Cúirt Uachtarach na hÉireann
Supreme Court of Ireland

Acceptance Remarks:
Conferring of Honorary Doctorate of Philosophy

Delivered by Mr Justice Donal O'Donnell at Dublin City University on 24 October 2024

Good afternoon President, Chancellor, members of the academic faculty, graduates, and guests. This is a very proud day for me certainly, but it is I think – indeed I know – a proud day for everyone in this hall, not only for the graduates, but also for their parents, their families, friends and supporters.

I know it is a proud day for everyone because I was in your situation as a graduate of UCD 44 years ago in 1980, the King's Inns in 1982, the University of Virginia in 1983, and because I was one of the family, friends and supporters when my children graduated from a number of universities – including this one – and also when my father received an honorary doctorate from Queen's University Belfast 30 years ago in 1994. I think of all those days today.

I would like to congratulate all the graduates here today and to say a few things. In doing so, I am conscious that I have been told that my remarks should be short. I do not know if that is because of some car crash experience with an overly loquacious honorary graduate in the past, or simply because the President has read some of my judgments, which have never been described as concise, succinct, pithy or of using one word where three will do. I do want to particularly commiserate with those of you who as law students have endured the trial by ordeal of learning some law by reading those judgments, and commend the courage of the university in inviting me to speak at this ceremony without the safety net of a band like they do at the Oscars to play me off if I go on too long.

It is interesting that the essential tradition of a graduation ceremony has been maintained without much change over the intervening 44 years since I first encountered it. In the 1970s, it might have been predicted that the tradition of a formal graduation ceremony with Latin and gowns would not last much longer, but it has and that is because what is traditional in this case still performs a function which we value: the formal public recognition of significant educational achievement.

I am conscious that this honour is not just personal, but also reflects the fact that in 2024 we are celebrating 100 years of an independent Irish legal system which can be dated back to the enactment of the Courts of Justice Act 1924. The process of commemorating that event, and celebrating this centenary, has been a valuable and instructive one. In particular, connecting again with the spirit of that turbulent and formative period in our country's history helps us to recognise something that was apparent then, and has come increasingly into focus now; that is that a functioning legal system is an essential element in a rights-based democracy with a separation of powers enforced by the judicial branch. That operates not simply at the elevated constitutional level, but also at the most basic level, that the administration of justice in ordinary courts day in day out is a vital component of a modern rights-based democracy. That is important for everyone, not just lawyers.

We have a weakness in Ireland for the lost cause narrative in history. There was a popular account of Irish history that the radical promise of 1916 and the democratic programme was stifled by conservatism in the new state. In the legal field, the Civil War divide meant that part of the dispute contended that the legal system was no more than a continuation of the system imposed upon us by our colonisers and that we lost the chance of a revolutionary '*Wind that Shakes the Barley*'-style court system, mixing a revolutionary present with our ancient Brehon past. That narrative gained a certain impetus with the dispute between the then Chief Justice Hugh Kennedy and the Judiciary Committee, which had been established to advise the Irish government on the establishment of a new court system, on the question of court robes. Kennedy was a skilled phrase maker, and when he complained about what he described as retaining the badge of servitude, it gained a certain currency.

One thing I did learn in the course of my legal education is that it is important to look not just at what a court said, but at what that court did. If and when we clear away some of the fog created by the Civil War divide, and the sideshow of the judicial robes debate, it is apparent that the Courts of Justice Act 1924 was part of a very radical programme; a sweeping away of the old order and the creation of a modern independent judicial system. Some of the changes made reflected a desire to move away from a British system of justice, so the magistrates' system was removed and replaced by a district court with extensive jurisdiction and staffed by professional lawyers. However, some of the changes were simple reforms which were introduced because they made sense. For example, the Act of 1924 saw the introduction of a Court of Criminal Appeal for the first time in Ireland, and the establishment of a mandatory retirement age for judges.

The second important feature of note is that many of these changes were made by young people. To borrow and adapt Kevin O Higgins' famous phrase, the legal system in 1924 was built by a small group of young men standing amidst the ruins of one legal system with the foundations of another not yet laid. That is an important message for young graduates whatever your discipline and is the same message you learn in sport: if you are good enough, you are old enough.

I think that if aspects of the Irish legal system have been continued or maintained over the last 100 years, it is for a similar reason that this tradition of graduation from university is maintained: they remain in place and only deserve to remain in place so long as they still perform a function which is valued. You might well say that it does not matter if the system was once radical but is now 100 years old or has not changed in 600 years: it is still old and out of touch. But the truth is that it has changed considerably, and has been changed by people like you. Lawyers and non-lawyers.

You graduate at an interesting moment. The law graduates here are the first lawyers of the second century of an independent Irish legal system, and have the opportunity of approaching that new century with the same energy, radicalism, and idealism of those who built the legal system in difficult circumstances 100 years ago. However, that is in fact true for all of us. We are now into the second

century of independence, and you all have the opportunity to shape the future just as much, if not more, than the generations of the past.

1980, when I received my BCL degree, was a fairly low point in the legal education system in Ireland. Resources were very limited, faculties were small, and students were uncertain. The conferring ceremony took place in a large featureless room with a low ceiling and the degree was photocopied. At that stage, it was confidently predicted that we would see the end of degree ceremonies, but I am particularly glad and grateful that they have continued until this day and that the function the form follows to this day is still vital, that is a belief in the value of education, and in my context, a legal education.

The Nobel Prize winner J.M. Coetzee's book *Elizabeth Costello* contains a dream sequence where the heroine finds herself at the entrance to some territory, guarded by a formidable gatekeeper. It has vague echoes of St. Peter and the Heavenly Gates but is entirely secular. The guardian does not look at her but tells her to write down what she believes in. It is somehow clear that she cannot pass through without doing so. When she, thinking no doubt that this refers to religious belief, replies as many of us might today that she does not really believe in anything, he turns for the first time to look at her and says:

> *"We all believe. We are not cattle. For each of us there is something we believe. Write it down, what you believe. Put it in the statement."*

And it is true, whether we articulate it, define it, or ever write it down. We all believe in something.

Whether you are now standing at the entrance of a legal career or another career, it is worth asking yourselves what you believe in. I am coming nearer to the exit from a legal career and this occasion has made me review my answers. I now realise that I do believe in something - something that I think Irish people have believed in not just for the last century but for more, and that is the value of education. That is something based on the same essential structure as the legal system itself and is central to my own field of endeavour, but it is to be found in most worthwhile enterprises. A belief that problems can be addressed and

resolved by study, discussion, debate and reason alone. That is a tradition worth maintaining for the next century.