

Editorial

Fáilte go dtí an chéad eagrán 2023. Following our special edition on the 21st anniversary of the TD case in late 2022, we return to our regular format of a mix of articles and book reviews for this edition, with a mix of judicial, academic, and early-career authors.

Given the fears recently expressed in the media about a potential forthcoming banking crisis, it is fitting that we begin with an article by Dr Elise Lefevre and Dr Jonathan McCarthy, who investigate the steps taken in the recapitalisation of Anglo Irish Bank in order to understand how the resolution worked and why it was controversial. They argue that despite the significant costs, this was a successful endeavour and that recapitalisation should therefore be treated as a relevant option for banking resolution in the future.

In the second article, Dr Brian M. Barry and Dr Rónán Kennedy discuss the results of a survey of Irish judges on their use of technology in their role, their attitudes towards technology, and their views on how it impacts on the judicial function. The piece highlights various issues in relation to online hearings and gaps in technology available in courtrooms. It also asks some pertinent questions relating to the potential future use of AI in Irish Courtrooms.

Jack Healy provides us with a fascinating insight into a device used to help juries better understand their roles in trials in England and Wales in the next article. Having surveyed the empirical evidence and relying on further anecdotal evidence, it is suggested that the ‘route to verdict’ model is one the Irish courts should consider adopting.

In a further timely piece, Mr Justice Peter Charleton and Ivan Rakhmanin warn of the dangers presented by expert evidence. In order to ensure that the judge retains the decision-making capacity, they argue for a strict application of the rules as to expert testimony and a fact-based approach, reminding us that no greater weight must be given to expert evidence than to ordinary evidence of fact.

The next article centres on a new and potentially powerful tool recently identified by the Supreme Court in the seminal Costello case. Seán Rainford examines this concept of ‘constitutional identity’, the role it played in the judgment, its place in European Union law, and how it fits with prior constitutional interpretation. He proceeds to argue that introducing this concept into Irish law could ‘cut against the principle of popular sovereignty, previously held by the courts to be the fundamental bedrock of Bunreacht na hÉireann.’

Dr Susan Leahy then considers the current rules on consent in Irish rape law and examines the realities of their operation in practice. She relies on her empirical research carried out as part of the Realities of Rape Trials in Ireland: Perspectives from Practice research project. Having examined the operation of the current law in this area, she offers recommendations for both legislative and non-legislative interventions which may contribute to a better understanding of consent in Irish rape trials.

The final article centres on ‘one of the greatest judges in the English-speaking world in the 20th century’. Mr Justice Gerard Hogan re-examines the legacy of Alfred Thomas Denning in a piece which should give pause for thought on the role of the judge more generally as he asks what made Denning such a remarkable judge.

In the book review section, Bláithín O'Shea reviews Lyndon Harris and Sebastian Walker: *Sentencing Principles, Procedure and Practice* (3rd edn, Thomson Reuters Sweet & Maxwell 2023) and Max Barrett reviews Oonagh B. Breen, and Noel McGrath (eds), Palles, *The Legal Legacy of the Last Lord Chief Baron* (Dublin and Chicago: Four Courts Press 2022).

Thank you, as always, to our editorial team at the University of Limerick, our copy-editor – Bláithín O'Shea, our recently appointed Deputy-Editor – Dr Laura Donnellan, who did trojan work on this edition, our Judicial Board, all of the authors who contributed to this edition, and finally to the external reviewers who gave their time so generously.

Go mbainfidh sibh taitneamh as agus beannachtaí na casca oraibh go léir.

Dr Laura Cahillane
Editor in Chief