . and for teaching on his [Smith's] lands'. A distinguished Irish Protestant High Court judge of a century ago frankly admitted that he could find nothing, in the multiplicity of legal documents relating to the Endowment, requiring adherence to the established (Protestant) faith.⁹

It took persistent research (which became the basis of the litigation by Catholic interests that led to the 1938 Act) by two Catholic clergymen (of whom more shortly) to establish that the 1712 rules were, in effect, an abuse of legal power by the Governors. This abuse led to an apparently deliberate departure from the original purpose of the founder of the Endowment.

Over the years, realising that they got away with this fraud, the Governors proceeded to use the substantial surplus funds of the Endowment to further various other exclusively Protestant educational schemes. Modern research, again by one or both of the clergymen referred to above, has revealed that (to give only three examples) it was Erasmus Smith money which set up the Blue Coat (now King's Hospital) School in Dublin, as well as the High School in Dublin, and which also founded some lucrative scholarships in Trinity College, Dublin.

Nor was this all. Towards the end of the eighteenth century and well into the nineteenth, surplus Erasmus Smith funds were effectively diverted to set up all over the country so-called 'English schools'. These were elementary schools — one of the earliest being in Nenagh¹⁰ — giving instruction in the Protestant religion; it was hoped they would supplant the Catholic Primary schools.

Over 150 of these English schools were built with Smith subsidies, the Governors also providing annual grants for the teachers' salaries and in many cases paying the greater part of the running expenses. Gradually, with the spread of the National School system, these schools declined in status and numbers; but as recently as 1930 there were nine of them still flourishing (or, more accurately, languishing) in seven counties.¹¹ A modern critic of the Erasmus Smith Endowment called it 'among the biggest educational foundations of the Reformation in Ireland'.¹²

The legal origin of the Erasmus Smith Endowment is to be found in an indenture made by Smith on 1 December 1657, under which he settled portion of his estates on 18 trustees for the purpose of establishing five grammar schools — in Sligo town, Clanwilliam barony, Antrim, Galway and a fifth place not yet decided on. Because of the fall of Cromwell's Government, the terms of this document were not carried into effect.

Then in 1665, after the restoration of the monarchy in Britain, Commissioners appointed under the Act of Settlement of 1653 (which appropriated, or forfeited, lands in ten Irish



counties to meet adventurers' claims and to repay arrears of wages to Cromwell's soldiers), declared the Smith trustees entitled to the lands referred to in the 1657 indenture, for the purposes also set out there.

Two years later, by letters patent dated 3 November 1667, King Charles II gave the lands purporting to have been passed in 1657 to seven of the original 18 trustees for six purposes, including the foundation of three grammar schools. Clearly the intention in 1667 was that a corporation would shortly be set up to administer the endowment. Another two years passed, however, without anything being done to implement the 1667 instrument.

Then on 26 March 1669 the King by royal charter incorporated a self-perpetuating governing body of 30 ('the Governors of the Schools founded by Erasmus Smith Esquire'), and directed the establishment of the three grammar schools in Galway, Drogheda and Tipperary. The choice of location for the three schools was determined by the fact that each of the three towns was then the biggest in three of the four arch-dioceses. Dublin already had its own grammar school.¹³

In spite of its prestigious origin and official patronage, Tipperary Grammar School had a chequered career from the time it first opened its doors (probably around 1680) until they were finally closed in 1920 almost 250 years later. It had only begun to flourish when it became a casualty of the Williamite Wars. The building seems to have become the headquarters of the Williamite army in 1690, when the pupils were all sent home because of the danger to their lives.

In 1691, in the course of fighting in the area, the School was burned down, and it was not until 1702 that a new building was completed. This lasted until 1820, when the building that stood till the early 1940s was built. The architect in 1820 was Thomas Coleborne, a partner of the famous Francis Johnston, who designed the G.P.O. and several other Dublin landmarks.¹⁴

By the mid-1880s the future of Tipperary Grammar School was beginning to look somewhat uncertain. Although it continued to take in Catholic boys in small numbers, there had been some friction back in the 1820s with the Catholic clergy. A former priest who had become a Protestant clergyman joined the staff, and the ensuing bitterness lasted for many years.

Then a decade or so later in the 1830s, as the district became the centre of what academic historians quaintly refer to as agrarian trouble, the commander of the local garrison cast covetous eyes on the school buildings. In 1843 the soldiery once more took possession of the School, and the pupils were moved into what proved to be unsatisfactory accommodation in a nearby street in the town.

By now Catholic Emancipation had been won, and although the evidence is sketchy it does appear that local Catholic interests were at last pressing for a share in the endowment, especially (and understandably, in view of Smith's explicit views) for those boys whose parents were tenants of Smith land in the area. According to one source, some of these claimed rights under the 1669 Charter as early as 1832. In 1843, as if conscious of the validity of such claims, the Registrar of the Smith Schools directed the headmaster in Tipperary to abide by the provisions of the Charter relating to free admission of poor children.¹⁵

Over a 45-year period in the last century the Erasmus Smith Endowment received detailed and formal parliamentary attention on at least three occasions. In 1838, five years after King William IV granted the Governors an amending charter, a Select Committee of the House of Commons (which included William Smith O'Brien and Morgan John O'Connell, son of Daniel) concluded that, while private as to foundation, the Endowment could be regarded as a public institution.

In 1870 what came to be called the Powis Commission, which included Lord Morris (a Catholic Governor and an ancestor of Lord Killanin), had another look at the Endowment. Still another



in 1878, known as Lord Randolph Churchill's Commission and including Richard O'Shaughnessy, later a Catholic MP for Limerick city, found that the Endowment was essentially Protestant in character.

In 1875 Tipperary Grammar School was so badly supported that it had to close for a while; only a speedy transfer of pupils from Newport Intermediate School kept it from closing permanently. In 1883 the Abbey was turned into a boarding-school for well-to-do Protestants; but again in 1886 a transfer of pupils (now from Ennis) was found necessary.¹⁶ That year there were only four Catholics out of a total of 56 in all three Smith Schools, and from then on the number of them on Tipperary's rolls dropped substantially.

From 1893 the Christian Brothers school in Tipperary, which had already put Latin on its curriculum, added Greek, as if further to weaken the case for sending Catholics to the Grammar School. By now, however, one of the two Catholic clergymen to whose efforts the final settlement or compromise of 1938 is largely due had appeared on the scene. Life was to change for ever for the Governors — had they but known it.

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David Humphreys, a Catholic curate in Tipperary town from 1885 to 1895, was one of the most formidable opponents of landlordism in county Tipperary that the last century produced. A native of Boher (near Murroe, county Limerick), he was on the teaching staff of Thurles College for nine years after his ordination as a priest in 1869 when 26 years old. Today he is remembered chiefly for his leading role in the New Tipperary episode of 1889 to 1895.¹⁷

However, a strong case can be made for proposition that it is for his work in trying to persuade, cajole or bully the Irish legal system of 100 years ago to give fair play to Catholics under the Erasmus Smith Endowment that he deserves to be remembered. That he failed was due as much to the existence before 1922 of a bigoted, not to say sectarian, judiciary as to defects in Humphreys' own character, which later led on several occasions to collisions with his own superiors. However, he laid the foundations for the successful agitation later by a priest from the Dublin archdiocese, who was to prove a far more able and more astute amateur litigant than Humphreys.

In 1885 the Gladstone administration passed an Act entitled the Education Endowments (Ireland) Act, with a view to bringing educational endowments under official supervision and allowing alterations in the conditions attached to them, so as to bring them into line with modern circumstances. A five-member Commission was set up to carry out the purposes of the Act.

Two of the Commissioners were Judicial Commissioners (in practice, High Court judges); and of the five, two were Catholics and three Protestants. The first Commission comprised Lord Chancellor Naish (a Catholic), Monsignor Gerard Molloy, Rector of the Catholic University, Lord Justice Fitzgibbon and Dr. Traill, a future Provost of Trinity College (both Church of Ireland), and Sir James Dougherty, a Presbyterian.

The Educational Endowments Commission was empowered to hold a preliminary enquiry into an existing endowment and then to draft an amending scheme. When this had been published it would be followed by a public hearing, before a final scheme was given legal effect to by the Lord Lieutenant. The Commissioners were also required to publish annual reports; these gave not only an account of the progress in drafting amending schemes, but also revealed the results of official inspections and audits of endowments examined for the Commission.

As a means of publicising the claims of Catholic tenants on Smith lands to a share in the Erasmus Smith Endowment, Fr. Humphreys now decided to use the new Commission, at least



to bring about a change in Tipperary Grammar School. When in October 1887 the Commission arrived in Tipperary to hold its preliminary enquiry, its treatment of Humphreys allowed him to allege subsequently, in one of those white lies that public figures then (as today) often got away with, that the enquiry had been held behind closed doors.¹⁸

In preparation for the enquiry, Humphreys had taken up his own census of Catholic tenants on Erasmus Smith lands within a six-mile radius of Tipperary town, and had made a written request to address the enquiry and give evidence to it. His request was turned down. The two Judicial Commissioners, who sat in (of all places) the grammar school itself, were only prepared to accept a written summary of the priest's evidence. They also pointedly refused to include any of it in their final report in 1894.

A great believer in the old maxim about attack being the best form of defence, Humphreys in 1889 — five years ahead of the Commission's own report — published in book form and at his own expense the evidence and submissions had he made in 1887 to the Commission. Either then or later — the two documents are undated — he followed up with two requisitions or petitions, signed by 145 Erasmus Smith tenants on the county Tipperary estates and 78 on the county Limerick estates, demanding their rights under the Endowment.¹⁹ Only 21 Catholic tenants — and presumably all 16 Protestant tenants — in both counties did not sign.

Humphreys also found time from his labours for the Smith-Barry tenants in New Tipperary to organise a public meeting in Tipperary on 6 August 1890 of tenants from both counties. At this a resolution claiming a share in the Endowments was unanimously passed.

The detailed proposal which Humphreys put to the Commission in 1887 showed how deeply he had immersed himself in the whole affair, and also that he was no narrow-minded bigot who wished merely to substitute a Catholic ascendancy for the Protestant one. He argued for a new board of governors, partly Catholic and partly Protestant, to include the presidents of Thurles and Maynooth colleges. A vital role would be played by local committees headed by clergymen, and new schools would be opened in Tipperary, Pallasgreen and Drombane (where Smith lands were situated), with masters of the same religion as the majority of inhabitants of each place.

This novel plan had, it would seem, some effect on the Commission. In February 1891 it directed the preparation by the Erasmus Smith Governors of a draft scheme, based on the principle of a mixed governing body to replace the existing one — precisely what Humphreys had advocated. The new scheme was also to open the Endowment to all without any religious test.

Almost two years later, in the Autumn of 1892, the Commission held a full public inquiry in the Four Courts, Dublin over a period of six days — from October 19 to 23. At this prolonged session all interested parties made their respective cases; all but one had employed prominent members of the Irish Bar for this purpose. The exception was, of course, Humphreys. In fact, he more than held his own, even against such distinguished lawyers as Edward Carson QC (the future Unionist leader in Ulster), who led the team briefed by the Governors.

Reading the 83 pages of submissions and evidence 97 years later, one cannot but be impressed by Humphreys' intellectual powers. His frequent interruptions and corrections (even of the judges themselves) his confrontations with the various Protestant parties, the depth of his researches into the Endowment from its foundation, his marshalling of statistics (many of these obviously collected at great trouble himself) — all reveal a formidable spokesman for the poor tenant farmers. And, but for his voluntary and thankless energy, these would never have had their case presented to this body specially set up for that purpose.



At an early stage Humphreys realised that he had literally a friend in court, in the person of Lord Justice O'Brien, a Catholic. One suspects that much of his argument was addressed in this direction, in the hope that when the hearings had ended O'Brien would support Humphreys' case — as in due course he did.

So abrasive was Humphreys at times that one suspects that his method of advocacy cannot have endeared him to the Commission, one of whom, Lord Justice Fitzbiggon, felt the lash of the priest's tongue on several occasions. Yet, compared to the often negative pleading of his opponents, Humphreys' case at least stands out in contrast for its blunt honesty and frankness.

Two years later to the day (on October 22, 1894), the final session of the Educational Endowment Commission was held — again in the Four Courts, Dublin — for the delivery of the Judicial Commissioners' decision on the draft scheme. This hearing revealed a fundamental difference between the two judges, which led as a consequence to the total frustration of the intentions of parliament as stated in the 1885 Act.

As the 1892 hearing had suggested, Lord Justice O'Brien favoured a scheme giving some share in the benefits of the endowment to Catholic tenants on Erasmus Smith estates. Lord Justice Fitzgibbon, on the other hand, held that the foundation was wholly Protestant in character; in his view it should be maintained as a Protestant endowment, and he refused to agree a 'mixed' scheme. Moreover, by refusing to put his signature to the draft scheme Fitzgibbon effectively killed it, since the Act required the signatures of the two Judicial Commissioners before a scheme received the approval of the Lord Lieutenant.

Thus, in O'Brien's word, 'a continuing and intolerable grievance . . . that . . . will most certainly never be silent' was continued, despite the passing nine years earlier of legislation specifically designed to amend the conditions attaching to such endowments, so as to bring them into line with the changing times — in this case, the granting 65 years earlier of Catholic Emancipation.²⁰



Tipperary Grammar School — a photograph taken some 50 years ago. In the left foreground is the (then) surviving arch of the pre-Reformation Augustinian Abbey, “wantonly destroyed” in 1958 according to Marnane (p. 143). (Picture Courtesy National Library of Ireland).

It was surely a striking commentary on the bitterness of the Erasmus Smith case that, out of over 200 such schemes considered by the Commission since the establishment in 1886, this was the only one in which such a difference arose between the Judicial Commissioners. As for Humphreys, if there was a hint for him in O'Brien's comment quoted above, events were to show that he got the message. The judiciary had not heard or seen the last of him yet.

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Within a year of the publication of the Commissioners' 1894 report, the priest had published another book on the Erasmus Smith Endowment. This showed that he was at his best when he had to reduce his thoughts to writing. In the introduction, for instance, he re-stated the tenants' case with unusual brevity for him.

'Erasmus Smith left his endowment for the free education of his tenants' children . . . The penal laws of his day compelled him to attach . . . certain Protestant conditions. These laws are now repealed, and those . . . conditions are therefore withdrawn, so the endowment remains for the tenants' children . . . for whom it was left, untrammelled by any Protestant conditions. This is the Catholic claim in a nutshell.'

That same year (1895) saw Humphreys' promotion as parish priest of Killenaule, where he was to labour for another 35½ years until his death in 1930 in his 88th year. Probably because of his new pastoral responsibilities, it was to be the turn of the century before he again took up publicly the Smith case. One may, however, be sure that he was not idle between 1895 and 1900. His later writings showed that, in particular, he had studied and adopted much of the argument put forward by Lord Justice O'Brien in 1894. This he was to use in his next battle with the law, after he had gained some new and influential allies.

In January 1901 a deputation to discuss the Erasmus Smith case was received in Dublin Castle by the Chief Secretary, George Wyndham MP, of land law fame some years later.²¹ Accompanying Humphreys were Bishop McCormack of Galway, Dean White of Nenagh, Archdeacon Seagrave of Drogheda and the redoubtable Timothy Healy MP. Healy, never one to do things in half-measures (especially if it might improve his own public image in the now re-united Irish Party), had gone so far as to bring to the Castle his own draft Bill to meet the Catholic case.

The wily Wyndham — and who would not want to be so, faced by Tim Healy? — would have nothing to do with the Corkman's latest foray into the field of legislative drafting, and he trumped Healy's card by warning his audience that to re-open the Smith case might complicate progress on 'another educational scheme'. This was a clear threat to go slow on, if not to abandon, plans to establish the projected National University of Ireland.

Healy accepted defeat, as did (astonishingly) the rest of the deputation. Clearly a *de facto* Catholic university was more important than a multi-denominational boys school in Tipperary town.

But if Healy and the other three clerics could be mesmerised by Wyndham's logic, the stubborn Killenaule pastor was not to be put off so easily. Having gained one ally from among the Bishops, he now sought support from the Catholic hierarchy as a body. Although he appears to have met with an implicit refusal, in April 1904 came what must have seemed to him a real breakthrough.

Croke's successor at Cashel, Archbishop Fennelly, authorised Humphreys (or asked him, if one accepts the latter's version) to fight the Catholic case in the courts.²² Moreover, Fennelly promised not only that diocesan funds would meet two-thirds of the costs of the litigation, but also that the Cardinal Primate (Logue of Armagh) would pay the remaining one-third.



Now began a shabby episode that, if one accepts the substance of Humphreys' later account, reflected scandalously on the entire legal profession of the day.²³ The priest spent many months composing a detailed brief for the lawyers he could now afford to employ. However, seven leading members of the Irish Bar in turn declined to take on the case. Among them were Tim Healy (later first Governor General of the Irish Free State) and Sergeant Sullivan, later Casement's defender. One of the seven even told Fennelly (behind Humphreys' back) that the case was not worth fighting because the endowment was essentially Protestant in character — and then admitted to his client that he had not bothered to read his brief, after Humphreys' months of work.

To launch a case challenging the endowment required the *fiat* (or consent) of the Attorney General, and this in turn had to be grounded on a certificate by a barrister. After he boldly approached several barristers on the Government side after his experience of those with nationalist backgrounds, Humphreys was again turned down by, among others, two Attorney Generals of the day, Cherry and Atkinson.

An innocent abroad in politics — and the case had by now taken on clear political undertones — Humphreys probably did not realise that he had not helped his chances of getting the *fiat* by persuading the ultra-Catholic weekly *The Leader* to publish a hard hitting factual account of the Erasmus Smith Endowment. A series of articles by himself appeared over a period of some 12 months from July 1905.

By late 1908 it had become clear to Humphreys, after a firm refusal of a *fiat* from Cherry, that he was now totally on his own. His own archbishop Fennelly had also pulled out, because (one suspects) of what a later age would call a clash of personalities. Undaunted by the prospect of appearing in person in the High Court, where he was almost certain to meet a hostile reception, Humphreys in December 1908 applied to it for an order directing the Attorney General to comply with the terms of a 1907 letter from Cherry's predecessor. This, the priest claimed, amounted to an undertaking to give the *fiat* for an action against the Governors of the Erasmus Smith Schools.

Over the next 18 months there ensued a protracted, bitter and at times unedifying struggle between the parish priest of a remote Tipperary village and the cream of the Irish judiciary. When 20 years earlier the Government set up the 1885 Commission, it purported to maintain at least a semblance of impartiality by appointing at least one Catholic judge and one other Catholic on it. Now in 1908 Humphreys found himself confronted by a bench of three Protestant judges. While the priest's conduct at times showed signs of deviousness, that of the judges — with some exceptions — reflected little credit on the legal machinery of the day.

The first round went to the Castle, after Humphreys got a reasonably fair hearing. While agreeing that the question of the application of the endowment ought to be judicially resolved, the court accepted the Crown submission that it was for Humphreys himself to litigate, instead of trying to force the Attorney General to do so, and also that it was reasonable for the latter to insist in advance on security for his costs. The court declined to make the order sought, after complimenting the plaintiff on having put his case 'ably and temperately'.

From this decision Humphreys naturally appealed at once, and a month later in January 1909 the Court of Appeal, consisting of Lord Chancellor Walker and Lord Justices Fitzgibbon and Holmes, sat. Fitzgibbon apparently saw nothing wrong in effectively re-trying a case he had already decided as a Commissioner back in 1894. Once again Humphreys lost, the court confining itself to the nett question as to whether or not the Attorney General, in refusing his *fiat*, had acted reasonably. Without calling on the Crown, they decided they could not question what had been essentially an exercise of discretion.

Some of the exchanges showed Humphreys at his best. When he tried to widen his case by



alleging breaches of trust by the Governors, Lord Justice Holmes pointed out that it was unfair to make such allegations in the absence of the real defendants, the Governors. Never caught out for an answer, Humphreys tartly (but correctly) pointed out that in fact the Governors were adequately represented, since on the bench were two *ex officio* Governors, Holmes himself and his colleague Walker!

Although seeming at each stage of the litigation to have lost, Humphreys became adept at finding loopholes in the Crown case and in the judicial rulings, and showed an uncanny ability to build on even the flimsiest of concessions made by his opponents. Convinced now that all he had to do to commence litigation that could not be struck down was to give security for costs, he set about collecting the £400 needed for this purpose.

By July 1909 he had deposited the money with the Attorney General. The Erasmus Smith tenants subscribed an astonishing £100 (perhaps £1,000 by today's values); the rest came from a wide variety of sources. These included the priests of the Cashel diocese, Bishop McCormack of Galway and the president of Rockwell College.

Now forced to abide by the rules of the game, a new Attorney General issued his *fiat* without delay, and Humphreys in turn served his writ in August and his Statement of Claim in October 1909. The Governors then found themselves under pressure, with their lawyers obviously demanding time to prepare a defence in such a complicated case. In November they were given an extension of time for delivery of the defence. Meanwhile, they warned Humphreys by letter that his case contained technical flaws that would be mentioned in court. So it was — on a date by which his opponents knew the letter had not reached Killenaule!

In the absence of Humphreys, however, the Master of the Rolls declined to make a decision, on the ground that the technical points had not been mentioned in Humphreys' presence at the previous hearing. The latter now got an extension of time, only to find on December 17, 1909 that he was faced by a team of three King's Counsel and a junior barrister — 'bringing out an 81-ton gun to shoot a fly', as he called it. Again he got short shift; his proceedings were stayed indefinitely, for being wholly irregular.

Undaunted as usual, Humphreys now took this decision to the Court of Appeal, which sat in January 1910. This time there were only two judges. The Lord Chancellor and the Chief Baron (incidentally, a Catholic) had taken Humphreys' earlier objection and vacated the bench; both were Erasmus Smith Governors!

Still sitting were Holmes (who had already decided against Humphreys, if on a different point) and Lord Justice Cherry, promoted to the bench since as Attorney General in 1908 he had refused his *fiat* to Humphreys. Understandably, Humphreys could not allow Cherry's presence to pass without adverse comment, since Holmes was also an Erasmus Smith Trustee.

Equally understandably Cherry lost his temper, and angrily suggested that Humphreys take his case to the House of Lords; later he did admit to being in a difficult position as the man who had refused the *fiat*. Finally Cherry justified his presence on the court lamely by pointing out that Holmes was also a Smith trustee, and that without them both the court just could not be constituted for the appeal!

Although he did not know it — and probably would not have admitted so, if he did — Humphreys was now near the end of the road, for the case suddenly took a new turn to which he had no effective answer. Lord Justice Cherry, perhaps with his patience exhausted by the abrasive Humphreys, argued that since he was a party to the proceedings Humphreys could not, under rules of court, appear in person.

To this totally new point Humphreys angrily retorted that he had no intention of employing



counsel; he had, he explained, acquired an expert knowledge of the whole complex affair that no lawyer would take the trouble of acquiring. As if relieved by this new obstacle to their opponent, counsel for the Crown expressed no view, leaving the point for the court to decide.

Deadlock had now been reached between Humphreys and the Court of Appeal. It only remained for the judges to hold that the writ was irregular and a nullity, because it did not comply with rules of court. The order of the Master of the Rolls stood, and the proceedings remained stayed, or suspended indefinitely.

Six months later, in June 1910, Humphreys made three final desperate attempts to keep his action alive. First, he tried by a motion in the Appeal Court to set aside the entire earlier proceedings, but was reminded by Holmes of the earlier ruling about appearing in person.

Then he made a similar application to the Master of the Rolls, who predictably found himself bound by the higher court. The Master of the Rolls was, incidentally, Lord Justice Meredith, a member of a distinguished Dublin legal family that was to figure in the Erasmus Smith case again 21 years later. Finally Humphreys approached both the new Attorney General (a Catholic, Redmond Barry) and the Commissioners for Charitable Donations and Bequests. He was turned down by both.

Three years later, in 1913, Humphreys published his third (and, as it turned out, his last) book on the Endowment. After recording his various attempts to start a legal action between late 1908 and mid-1910, he followed with a 50-page history of the Endowment that is easily the best of his three. In characteristically defiant language, he ended by accusing the Governors of fraud and forgery, and invited them to proceed against him for either civil or criminal libel. Needless to say, the challenge was ignored.

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Now 70 years of age, Fr. David Humphreys finally and understandably gave up the fight for the share of the Erasmus Smith Endowment, having spent over a quarter of a century in a largely one man campaign. In the circumstances of the day it looked like the end of the struggle, with victory going to the Establishment-backed endowment.

As the nationalist movement grew in strength with the foundation in November 1913 of the Irish Volunteers, and as county Tipperary in particular became embroiled in the political and military struggle for independence, Tipperary Grammar School was forgotten for some years by most people. Then suddenly, and quite unpredictably, it returned to public notice again and eventually with the return also of peaceful conditions the Catholic tenants found a new champion, who proved ultimately to be more successful than Fr. Humphreys.

In 1922, on the outbreak of the Civil War, the National Army of the Irish Free State found it necessary to occupy the school (as the Williamite forces had done 232 years before), for use as its headquarters in the campaign against the anti-Treaty or Republican forces then controlling large areas of south Tipperary and west Waterford.²⁴¹ The staff and 70 or so pupils were transferred to Bishop Foy School in Waterford city, and subsequently Tipperary Grammar school was converted into a temporary jail for political prisoners.

During this military occupancy the building was seriously damaged by fire. When at the end of the Civil War the Free State troops left (in September 1923), the new Government had to spend thousands of pounds in reconstructing and re-equipping the School. They also compensated the Governors to the tune of £2,000.



The Governors, however, took no steps to move back from Waterford and reopen the Grammar School. Although ready for use from the mid-1920s, the renovated building remained closed and disused. In fact, it was not to operate as a school again until the early 1940s — when it re-opened under completely new management. For between 1927 and 1938 the Erasmus Smith affair came to life dramatically again, and by the outbreak of World War II in 1939 had been finally settled to the satisfaction of both Catholics and Protestants.

By 1926 the Governors were forced to accept that, with the end of British rule and the establishment of a new Irish State, Tipperary Grammar School would never resume in the way it had operated before the arrival of the Free State troops in 1922. Many members of the classes that had patronised the school no longer resided in the vicinity; of those still remaining, their reduced circumstances (largely as a result of the operation of the Land Acts) made it impossible to afford the fees for an exclusive boarding school.

It was all very well for the Protestant Archbishop of Cashel to call publicly in February 1927 for the adaptation of the school to cater for the local gentry. He did not know that the Governors' financial advisers had warned that running costs would now place an intolerable strain on the Endowment's income. But he should have known that, in any event, the gentry — for a variety of reasons — had become rather thin on the ground in county Tipperary.²⁵

Anxious to clarify the new legal status of the School, now that its royal charter could not be easily altered, the Governors set up a special committee to advise them on 'a new educational policy ... with special reference to Tipperary Grammar School.' This body concluded in February 1927 that a change would now require a private Act of the Dail, which might give the Commissioners for Charitable Donations and Bequests power to amend the charter. As an indication of the unreal world the Governors still lived in, they actually had in 1928 a draft Bill drawn up and presented to the Minister for Education.

The Governors had, however, reckoned without the feelings of local Catholic inhabitants in the vicinity of Tipperary, an area that had taken a prominent part in the events that had led first to the Truce and then the Anglo-Irish Treaty of 1921. The Cosgrave Government, perhaps in its anxiety to accord fair play to the Protestant community, had got as far as introducing the private Bill when several T.D.s objected and forced the withdrawal of the Bill. Meanwhile, in September 1928 Tipperary Urban Council had passed a resolution urging the county and urban councils of the whole county to co-operate 'to ensure that the ... advantages of the ... Trust be made available to all denominations ...'

The pace of events now quickened. That same month, on 20 September 1928, a meeting claiming to represent tenants of Smith lands in several counties, met in the City Hall, Dublin, and on the proposal of Archdeacon Cotter of Tipperary formed the Erasmus Smith Endowment Association, a Catholic pressure group.

The action now remained in Dublin. There a Catholic priest, Fr. Myles Ronan, had begun to take an interest in Erasmus Smith and in the administration of his endowment for the previous 170 years. A successor to Fr. Humphreys, and an abler and more balanced one, with a real flair for historical research, had arrived on the scene.

In April 1929 the Governors, after a meeting between Professors Thrift and Alton of Trinity College (two Governors) and President Cosgrave and his Minister for Education, Prof. John Marcus O'Sullivan, concluded that they would not be justified in spending the Endowment's funds in litigation to get judicial approval of a change of policy by the Endowment. A month later, a Galway T.D., Frank Fahy (later a long-serving Ceann Comhairle) put down a motion on the Dail order paper proposing a Government Commission to investigate the whole Endowment.

This motion was withdrawn as quickly as the Bill in 1927. Perhaps Fahy was informed that just



such a Commission had been offered (and, by implication, rejected) by the Government to the Governors a month earlier?

In the same month as the Fahy motion was taken off the Dail agenda the Erasmus Smith Governors, in a major U-turn, decided to instruct their lawyers to commence whatever legal proceedings were necessary to bring before the courts the question of the future of the Endowment. Specifically, they sought an answer to the vital question: was this an exclusively Protestant endowment?

A meeting between the Governors' counsel and the Attorney General was arranged, to try to settle the precise form of the action. During the Summer of 1929 these discussions continued, and by October 1929 the Governors were ready.

That month the Governors served a writ on the Attorney General as defendant. Later, by orders of the High Court, two more sets of defendants were added, representing the successors of Catholic and Presbyterian tenants. In effect, the new Erasmus Smith Endowment Association formed a year earlier became a party to the action, through some of its members.

Soon the Governors must have come to suspect that in Fr. Ronan they had an opponent at least as formidable as Fr. Humphreys. From early 1930, with the assistance of Brother Joseph Crehan of the Christian Brothers Order, he had immersed himself in the history of the Endowment, working for eight hours a day six days a week for some 14 months.

In the Summer of 1930 Ronan spent his entire annual holidays across in London in the vaults of Christ's Hospital, where many of the original legal documents relating to the Endowments had been preserved. Here he found a researcher's dream come true. Almost unbelievably, he discovered a locked box belonging to Erasmus Smith himself, with his signature on some of them. This box, apparently unopened for two centuries, contained much that Ronan had been informed by the Governors either had not survived or would not be made available to him.

On the basis of this unique source-material Ronan built the thesis which later became the backbone of the Catholic tenants' case at the hearing in 1931 of the action. Using this material, counsel for the Catholic defendants were to argue that in reality Smith was not a 'free' founder of a charitable trust, but instead that (possibly because he had taken lands across the Shannon illegally) his lands had been taken over by the Cromwellian State.

Consequently, Ronan concluded, the Endowment was *de facto* a State one, not a religious one, and primarily an educational one. Thus he came to a fundamentally different conclusion from that reached in 1894 by Lord Justice Fitzgibbon.

An June 1931 at the Four Courts, Dublin, the Governors' action opened before Mr. Justice Creed Meredith.²⁶ By a strange coincidence a member of the same family as the Master of the Rolls 18 years earlier, Meredith was also the son of a Secretary of the old Royal University and of the first Secretary of the Endowed Schools Commission.

Meredith junior had, however, thrown in his lot with the Sinn Fein cause even before 1922. In 1918 he had become a judge of the (underground) Dail High Court, becoming a judge of the Free State High Court on the establishment of the new regime in 1922.

Representing the four parties were some of the leading lawyers of the day. Missing, of course, was Edward Carson; instead, the Governors' team now included A. Overend K.C., later a High Court judge, and Mr. T. C. Kingsmill Moore, later a Supreme Court judge. Junior counsel for the Attorney General was Vincent Rice, later a Fine Gael T.D., while the Catholic interest was represented by Cecil Lavery K.C. (later of the Supreme Court), George Gavan Duffy K.C. (later president of the High Court) and Sean Hooper, son of an editor of the 'Freeman's Journal'.

The evidence in this vital case was to last for an almost unprecedented 24 sittings of the court — eight days in June, 15 in July and one in August. Meredith's judgement in October occupied a whole day being delivered, and two more days in November were taken up with ancillary matters such as costs. Nor was the case to end in the High Court.

Moreover, the 1931 hearing did not comprise the full trial of the action. By agreement, Meredith was asked to decide as a preliminary issue the nature of the Endowment. Related to the decision of this was the question whether the changing times had given rise to the need for the application by the courts of the *cy-pres* doctrine. This was an old rule under which, when a charitable trust became unworkable, rather than allow it to fail, the courts would frame a new scheme closely resembling the original purpose. As Meredith was to remark later, this would allow for the possibility that 'the die-hard founder may turn in his grave at the thought of what is being done with his money'.

An impressive array of expert witnesses, versed in both Irish and Reformation history, gave evidence on both sides. For the Governors the distinguished historians Walter Allison Philips of Trinity College and John R. H. Weaver of Oxford appeared. For the Catholic defendants the main witness was Fr. Myles Ronan, whose evidence occupies almost 200 printed foolscap pages and comprised over 1,100 questions and answers. For the same side Rev. Prof. Timothy Corcoran of U.C.D., himself the son of an Erasmus Smith tenant in the barony of Ikerrin in county Tipperary, also gave evidence.

As the case progressed, it became evident that the judge was not wholly impressed by the Governors' case; especially after Ronan's evidence, Meredith's sympathy for the Catholic tenants grew. In a remarkable exchange with the Governors' counsel, the judge said that it was pathetic to see a lobster being picked with its own claw, a reference to the blunder the Governors had made in initiating the litigation.²⁷

At an early stage Prof. Philips did not help his case when he admitted to having held the view that it was Sinn Fein who had murdered Lord Mayor MacCurtain in Cork in 1920! Similarly, the Registrar of the Schools blundered by revealing that, as he did not even know the extent of Smith lands, he waited for tenants to seek the free education they were entitled to.

Reading Meredith's judgement 60 years later, it is obvious that the evidence of Ronan was the turning-point in the whole case. All through he showed a sense of moderation and fair play in his views. He revealed that a nephew of Smith had returned to the Catholic faith, and that Smith himself was in favour of repeal of the Penal laws. The priest spent no less than four days in the witness-box, including two gruelling periods of cross-examination for the Governors and the Presbyterian defendants — 'an ordeal' as Meredith later described it.

On October 12, 1931, Meredith found in favour of the Catholic defendants in a lengthy judgement. Analysing the rival cases, he held that no legal principle existed under which a provision for religious instruction, or in favour of religion, must be regarded as of primary importance in a trust. He pointed out that in this case such a rule would operate to the prejudice of both Catholic and Dissenter, since the endowment had been founded in the days of the Penal laws. In a scathing commentary on Smith himself, he said there was no evidence that he had any interest in Ireland or the Irish.

Ultimately he held that Smith's paramount intention (so far as it related to Tipperary Grammar School) was to provide free education for certain poor children. However, the Endowment was charitable in nature, and specifically an educational, not a religious, endowment. As a result, Catholic tenants on what had (before the operation of the Land Acts) been Smith estates were entitled to a share in the education provided by the Grammar School.

Since this decision was clearly a defeat for the Governors, they must now foot the bill for costs, estimated at the time at between £25,000 and £50,000. For this reason, and because a vital



principle was at stake for them, the Governors lodged an appeal, and five months later in March 1932 the case was argued in the Supreme Court before Chief Justice Kennedy, Mr. Justice Murnaghan and Mr. Justice Johnston.²⁸ As an indication of the costs involved, the official Transcript of Evidence (which the appellants had to furnish) was 2½ inches thick, ran to almost 500 pages of closely-printed foolscap and had to be bound in hard covers.

The case now suddenly took a wholly unpredictable turn. Before the Supreme Court could deliver its judgement Chief Justice Kennedy died, and an almost unbelievable five years were to elapse before the remaining two judges sat in public on the case. Then they were forced to admit that they were unable to agree 'on all the essentials of a decision'.

Three months of intense negotiations between the various interests (none of whom presumably wished to go through the ordeal of a new hearing and incur further heavy costs) now followed. Then on 12 June 1937 a settlement was reached, and its terms (later given effect to in the private Act of 1938 already summarised) were approved by the court.

With Tipperary Grammar School, after the passage in April 1938 of the Act, about to pass into Catholic ownership after almost 300 years, the Erasmus Smith Endowment Association now moved fast to ensure that the Christian Brothers, who had provided second-level education in Tipperary for some 80 years, secured control of the School. In the Dail the Minister for Education had promised to give sympathetic consideration to a scheme submitted to him 'by representatives of parties and districts ... claiming benefits under the Bill'.²⁹

During the spring of 1939 discussions between the Association and the Minister led to the drafting of a scheme, giving the Brothers a dominant role in the running of a new second-level school having a strong agricultural bias. The scheme would establish a new charity with the Minister as trustee, and the Grammar School would be leased back by him to the Brothers for 150 years at an annual rent of one shilling (5p).

On 28 February, 1939 the old order finally came to an end with the minimum of fuss, when the local Church of Ireland rector formally handed over the school keys to the Minister. He in turn gave possession of the buildings to the Brothers. In mid-August 1939 the Association approved of the scheme, and in Jury's Hotel, Dublin on 29 November, with Archdeacon Nolan of Tipperary in the chair, the final E.S.A. meeting formally adopted the scheme.

It only remained now for the High Court to approve of the scheme. This it did with effect from 2 July, 1942. By an extraordinary coincidence, the judge then dealing with charities was none other than George Gavan Duffy, who 11 years before had appeared for the Catholic tenants.

In August 1941 the Brothers, with their staff and pupils, moved from the old Famine workhouse (locally known as the Monastery) into the Grammar School complex. Three months later, on the night of 21-22 November 1941, a disastrous fire destroyed the building, and it was 30 October 1955 before the Brothers were back into a totally rebuilt school.

Sadly, a few years after the re-opening the last physical trace of the old pre-Reformation Augustinian Abbey, a solitary (almost symbolic) arch, which had survived the Cromwellians, the Williamite soldiers, the long Protestant occupation, the Free State soldiers and the Republican 'irregulars', disappeared — in circumstances about which local people are to this day tight-lipped!

In retrospect, it is easy to see now that the two sides to the controversy of the previous century each made a major tactical blunder. For Fr. Humphreys it was to persist in arguing that, since Catholic Emancipation, the Endowment had lost its previously essential Protestant character, instead of concentrating on proving (as Fr. Ronan was to do later) that it was primarily an educational rather than a religious trust. In defence of Humphreys it can at least be said that he was merely a lay litigant, bereft of expert legal advice and apparently eventually also denied even the support of his own superiors.



No such excuse can be made, however, for the extraordinary change in tactics made in 1928 by the Governors, when they decided to take the offensive in starting litigation. This at once put them at a serious disadvantage. They now had to make the running and prove their case. In doing so they drained the Endowment of tens of thousands of pounds, at a time when they should have been keeping its funds intact to cope with the changing society that was evolving in the new Irish State.

It only remains to bring the story of the Erasmus Smith Endowment, so far as it relates to the Abbey CBS, Tipperary (formally named the David Humphreys Memorial School) up to date, or at least to 1986. Twice in the past decade a series of parliamentary questions have been asked in the Dail relating to the state of the post-1938 fund. By 1942 the original £65,000 provided for under the settlement of the appeal had grown to £72,000; by 1986 it totalled an almost incredible £313,000. Each year since 1942 a sum of almost £600 had been paid towards agricultural instruction in the new school.

However, successive Ministers for Education have, since the introduction of the so-called free secondary education policy of the late Donogh O'Malley, suspended the payment of scholarships, on the ground that these are 'no longer considered necessary'. Exactly how this apparent breach of a scheme, settled by the courts and given effect to by the national parliament, is justified was neither asked nor explained in the Dail, and as of 1986 no formal revision of the 1941 Scheme had been made.

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3. For the use of the Christian Brothers Educational Record (not available in the National Library of Ireland) see O'Mahony at 1 above — I am indebted to Bro. J. C. Hamill of C.B.S., Drogheda.

For permission to inspect the Ronan papers (see 2 above), I am indebted to my former colleague, Mr. Vincent Grogan, S.C., Dublin.

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For the Skehan data of Fr. Humphreys, and for permission to use the only extant copy of the Fr. Humphreys 1895



book, I am indebted to the Diocesan Archivist, Fr. Christy O'Dwyer, himself a (post-1941) Erasmus Smith Scholarship 'boy'.

*4. In footnotes to text, these 3 sources are respectively called 'Brief', 'Evidence' and '1894'.

FOOTNOTES

1. Dictionary of National Biography, 1909, 441-2; Ronan, 11-13.
2. DNB; Quaine, 41.
3. Evidence, 2231.
4. Do., 3465. For background to Cromwellian land grants, see Prof. J. G. Simms's article elsewhere in this Journal, and Ronan; 'Leader'; and Humphreys 1895.
- 5- See Bourke, M: John O'Leary (Tralee, 1967), pp. 6-9.
6. See article on McCarthy in Tipperary Historical Journal 1988, by de Búrca, M.
7. Quaine, 42.
8. For legal documents relating to the Endowment, see Ronan; Humphreys 1913; and Brief.
9. Evidence, 534.
10. Do., 2454.
11. O'Mahony, 141.
12. Ronan papers.
13. Evidence, 4281.
14. Quaine, 57, 65, 68.
15. O'Mahony, 146.
16. Do.; also, 1894, Appendix A, pp. 39 & 46.
17. Skehan papers.
18. For Commission hearings generally, see 1894.
19. 1894, p. 261.
20. 1894, p. 254.
21. Evening Herald, 31.1.1901.
22. O'Mahony, pp. 149-151.
23. For Humphreys' 1904-1913 litigation see Humphreys 1913.
24. O'Mahony, p. 151; Quaine, p. 73.
25. For principal facts, 1926-1931, see O'Mahony.
26. For 1931 hearing generally, see *Governors v. Attorney General* (Bibliography).
27. Irish Independent, 14.11.1931.
28. For Supreme Court hearing and subsequent events generally, see O'Mahony, pp. 115-116.
29. Dáil debates, 6.4.1938.

