PROUDFOOT, J.]

SWIFT *v.* THE PROVINCIAL PROVIDENT INSTITUTION.

Insurance—Benevolent Society—R.S.O., c. 136 R.S.O. c. 172.

The "Act to secure to Wives and Children the Benefit of Life Insurance," R.S.O., c. 136, applies to insurances in Societies incorporated under the Benevolent Societies Act, R.S.O., c. 172.

In re O'Hern, 11 P.R., 422, overruled.

Judgment of PROUDFOOT, J., reversed, BURTON, J.A., dissenting.

G. M. Rae for the appellant.

J. S. Robertson for the respondent.

Q.B.D.]

HANDS *v.* THE LAW SOCIETY OF UPPER CANADA.

Barrister and Solicitor—Law Society—Disciplinary jurisdiction — Evidence — Notices—R.S.O., c. 145.

In exercising their disciplinary jurisdiction, the Benchers of the Law Society, if they take evidence at all, must take it upon oath, unless the right to have the evidence taken upon oath is waived.

Where the plaintiff attended before the Discipline Committee and, without objection, allowed witnesses to make unsworn statements, and examined them upon them, and made an unsworn statement himself, it was held that he could not, after the investigation was ended, take exception to the regularity of the proceedings on the ground that no oath was administered.

Nor could he take exception to the regularity of the proceedings after the investigation was ended, because the notice to the members of the Discipline Committee of the meeting to consider his case did not specify the nature of the business to be disposed of, nor because no notice of the meeting was sent to the Treasurer of the Society, *ex officio* a member of the Discipline Committee, he being at the time in Europe.

Judgment of the Queen's Bench Division, 17 O.R., 300, reversed, and that of BOYD, C., 16 O.R., 625, restored.

A. H. Marsh and *W. Read* for the appellants.

C. J. Holman for the respondent.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

Full Court.] [Dec. 21st, 1889.

REGINA *v.* MCMAHON.

Criminal law—Indictment for murder—Evidence, admissibility of—Statements of deceased after being shot—Complaint—Cross-Examination of Crown witness—Particulars of complaint—Res gestae—Dying declaration.

At the trial of the defendant upon an indictment for the murder of one H., a witness for the Crown swore upon direct examination that H. lived about thirty rods from him, and that one night about half an hour after he had heard shots in the direction of H.'s house, H. came to the witness' house and asked the witness to take him in, for he was shot. The witness did so, and H. died there some hours afterwards.

Evidence of statements made by H. after being taken into the witness' house was rejected.

Upon a case reserved it was contended on behalf of the defendant (1) That counsel for the defendant was entitled to ask the witness in cross-examination whether H. mentioned any particular person as the person who attacked him ; (2) That statements made by H. after he arrived at the witness' house were admissible as part of the *res gestae* ; (3) That such statements, or some of them, were admissible as dying declarations.

Held, 1. That the admission of evidence of a complaint having been made ought properly to be confined to rape and its allied offences, but even if such evidence is admissible in other cases, it can only be so where the person making the complaint has been examined as a witness ; and moreover in this case, when H. asked the witness to take him in for he was shot, he was not making a complaint at all, but merely assigning a reason for asking to be taken in, and the question proposed to be asked was not relevant.

2. That the statements made by H. after he was taken into the house were not admissible as part of the *res gestae*, being made after all action on the part of the wrongdoer had ceased through the completion of the principal act, and after all pursuit or danger had ceased.