

## JUDGES, EDUCATION AND CLASS IN IRELAND

*Abstract: This paper researches the educational background of the Irish Supreme Court since its establishment in 1924 and considers what trends in secondary and tertiary education among the bench tell us about the Irish judiciary.*

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### Introduction

The Judicial Appointments Commission Bill 2022 is currently under pre-enactment review before the Supreme Court, following President Higgins' first use of his power to refer a Bill under Article 26 of the Constitution.<sup>1</sup> Among the provisions which the President has indicated 'the desirability of special attention being given' is s.39 requiring, *inter alia*, that in recommending a candidate for appointment to the bench, the Judicial Appointments Commission shall make its decision based on merit, with account taken for the objective that the judiciary, 'reflect the diversity of the population of the State as a whole.'<sup>2</sup> In this context, this paper explores the educational background of the 74 people who have become members of the Irish Supreme Court since its establishment in 1924.<sup>3</sup>

As long ago as 1970, Charles Bartholomew noted of the judiciary that, '[n]one of the Irish judges has been of humble family origin. On the contrary almost two-thirds came from admittedly upper middle class social and economic backgrounds and almost all of the remainder from middle class.'<sup>4</sup> Since then, academics have repeatedly critically assessed the composition of the Irish bench, particularly of the superior courts as being predominantly, 'middle-class Catholics though many publicly associated with positions that would not be approved by the Church hierarchy.'<sup>5</sup> Among the most frequent observations is that the bench is composed disproportionately of men from Dublin who went to UCD.<sup>6</sup> In 2004, Carroll observed:

The person who is most likely to be a judge of the Superior Courts in Ireland in 2004 is male, was born in Dublin and grew up in an urban setting. He lived in Dublin and was a practising Senior Counsel at the time of his appointment. He did not necessarily come from a legal family background. He attended a private secondary school and studied at University College Dublin.<sup>7</sup>

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<sup>1</sup>President of Ireland, 'President Higgins refers the Judicial Appointments Commission Bill 2022 to the Supreme Court' (13 October 2023) <https://president.ie/en/media-library/news-releases/president-higgins-refers-the-judicial-appointments-commission-bill-2022-to-the-supreme-court> (accessed 20 November 2023)

<sup>2</sup>Judicial Appointments Commission Dáil Bill (2022) 42, s.39(2)(b).

<sup>3</sup>Including ex officio judges.

<sup>4</sup>Charles Bartholomew, *The Irish Judiciary* (IPA, 1970) 41.

<sup>5</sup>Julie McCandless, Máiréad Enright and Aoife O'Donoghue, 'Introduction: Troubling Judgment' in Máiréad Enright, Julie McCandless, and Aoife O'Donoghue (eds) *Northern/Irish Feminist Judgments: Judges' Troubles and the Gendered Politics of Identity* (2017 Bloomsbury) 1, 31 – 32

<sup>6</sup>Jennifer Carroll, 'You Be the Judge: A Study of the Backgrounds of Superior Court Judges in Ireland in 2004 Part I' (2005) 10(5) *Bar Review* 153; Jennifer Carroll, 'You be the Judge Part II The Politics and Processes of Judicial Appointments in Ireland' (2005) 10(6) *Bar Review* 183; Laura Cahillane, 'Judicial Diversity in Ireland' (2016) 6(1) *Irish Journal of Legal Studies* 1; David Kenny, 'Merit, Diversity, and Interpretative Communities: the (Non-Party) Politics of Judicial Appointments and Constitutional Adjudication' in Laura Cahillane, James Gallen and Tom Hickey (eds) *Judges, Politics, and the Irish Constitution* (Manchester University Press 2017) 136; Conor Reidy, 'Who am I to Judge? The Appointment of Academics to the Irish Judiciary' (2019) 3 *Irish Judicial Studies Journal* 74; John Hogan, Sharon Feeney and Brendan O'Rourke, 'Quantitatively comparing elite formation over a century: Ministers and Judges' (2023) 71(2) *Administration* 1.

<sup>7</sup>*Ibid.*, 154.

Twelve years on, Cahillane reached a similar finding.<sup>8</sup> Alongside this observation, it is frequently noted that, whatever about the origins of the members of the judiciary, by the time they ascend to the bench they are, invariably, wealthy.<sup>9</sup> As Doyle noted:

Fewer than 50 people have authority at one time to make constitutional determinations. This caste of judges is remarkably homogenous. By and large, they are upper middle class in background. The majority were educated in fee-paying schools prior to attending University. Following this, they would most likely have trained as barristers, membership of and success in that profession generally being a prerequisite for a senior judicial appointment. *Whatever their social backgrounds, therefore, by the time they are serious candidates for judicial appointment, they must be exceptionally wealthy individuals working in a small professional caste.*<sup>10</sup>

In this paper I look at trends in the educational background of the bench, particularly their secondary and tertiary education. Examining where judges went to university can be informative in that, outside of those with family within the legal profession, university was for members of the bench their first formal exposure to legal thinking. Studying trends in where judges received their secondary school education at first may seem less intuitive, given the greater distance these educational experiences have from any legal skills relevant to adjudication. However, as Hogan and others noted, ‘while universities educate adults, secondary schools educate children deliberately sent to them by their parents.’<sup>11</sup> In this, studying secondary education can in fact be *more* informative when examining the background and demographic makeup of the bench than examining what universities judges attended. For this reason, my analysis concentrates in particular on my findings concerning the secondary education of the bench.

Secondary schooling in Ireland divides between fee-paying schools,<sup>12</sup> and non-fee paying schools.<sup>13</sup> This system is expressly permitted under the Constitution which, in Article 42.2, expressly empowers parents ‘to provide [...] education in their homes or *in private schools or in schools recognised or established by the State.*’<sup>14</sup> As of August 2023, there were 48 fee-paying secondary schools,<sup>15</sup> over half of which are clustered in Dublin;<sup>16</sup> out of a total of 728 secondary schools nationwide.<sup>17</sup>

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<sup>8</sup> Cahillane (n 6).

<sup>9</sup> As a contributor to Carroll’s survey noted in 2004, ‘I can’t think of much more upper [class] you could go beyond being a Senior Counsel, it’s as simple as that’ Carroll, (n 6), 169.

<sup>10</sup> Oran Doyle, ‘Conventional Constitutional Law’ (2015) 38(2) *Dublin University Law Journal* 311, 325 – 326 (emphasis added).

<sup>11</sup> Hogan and others (n 6) 2.

<sup>12</sup> I employ the definition of ‘fee paying schools’ used by Bradfield and Crowley: ‘The term fee-paying is used to describe all schools that charge fees, whether they are privately owned by a profit maximising firm or run voluntarily by a religious organisation.’ Tracy Bradfield and Frank Crowley, ‘The demand for fee-paying secondary schools in the Republic of Ireland’ (2019) 38(3) *Irish Educational Studies* 359, 359.

<sup>13</sup> Alternatively termed ‘state schools.’ ‘State schools’ is however an imperfect contrast, as fee paying schools are also in receipt of considerable state funding.

<sup>14</sup> Emphasis added. This is to say nothing of the more endemic separation of Irish pupils from one another on the basis of sex during their secondary education.

<sup>15</sup> Carl O’Brien, ‘Private school numbers climb to highest on record’ *The Irish Times* (21 August 2023) <<https://www.irishtimes.com/ireland/education/2023/08/21/private-school-numbers-climb-to-highest-on-record/>> accessed 4 September 2023.

<sup>16</sup> ‘County Dublin contains 26% of all non-fee-paying schools in Ireland, but a staggering 54% of all fee-paying schools are in this area. This is supported by the descriptive statistics which show that 50% of households which demand fee-paying schools are residents of Dublin, despite boarding options being available across the country.’ Bradfield and Crowley (n 12) 371.

<sup>17</sup> Department of Education, ‘Statistical Bulletin – July 2023: Overview of Education 2002 - 2022’

Private fee-paying schools exert an outsized influence on Irish society, notwithstanding that they constitute less than 7% of all secondary level schools – and indeed of all secondary level students – in the state.<sup>18</sup> Repeated analyses has shown that fee-paying schools in Ireland have higher percentages of school leavers proceeding to higher education.<sup>19</sup> In this, Kennedy and Power have argued fee-paying education in Ireland is a key factor in the reproduction of class privilege:

[T]he predominance of the privately educated in key leadership positions highlights the extent to which such exclusive schools act as conduits of privilege, where they not alone determine a student's academic learning, but also (and more importantly) 'shape students' lifestyles and life chances.'<sup>20</sup>

Bradfield and Crowley make a similar finding, that:

Many alumni of fee-paying schools hold powerful political, business and legal positions in society, which highlights the social power and influence that the graduates of such schools enjoy. Self-employed and better educated individuals may perceive the connections that will be made by their children during their time in fee-paying education as essential for obtaining opportunities and success in their later careers. The results indicate that there is a geographical bias in the distribution of fee-paying education. Families outside of Dublin, appear to be geographically disadvantaged, largely because they are far from where most of the fee-paying education provision is located. This creates an opportunity for fee-paying schools to possibly enter unexploited markets. [...] *Economic and social status is also highly influential in a household's choice to demand fee-paying over non-fee-paying schools.* Therefore, self-selection bias may go a long way in explaining the performance differential between fee paying and non-fee-paying schools rather than it being a question of a school's offering and their county's socio-economic environment.<sup>21</sup>

Recently, the suggestion that social factors such as class may be of any relevance to examining the judicial community, or that it could have any bearing upon their judicial reasoning, is a viewpoint that has been criticised by senior members of the bench. In 2014, Cross J argued extrajudicially, 'Society rightly expects a judge to set his own bias and prejudices and views aside and apply the rules';<sup>22</sup> a sentiment reaffirmed by the Judicial Appointments Review Committee, composed of two Chief Justices and two Presidents of the High Court:

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<https://assets.gov.ie/263000/f2932136-6191-4e56-9af0-5b315e85702f.pdf>

<sup>18</sup> O'Brien (n 15).

<sup>19</sup> See Vani K. Borooah, Donal Dineen and Nicola Lynch, 'Which are the 'best' feeder schools in Ireland? Analysing school performance using student third level destination data' (2010) 29(2) *Irish Educational Studies* 107, 109; see also Kevin Cahill and Kathy Hall, 'Choosing schools: explorations in post-primary school choice in an urban Irish working class community' (2014) 33(4) *Irish Educational Studies* 383.

<sup>20</sup> Margaret Kennedy and Martin Power, "'The Smokescreen of Meritocracy': Elite Education in Ireland the Reproduction of Class Privilege' (2010) 8(2) *Journal for Critical Educational Policy Studies* 222, 223. See also Aline Courtois, *Elite Schooling and Social Inequality: Privilege and Power in Ireland's Top Schools* (Palgrave Macmillan 2015); Pierre Bourdieu and Jean Claude Passeron, *Reproduction in Education, Society and Culture* (Sage 1990).

<sup>21</sup> Bradfield and Crowley (n 12) 372 (emphasis added).

<sup>22</sup> Kevin Cross, 'Fiat Justitia' (2014) *Dublin Review of Books*. Kenny, in response, argued, 'the objectivity that Justice Cross perceives in the judicial enterprise is, in part, a product of the largely homogenous philosophy of Irish judges, which is itself a product of the restrictive view of who would make a good judge that he advocates.' Kenny (n 6).

[N]o one has a right to have their case determined by a judge drawn from any particular group or having any particular characteristic. Single judges make judgments on married people, young judges make decisions about older people, gay judges make decisions about heterosexuals, female judges make judgments about men, atheists and agnostics make decisions about believers and in each case, and obviously, vice versa. This is how it should be.<sup>23</sup>

In this paper I examine the educational backgrounds of the Irish Supreme Court and consider what the predominance of former fee-paying school students on the bench may tell us about the socioeconomic and class makeup of the Court. First, I explain the methodology behind my research. Then, I present the key trends I have discerned from my study of the educational background of the Irish bench. I consider why these trends exist; and argue why the predominance of a particular socioeconomic class on the bench matters; and how it may have informed adjudication, particularly rights adjudication, in Ireland.

## Methodology

I have constructed a table, appended to this paper, updated to August 2023 of the members of the Irish Supreme Court and their secondary and tertiary educations, under both the Constitution of the Irish Free State 1922 and the current Constitution of Ireland 1937. Unlike previous studies of the Irish judiciary, such as those conducted by Bartholomew and Carroll,<sup>24</sup> my study has not relied upon interviews with members of the judiciary. Instead, I constructed my data using exclusively publicly available information.

I have relied upon four key sources in my analysis. First, I researched members of the Supreme Court bench in the Dictionary of Irish Biography, Ireland's national biographical dictionary.<sup>25</sup> This returned several results, providing an insight particularly into the educational background of the members of the bench in the first half of the Twentieth Century. I also consulted Brice Dickson's 2019 study, *The Irish Supreme Court: Historical and Comparative Perspectives*.<sup>26</sup> In an appendix to Professor Dickson's analysis is an invaluable biographical summary of the members of the Supreme Court since 1922 including in many instances a description of their education.

Third, I consulted the Supreme Court's own website which provided biographical information both on the education of several current members of the bench.<sup>27</sup> Finally, for judges whose educational information I could not ascertain from the aforementioned sources, I have used the search function of the Irish Times Online Archive to explore further.<sup>28</sup> A shortcoming of my research, particularly for the current bench, is that I was not able to find publicly available information as to the two members' tertiary education and the

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<sup>23</sup> Judicial Appointments Review Committee, 'Preliminary Submission to the Department of Justice and Equality's Public Consultation on the Judicial Appointment Process' (30 January 2014) [50]. Notably, the Committee did not extend the analogy to concern class in this observation. The data presented suggests that usually judges from socioeconomically advantaged backgrounds make judgments about less-socioeconomically advantaged people; and that cannot be said vice versa.

<[http://www.supremecourt.ie/SupremeCourt/sclibrary3.nsf/\(WebFiles\)/51E71A71B9961BD680257C70005CCE2D/SFILE/A%20Preliminary%20Submission%20of%20J.A.R.C.%2030.01.2014.pdf](http://www.supremecourt.ie/SupremeCourt/sclibrary3.nsf/(WebFiles)/51E71A71B9961BD680257C70005CCE2D/SFILE/A%20Preliminary%20Submission%20of%20J.A.R.C.%2030.01.2014.pdf)> accessed 19 March 2023.

<sup>24</sup> Bartholomew (n 4); Carroll (n 6).

<sup>25</sup> Ireland's national biographical dictionary' (*Dictionary of Irish Biography*) <https://www.dib.ie/> accessed 19 March 2023.

<sup>26</sup> Brice Dickson, *The Irish Supreme Court: Historical and Comparative Perspectives* (2019 Oxford University Press).

<sup>27</sup> 'Members of the Court' (*The Supreme Court of Ireland*) <<http://www.supremecourt.ie>> accessed 19 March 2023. Helpfully, and perhaps informatively, the first biographical detail provided for one the members of the Supreme Court whose credits include, *inter alia*, serving as Attorney General of Ireland, informs that he was 'educated at Belvedere College S.J.'.

<sup>28</sup> 'Newspaper Archive' (*The Irish Times*) <<https://www.irishtimes.com/archive>> accessed 19 March 2023.

secondary schooling of eight members of the bench, six of whom were appointed in the last ten years. Whilst noting this shortcoming, the trends that can be discerned from the educational backgrounds of the overwhelming majority of the bench remain compelling and merit analysis.

## Findings

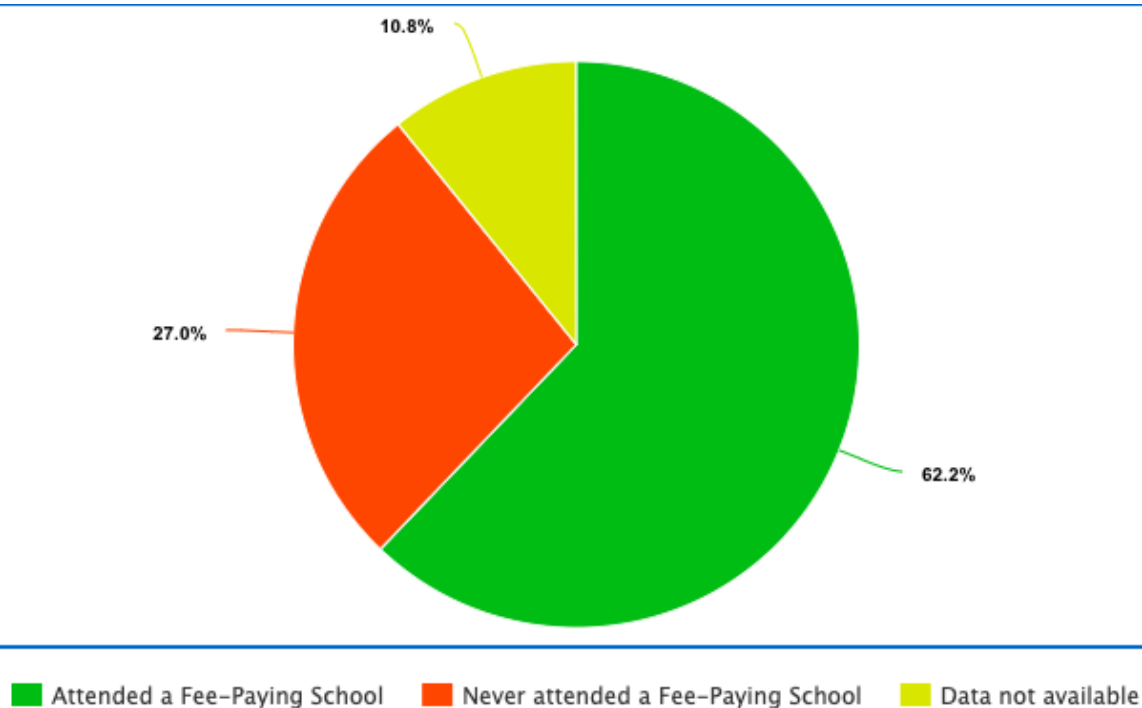
Among the findings which can be made from my research, the two strongest trends I found are the number of Supreme Court judges that attended fee-paying secondary education, and the number of Supreme Court judges who went to University College Dublin.<sup>29</sup>

Beginning with secondary education, 46 of the 74 members of the Irish Supreme Court since the foundation of the state – (62%) – attended fee-paying secondary schools, particularly Catholic-run, single-sex fee-paying schools. Indeed, the accumulative number of Supreme Court judges from three fee-paying schools - Belvedere College, Clongowes Wood College, and Blackrock College – is only two less than the total number of all Supreme Court judges known to have never attended any fee-paying school.

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<sup>29</sup> These trends prevail across the notional party-political divide between Fianna Fáil and Fine Gael governments. This commonality of educational and thereby socioeconomic experience may further clarify the findings of Elgie and others as to the absence of partisanship within the Irish Supreme Court. See Robert Elgie, Adam McAuley, and Eoin O'Malley, 'The (Not-so-surprising) Non-Partisanship of the Irish Supreme Court' (2018) 33(1) *Irish Political Studies* 88.

Fig.1: Secondary Education and the Irish Supreme Court Judiciary



At tertiary education, the finding is even more striking: 70% of the Irish Supreme Court have attended University College Dublin.<sup>30</sup> As Dickson has observed, '[t]he preponderance of UCD graduates in Ireland's Supreme Court is almost as pronounced as that of Oxbridge Graduates in the United Kingdom Supreme Court.'<sup>31</sup> Whilst the number of graduates from other universities has increased in recent years, the dominance of UCD remains. From 1990 to 2000 of the 22 members of the Supreme Court bench that decade, 20 were UCD graduates, and two graduated from Trinity College Dublin, the second most common university for a Supreme Court judge to have attended.

Even if the absence of Trinity graduates from the Supreme Court in the 20th century can in large part be put down to the order from church hierarchy forbidding Catholics from attending without special clerical dispensation, the trend of UCD dominance has continued past the removal of this ban in 1970.<sup>32</sup> Following Carroll, if the average judge 'was appointed after he was forty-five, but most likely after he was fifty,' assuming most judges began their tertiary education aged eighteen, all things being equal, the number of Trinity-educated

<sup>30</sup> This statistic includes those who also attended another university. Within this, the Royal University of Ireland is included, in instances where the judges in question attended the component university that became UCD. As O'Donnell CJ, writing extrajudicially, noted, 'in a remarkably short time, the law faculty in UCD was to supplant Trinity's as the leading law faculty in the state. [...] If Trinity continued to aspire to attract students from Great Britain, it had to provide training which would facilitate legal practice in the UK, leaving a gap that the new university was always likely to fill.' Donal O'Donnell, 'Review: Irish Legal History of the Twentieth Century' (2014) 105(417) *Studies* 98, 99.

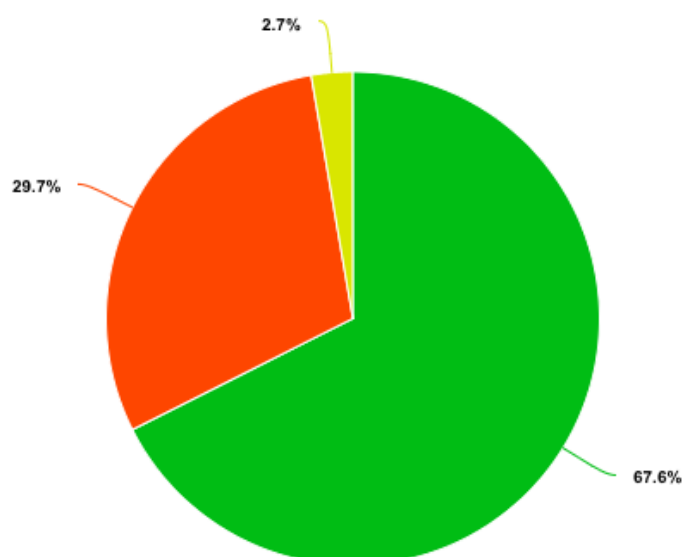
<sup>31</sup> Dickson (n 26) 104. See also Hogan J's recent extrajudicial commentary on JAG Griffith's critique of the British judiciary. On the Oxbridge analogy, see also Gerard Hogan, 'Should Judges be Neutral?' (2021) 72 *Northern Irish Legal Quarterly* 62, 68.

<sup>32</sup> Senia Pašeta, 'Trinity College Dublin and the Education of Irish Catholics 1873 – 1908' (1998) 30 *Studia Hibernica* 7. It is also notable in this regard that only two Supreme Court judges in the 20<sup>th</sup> Century who attended Trinity were not Protestant, one being Catholic and one being Jewish.

judges should begin to increase considerably from around 2003 onward, as the first generation of law students from Trinity since the removal of the dispensation ascend to the bench.<sup>33</sup> Interestingly, this is reflected in the data: whilst graduates from UCD continue to predominate, the number of Trinity-educated judges has increased considerably since the early 2000s.

The first Supreme Court judge to have received their tertiary education entirely in a university in this jurisdiction outside of Dublin was Liam McKechnie, a graduate of University College Cork, who was appointed in 2010.<sup>34</sup> Indeed, 32 of the 74 members of the Supreme Court indeed attended *both* a fee-paying school *and* UCD: a frequency higher than both the number of judges who attended non-fee paying schools; and the number who attended any university *other than* UCD.<sup>35</sup>

Fig 2: Tertiary Education and the Irish Supreme Court Judiciary



■ Attended University College, Dublin ■ Did not attend University College, Dublin ■ Data not available

<sup>33</sup> Carroll (n 6) 154.

<sup>34</sup> Prior to McKechnie J, the only two to have not attended university in Dublin was George Gavan Duffy, who did not attend university; and William John Johnston, who attended Queen's University Belfast. This is so notwithstanding that there have been law schools in Cork and Galway since before the foundation of the State.

<sup>35</sup> Perhaps the most notable recent exception to this trend, former Chief Justice Frank Clarke attended Drimnagh Castle secondary school and was the first in his family to go to university. As noted by Mary Carolan, 'He was the King's Inns' first student under the new third-level grant-aid scheme introduced by Donogh O'Malley and had to explain to them what that was.' Mary Carolan, 'Retired Chief Justice Frank Clarke on his life in Law: 'I think I found the hole that suited my peg' (9 October 2021) *The Irish Times* <<https://www.irishtimes.com/life-and-style/people/retired-chief-justice-frank-clarke-on-his-life-in-law-i-think-i-found-the-hole-that-suited-my-peg-1.4692855>> accessed 19 March 2023.

The most significant change to the composition of the Supreme Court since the establishment of the State has been the inclusion of female members of the bench.<sup>36</sup> Notwithstanding that women have been members of the Bar since before the foundation of the State, it was not until 1990 that the government appointed a woman to the Supreme Court.<sup>37</sup> In 2014, the Judicial Appointment Review Committee reference noted:

A 1971 study found that there were no women judges in the Superior Courts i.e. the High and Supreme Courts.<sup>38</sup> In 2004, a study showed that female judges of the Superior Courts represented 13.5%.<sup>39</sup> As of 30th January 2014, there are 9 women judges of the Superior Courts which represent over 20% of the 44 serving High Court and Supreme Court Judges, and in the Circuit Court the trajectory of female appointments is quite markedly upwards, since 19 judges representing over 43% of the Court's Judiciary are female. Over 30% of judges are female which represents the highest percentage of females ever in the Irish Judiciary.<sup>40</sup>

The same year as the Committee's finding, Cahillane observed,

[T]he pool from which many appointees are drawn, the inner-Bar, contains shockingly few women. Of the 166 Silks appointed since 2003, only 41 have been women. While women represent 43% of the entire bar the inner bar is a different matter, where men make up over 83% of members.<sup>41</sup>

In 2021, a report commissioned by the Bar of Ireland found the percentage of women at the entire bar had dropped from 43% to 37%, whilst men made up 82% of the inner-bar, only one percentage point less than seven years before.<sup>42</sup>

Since the turn of the millennium, there has been a pronounced increase in female representation on the bench. Interestingly, this overdue and welcome change also appears consistent with the trend in appointments noted above, in that more women who have been appointed Supreme Court judges for whom data is available have gone to a fee-paying secondary school than a non-fee-paying school.

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<sup>36</sup> Since passage of the Courts and Court Officers Act 2002, solicitors can also be appointed as judges, however this has happened much less frequently. Indeed, as Dickson has noted, 'no solicitor has been appointed directly to the Supreme Court.' It is for this reason that I also focus in my study on the bar, rather than the solicitor's profession. Dickson (n 26) 104.

<sup>37</sup> For a study of the experience of female members of the Bar in the 20<sup>th</sup> Century see Niamh Howlin, *Barristers in Ireland: An Evolving Profession since 1921* (2023, Four Courts) Ch.9.

<sup>38</sup> The study in question was by Bartholomew, who found 'the first and only woman judge in Ireland is a District Court judge in Dublin. Her appointment came about as a direct result of a public statement by Seán Lemass when he was Taoiseach that more women should get into civic life. A Supreme Court judge suggested to Miss [Eileen] Kennedy that she should apply, so she wrote to the Minister for Justice and said that she would be interested. Shortly after this she was appointed.' Bartholomew (n 4 3) 40.

<sup>39</sup> The study in question was Carroll (n 6).

<sup>40</sup> Judicial Appointments Review Committee (n 23) [47].

<sup>41</sup> Cahillane (n 6) 3.

<sup>42</sup> EY, 'Preparing for the Future: Pushing Boundaries, 'Strategic Review of the Future Landscape of the Bar of Ireland' (14 July 2021) 24.

<[https://www.lawlibrary.ie/app/uploads/securepdfs/2022/07/EY\\_FINAL-Report\\_Strategic-Review-of-the-Bar-of-Ireland.pdf](https://www.lawlibrary.ie/app/uploads/securepdfs/2022/07/EY_FINAL-Report_Strategic-Review-of-the-Bar-of-Ireland.pdf)> accessed 14 April 2023.



## Why does this trend exist?

There is an unambiguous trend of appointing alumni of private schools to the Supreme Court.<sup>43</sup> The predominance of alumni from such a small group of schools at the very top of the Irish legal system is indicative of an often taboo topic in Irish social life: class. Kenny has noted '[t]he question of class/socioeconomic status is difficult; judges show reluctance to engage with it.'<sup>44</sup> This is also reflected in Carroll's study in 2004, that:

17% of judges interviewed stated that they could not define themselves in terms of upper, middle or lower class. [...] 7% of judges interviewed chose to define themselves as belonging to a professional class in preference to the terms of the question. While 52% of judges stated that they believed they would belong to the 'middle class' prior to appointment, no judge opined that they were of the lower middle class. Bartholomew found that 71% of Superior Court judges in 1969 defined themselves as upper-middle class and 24% defined themselves as being middle class prior to their appointment. The corresponding figures for the 2004 study are 21% and 52% respectively.<sup>45</sup>

Bradfield and Crowley's research shows fee-paying schools are predominantly populated by the middle class.<sup>46</sup> To be a full fee-paying student, one's parents must have a sufficiently sizable and secure income such as to elect to not send their children to free, state-run secondary schools; but rather to expend on average between €4,00 and €7,000, possibly in the extreme over €9,500 per child on their education (if they are day students, up to over €25,000 if they are boarding.)<sup>47</sup> Where the most recent available census results report that almost half of all Irish households make less than €40,000 a year in income, the ability to send children to a fee-paying school is therefore an unavoidably socially stratified privilege.<sup>48</sup>

Members of the Supreme Court bench are chosen by Government, either from the lower courts or the bar or, much less frequently, from the solicitors profession.<sup>49</sup> Arguably, the reason a disproportionately high number of people from fee-paying schools ascend to the senior judiciary is in part due to the relative absence of less socioeconomically advantaged candidates at the bar.<sup>50</sup> Howlin in her study of barristers in Ireland in the 20th Century, noted,

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<sup>43</sup> A recent complimentary study by Hogan and others found, 'while private fee-paying secondary schools account for only 6.9 per cent of all secondary schools in the country, three-quarters of senior judges attended such institutions'. 'Senior judges' in the Hogan and others study included members of the High Court and Court of Appeal, suggesting that the trend noted in this paper predominates – indeed, is more pronounced – in the High Court and Court of Appeal as well. Hogan and others (n 6) 18.

<sup>44</sup> *ibid* 143.

<sup>45</sup> Carroll (n 6).

<sup>46</sup> Bradfield and Crowley (n 12). This is even accepting that the minority of alumni of fee-paying secondary schools who are the beneficiary of bursaries, scholarships, and grants.

<sup>47</sup> O'Brien (n 15).

<sup>48</sup> 'Geographical Profiles of Income in Ireland 2016' (*Central Statistics Office*)

<<https://www.cso.ie/en/releasesandpublications/ep/pgpii/geographicalprofilesandincomeinireland2016/incomeinireland/>> accessed 19 March 2023.

<sup>49</sup> Again, it bears noting that no solicitors have been appointed directly to the Supreme Court and for that reason I have not focused on the solicitors' profession. As Mary Keane of the Law Society noted in the Oireachtas Joint Committee on Justice, 'Between 2002 and 2016, solicitors were eligible for appointment to all of the courts. There were 90 appointments to the High Court, Court of Appeal and Supreme Court, that is, the superior courts, eight of whom were solicitors. We can have all the diversity we want in eligibility but people are not actually being appointed.' <[https://www.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_justice/2021-05-18/2/](https://www.oireachtas.ie/en/debates/debate/joint_committee_on_justice/2021-05-18/2/)> accessed 19 March 2023.

<sup>50</sup> A similar argument could plausibly (if not persuasively) be made for why the Irish Government did not appoint any women to the Supreme Court bench until 1990: that is, that the proportion of women at the bar was prohibitively low

‘a preponderance of twentieth-century barristers attended private or fee-paying secondary schools. One interviewee recalled: when I came to it there were a lot of public schoolboys, there was a lot of Clongowes, Glenstal, Belvedere, all protected, straight from public school into the bar, soaking up all the tradition.’<sup>51</sup> The Judicial Appointments Review Committee recently asserted:

If there are indeed problems of integration of any group *they appear societal rather than specific to the judicial appointment process* and accordingly the remedy, if any, may lie at the level of society or at the point of entry to the legal profession. There is little, indeed no, evidence of restriction or inhibition of appointment to the judiciary on the grounds of gender. By the same token, it does not appear that there is any significant issue in relation to the appointment of persons of different sexual orientation, marital status, religious belief or lack of it, or *different social origins*. It is important therefore to ascertain the extent to which there is a real or perceived problem at the point of appointment.<sup>52</sup>

Today, there are programmes in place to mitigate this absence of representativeness of the bar which thereby could increase diversity on the bench. Since 2017 of the intake of new devils every year, two have been sponsored by the Denham Fellowship.<sup>53</sup> In 2021, a report commissioned by the Bar of Ireland found that, ‘approximately 80 devils entered membership of the Law Library in October 2020.’<sup>54</sup> Assuming that the intake in 2020 was not atypical, where two devils receive the Denham Fellowship annually, this represents 2.5% of the total intake.<sup>55</sup> With regard to solicitors, the Law Society has commenced a Hybrid Trainee Programme and an Access Programme, both of which assist in easing the entry of lawyers from socioeconomically disadvantaged backgrounds into the profession.<sup>56</sup>

Even taking into consideration programmes such as the Denham Fellowship and the Hybrid Trainee programme, it is unavoidable that a profession with as high entry costs as the bar screens out possible candidates.<sup>57</sup> Absent the Hybrid Trainee Programme, all professional legal education must be entirely undertaken in Dublin, a city where as of summer 2023, the average market rent is over €2,300 per month.<sup>58</sup> Prospective barristers who cannot afford to work in Dublin for a master for a year (if not two) without payment,<sup>59</sup> after pursuing a

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throughout the Twentieth Century. As Clarke CJ noted extrajudicially in an interview with Mary Carolan ‘There were just eight female barristers in the Law Library when he entered it in 1973, including Mary Robinson, later Ireland’s first female President, and Mella Carroll, the first female High Court judge.’ Carolan (n 35). However, the Protestant population of the bar was also low – and most likely in many years before 1990, lower – than that of the female population, and yet successive Governments were always able to find Protestant barristers to appoint to the bench. See in this regard Dickson (n 26) 91.

<sup>51</sup> Howlin (n 37), 81.

<sup>52</sup> Judicial Appointments Review Committee (n 23) [46] (emphasis added).

<sup>53</sup> ‘The Denham Fellowship’ (*The Bar of Ireland*) <<https://www.lawlibrary.ie/join-us/becoming-a-barrister/the-denham-fellowship/>> accessed 19 March 2023.

<sup>54</sup> EY (n 42) 25.

<sup>55</sup> Indeed, is possible that this was an atypically low intake, due to the Covid-19 pandemic.

<sup>56</sup> ‘Professional Practice Course (PPC) Hybrid’ (*Law Society of Ireland*) <<https://www.lawsociety.ie/Trainees/PPC-Courses/ppc-hybrid>> accessed 19 March 2023; ‘Access Programme’ (*Law Society of Ireland*) <<https://www.lawsociety.ie/About-Us/Diversity-and-CSR/Access-Programme>> accessed 19 March 2023;

<sup>57</sup> Furthermore, again assuming Carroll’s estimation (n 6) 152 that judges are usually appointed after they turn fifty, given professional legal education usually occurs during a person’s middle to late twenties, it is likely to be at least another twenty-five years before a recipient of these programmes reaches the average age for appointment.

<sup>58</sup> ‘The Daft.ie Rental Price Report: An Analysis of Recent trends in Irish Residential Rental Market 2023 Q2’ <<https://www.daft.ie/report/2023-Q2-rentalprice-daftreport.pdf>> accessed 6 September 2023.

<sup>59</sup> As the Bar Council put it in their submission to the Legal Services Regulatory Authority Barriers for Early Career Barristers and Increasing Diversity in June 2021, ‘During the 12 month period of devilling, the nature of the relationship between master and pupil is one that is immersed in the further education and training of the newly qualified barrister. *It is*

€12,560 course at the Kings Inns on top of a qualifying law degree;<sup>60</sup> may rationally self-select out of a career at the Bar,<sup>61</sup> as may those whose finances and dependents do not lend themselves to self-employment within a profession where advertisement is strictly regulated, and in which, in the Bar Council's own words, 'it can take up to 10 years of practice to earn a living as a barrister.'<sup>62</sup> That the judiciary is so densely populated with alumni of Dublin-based fee-paying schools therefore may be explained by entry costs into the legal profession from which they are selected.

## Why does this trend matter?

I submit there are two key reasons why it matters that the Irish Supreme Court has, across time, been overwhelmingly populated by judges from sufficiently well-off socioeconomic backgrounds as to have been beneficiaries of private education. First, it matters in terms of the legitimacy of the bench. As Cahillane argued:

There is much research which points to the general perception of the public that the judiciary is not representative of society; in fact many people believe that the judiciary is out of touch with society – that it comprises a bunch of “pompous old weirdos” who would not understand the workings of the real world. The fact is that in order to ensure public confidence in the judiciary, it needs to be more representative of the community as a whole and not “mainly male, overwhelmingly white, [and] largely the product of a limited range of educational institutions and social backgrounds.”<sup>63</sup>

Bolstering democratic legitimacy is a significant impetus behind the Judicial Appointments Commission Bill.<sup>64</sup> Section 28(2) of the Bill proposes that ‘that membership of the judiciary in each court in the State should reflect the diversity of the population of the State as a whole, [and] increase diversity within the bench.’<sup>65</sup> As ‘the least dangerous branch,’ a broad consensus as to the Court's legitimacy is vital to the judiciary's continuing authority. The findings matter therefore because the fact that the Supreme Court is disproportionately and unrepresentatively composed of judges from socioeconomically advantaged backgrounds

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*not an employer/employee relationship and consequently, the question of remuneration, insofar as it is meant as a salary or a wage, does not arise.* 5-6 (emphasis added). <<https://www.lawlibrary.ie/reports/submission-to-the-legal-services-regulatory-authority-barriers-for-early-career-barristers-increasing-diversity/>> accessed 19 March 2023.

<sup>60</sup> ‘Course Fees 2023 – 2024’ (*Kings Inns*) <<https://www.kingsinns.ie/education/course-fees>> accessed 22 October 2023.

<sup>61</sup> Rhea Bohan, ‘Legal Profession is Anything but Inclusive’ *The Irish Times* (10 October 2020) <<https://www.irishtimes.com/opinion/letters/legal-profession-is-anything-but-inclusive-1.4376925>> accessed 4 September 2023.

<sup>62</sup> ‘Council of the Bar of Ireland Submission to the the Legal Services Regulatory Authority Barriers for Early Career Barristers and Increasing Diversity’ (June 2021); Mary Carolan, ‘Lewis Mooney (31): Becoming a Barrister ‘Not for the Faint Hearted’ *The Irish Times* (1 July 2022) <<https://www.irishtimes.com/crime-law/courts/2022/07/01/lewis-mooney-31-becoming-a-barrister-not-for-the-faint-hearted/>> accessed 14 April 2023.

<sup>63</sup> Cahillane, (n 6) 6. This sentiment has also been echoed by the Venice Commission of the Council of Europe observing ‘diversity within the judiciary will enable the public to trust and accept the judiciary as a whole. While the judiciary is not representative, it should be open and access should be provided to all qualified persons in all sectors of society.’ Council of Europe, European Commission for Democracy Through Law, ‘Report on the Independence of the Judicial System Part I: The Independence of Judges’ (16 March 2010) CDL-AD (2010)004 [26]; European Network of Councils for the Judiciary, ‘Dublin Declaration on Standards for the Recruitment and Appointment of Members of the Judiciary’ (11 May 2014) [8].

<sup>64</sup> Laura Cahillane and David Kenny, ‘Lessons from Ireland’s 2020 judicial conduct controversy’ (2022) 51(1) *Common Law World Review* 3.

<sup>65</sup> Among the suggestions to expand the pool of judges into the future is the inclusion of legal academics. It bears noting in this regard that, as Fennelly J, extrajudicially observed, ‘it is probably the case that most judges are drawn from the same stratum as most legal academics.’ Nial Fennelly, ‘Review: Oran Doyle, “The Constitution of Ireland: A Contextual Analysis (Hart 2018)” (2018) 41(2) *Dublin University Law Journal* 216, 219.

may adversely affect the popular acceptance of the legitimacy of the bench and of its judgments.<sup>66</sup>

The second reason why the predominance of privately-educated judges on the Supreme Court bench matters is the potential for this widely-shared background to indirectly inform the Court's adjudication. The importance of diversity of experience among the judiciary, perhaps most of all in regards rights adjudication, has been noted by Cahillane and Kenny, the latter of whom has posited that:

Especially in constitutional adjudication, political viewpoints and experience invariably shape our views on what the Constitution is for, and what the Constitution means, and therefore the diversity of our judiciary matters [...] if the professional and life experiences of judges differed more, the shape of the interpretative community would change, and more interpretations would be heard as potentially reasonable.<sup>67</sup>

Recently, Barry cautioned that, 'short of judges explicitly admitting to such, it is impossible to definitively establish a causal link between judges' personal characteristics and trends in their decision making.'<sup>68</sup> Even noting that members of the Supreme Court *have* observed how a judge's reasoning will '*tend to reflect his own legal philosophy or the legal philosophy underlying his legal education*,'<sup>69</sup> prudential caution is necessary when speculating how any specific legal decision may have been affected by the background of the members of the bench. However, rights protection is inherently politically controversial, and it is highly likely that attitudes and perceptions towards particular rights – most obviously property rights and socioeconomic rights – vary along socioeconomic lines.

It is trite to observe that those with greater assets, particularly those who possess several properties, receive greater protection from the guarantees of private property in Articles 40.3 and 43 than those who do not own property at all. It follows from the foregoing that the disproportionate predominance of one particular socioeconomic group on the body determining the content of such rights will have unavoidable political implications. Thus, even whilst cautioning against speculation on how a common socioeconomic class background may have informed the decision-making of the bench in any individual case, the finding of the predominance of a particular educational and thus class background on the bench permits of the *possibility* that the Court's decision-making has, in some form, been influenced by this common class background.

## Conclusion

In August 2023, it was reported that private school enrolment had reached a record high. Even with this, 'the proportion of all second level students attending fee-charging schools has declined slowly from a peak of just under 8 per cent in 2008 to about 6.7 per cent today.'<sup>70</sup> That,

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<sup>66</sup> Cahillane (n 6); Erika. Rackley, *Women, Judging and the Judiciary: From Difference to Diversity* (Routledge 2013).

<sup>67</sup> Kenny (n 6) 136, 146.

<sup>68</sup> Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Informa 2021).

<sup>69</sup> Brian Walsh, 'The Judicial Power and the Protection of the Right of Privacy' (1977) 1 *Dublin University Law Journal* 3, 7. Concerning tertiary education, O'Donnell CJ has extrajudicially noted how, 'the light did go on, for me at least' upon 'the good fortune to be lectured [at UCD] by John Kelly, who took the time to address some constitutional issues at a more abstract level and with extraordinary perceptiveness and lucidity.'; Donal O'Donnell 'The Sleep of Reason' (2017) 40(2) *Dublin University Law Journal* 191, 191. See also O'Donnell, (n 30) 99.

<sup>70</sup> O'Brien (n 15).

at peak attendance, less than 10 per cent of all secondary school students attended fee-paying schools; and noting that over sixty per cent of all Supreme Court judges have attended fee-paying schools, demonstrates the disparity in background between the population of the Irish Supreme Court and the population of Ireland in general.

To echo Cahillane, ‘judges are influenced by their backgrounds, experiences and education. In order to embrace the idea of diversity and reconcile the rationales for diversity with the notions of “judging” in Ireland, we first have to recognise that fact.’<sup>71</sup> In this paper, I have examined the backgrounds of those who have been tasked with interpreting our Constitution. I have found a striking unrepresentativeness in the educational – and, by implication, class – backgrounds of the members of the bench. This unrepresentativeness, I have argued, is in considerable part the consequence of a legal profession whose prohibitively high entry costs lead the pool of candidates for judicial office to be disproportionately populated by people from socio-economically advantageous backgrounds. This unrepresentativeness, I have argued, runs the risk of adversely impacting the popular consensus that the judiciary, and its judgments, are legitimate.

In the early 1990s, McCarthy J noted extrajudicially that, ‘when [future judges] do become leading lawyers, they become members of the middle class, with all the prejudices and traditions attached to them.’<sup>72</sup> Where McCarthy J may be mistaken here is in suggesting that the entry of a judge into the middle class occurs upon the commencement of a successful legal career. In fact, the data presented in this article suggests that most Supreme Court judges are born, educated, and begin their legal careers firmly within this class. Given this, it is at minimum, plausible that judicial attitudes towards adjudication, and perhaps most urgently rights adjudication, would be informed by ‘the prejudices and traditions’ attached to class membership.

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<sup>71</sup> Cahillane (n 6) 16.

<sup>72</sup> Niall McCarthy, ‘Observations on the Protection of Fundamental Rights in the Irish Context’ in Keith Ewing, Conor Gearty, and Bob Hepple (eds) *Human Rights and Labour Law: Essays for Paul O’Higgins* (Mansell 1994) 179, 180.

## Table of Secondary and Tertiary Schooling of the Supreme Court of Ireland

Underlined = Chief Justice of Ireland

Schools in bold = fee-paying secondary school

NAME	TERM OF OFFICE	SECONDARY SCHOOL	UNIVERSITY
<u>Hugh Kennedy</u>	<u>1924 - 1936</u>	<u>Home-schooled</u> <sup>73</sup>	<u>Royal University, Ireland (later University College, Dublin)</u> <sup>74</sup>
Gerald Fitzgibbon	1924 – 1938	<b>Clifton College, Bristol</b> <sup>75</sup>	Trinity College, Dublin <sup>76</sup>
Charles O'Connor	1924 – 1925	St Stanislaus College, Tullabeg <sup>77</sup>	Trinity College, Dublin <sup>78</sup>
<u>Timothy Sullivan</u>	<u>1924 – 1946</u>	<b>Belvedere College</b> <sup>79</sup>	
James Murnaghan	1925 – 1953		Royal University, Ireland (later University College, Dublin) <sup>80</sup>
James Geoghegan	1936 – 1950	<b>CBS Mullingar</b> <sup>81</sup>	
<u>Conor Maguire</u>	<u>1936 – 1961</u>	<b>Clongowes Wood College</b> <sup>82</sup>	<u>Royal University Ireland (later University College, Dublin)</u> <sup>83</sup>
James Creed Meredith	1936 – 1942		Trinity College, Dublin <sup>84</sup>
William John Johnston	1939 – 1940	Methodist College Belfast <sup>85</sup>	Queen's University Belfast <sup>86</sup>
John O'Byrne	1940 – 1954	Patrician Monastery, Tullow <sup>87</sup>	University College, Dublin <sup>88</sup>

<sup>73</sup> Ronan Keane, 'Kennedy, Hugh' (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/kennedy-hugh-a4483>> accessed 10 November 2023

<sup>74</sup> *ibid.* See also WN Osborough, *The Law School of University College Dublin* (Four Courts Press 2014) 18.

<sup>75</sup> Dickson (n 26) 319.

<sup>76</sup> *ibid.*

<sup>77</sup> Robert D. Marshall, 'O'Connor, Charles Andrew' (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/oconnor-charles-andrew-a6584>> accessed 10 November 2023

<sup>78</sup> *ibid.*

<sup>79</sup> Lawrence William White, 'Sullivan, Timothy' (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/sullivan-timothy-a8385>> accessed 10 November 2023.

<sup>80</sup> Ronan Keane, 'Murnaghan, James Augustine' (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/murnaghan-james-augustine-a6066>>. See also WN Osborough, *The Law School of University College Dublin* (Four Courts Press 2014) 18.

<sup>81</sup> Pauric J Dempsey, 'Geoghegan, James' (*Dictionary of Irish Biography*) <<https://www.dib.ie/biography/geoghegan-james-a3444>> accessed 10 November 2023

<sup>82</sup> Marie Coleman, 'Maguire, Conor Alexander' (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/maguire-conor-alexander-a5354>> accessed 10 November 2023

<sup>83</sup> *ibid.* See also 'History' (*UCD Law Society*) <<http://lawsoc.ie/about/history/>>.

<sup>84</sup> Tadhg Foley, 'Meredith, James Creed' (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/meredith-james-creed-a5798>> accessed 10 November 2023

<sup>85</sup> Patrick Gageby, 'Johnston, William John' (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/johnston-william-john-a9811>> accessed 10 November 2023

<sup>86</sup> *ibid.*

<sup>87</sup> Gerard Hogan, 'John O'Byrne' (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/obyrne-john-a6532>> accessed 10 November 2023

<sup>88</sup> *ibid.*

William Black	1942 – 1951	Methodist College, Belfast <sup>89</sup>	Trinity College, Dublin <sup>90</sup>
George Gavan Duffy	1946 – 1951	Pétit Séminaire  <b>Stonyhurst College Lancashire</b> <sup>91</sup>	<i>‘a Three year post-school course known as ‘philosophy’ in lieu of attending a university</i> <sup>92</sup>
Cecil Lavery	1950 – 1966	St Patrick’s College, Armagh  <b>Castleknock College, Dublin</b> <sup>93</sup>	University College, Dublin <sup>94</sup>
Cahir Davitt	1951 – 1966	<b>CBS Dún Laoghaire</b>  <b>Presentation College Glasthule</b>  O’Connell Schools <sup>95</sup>	University College, Dublin <sup>96</sup>
TC Kingsmill Moore	1951 – 1966	<b>Marlborough College, England</b> <sup>97</sup>	Trinity College, Dublin <sup>98</sup>
<u>Cearbhall Ó Dálaigh</u>	1953 – 1973	<u>CBS Synge Street</u> <sup>99</sup>	<u>University College, Dublin</u> <sup>100</sup>
Martin Maguire	1954 – 1961	MacCartan’s College, Monaghan  <b>Blackrock College, Dublin</b> <sup>101</sup>	Trinity College, Dublin <sup>102</sup>
Kevin Haugh	1961 – 1969	<b>Belvedere College</b>  <b>Blackrock College</b> <sup>103</sup>	University College, Dublin <sup>104</sup>
Brian Walsh	1961 – 1990	Scoil Muire	University College, Dublin <sup>106</sup>

<sup>89</sup> Pauric J Dempsey, ‘Black, William Bullick’

(*Dictionary of Irish Biography*) <<https://www.dib.ie/biography/black-william-bullick-a0688>> accessed 10 November 2023

<sup>90</sup> *ibid.*

<sup>91</sup> Gerard Hogan, ‘Duffy, George Gavan’

(*Dictionary of Irish Biography*) <<https://www.dib.ie/biography/duffy-george-gavan-a2810>> accessed 10 November 2023

<sup>92</sup> *ibid.*

<sup>93</sup> T.A. Finlay, ‘Lavery, Cecil Patrick Linton’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/lavery-cecil-patrick-linton-a4699>> accessed 10 November 2023

<sup>94</sup> *ibid.*

<sup>95</sup> Pauric J. Demsey ‘Davitt, Cahir’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/lavery-cecil-patrick-linton-a4699>> accessed 10 November 2023

<sup>96</sup> *ibid.*

<sup>97</sup> Gerard Hogan, ‘Moore, Theodore Conyngham Kingsmill’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/moore-theodore-conyngham-kingsmill-a5946>> accessed 10 November 2023

<sup>98</sup> *ibid.*

<sup>99</sup> Ronan Keane, ‘Ó Dálaigh Cearbhall’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/o-dalaigh-cearbhall-a6322>> accessed 10 November 2023

<sup>100</sup> *ibid.*

<sup>101</sup> Dickson (n 26) 323.

<sup>102</sup> *ibid.*

<sup>103</sup> Pauric J Dempsey, ‘Haugh, Kevin O’Hanrahan’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/haugh-kevin-ohanrahan-a3856>> accessed 10 November 2023

<sup>104</sup> *ibid.*

<sup>106</sup> *ibid.*

		Scoil Colmcille <b>Belvedere College</b> <sup>105</sup>	
Gardner Budd	1966 – 1975	Manor School, Fermoy <b>Felsted, Essex</b> <sup>107</sup>	Trinity College, Dublin <sup>108</sup>
<u>William Fitzgerald</u>	<u>1966 – 1974</u>	<u><b>Belvedere College, Dublin</b></u> <sup>109</sup>	<u>University College, Dublin</u> <sup>110</sup>
Aindrias Ó Caoimh	1966 – 1974	O’Connell Schools <sup>111</sup>	University College, Dublin <sup>112</sup>
Richard McLoughlin	1969 – 1972	<b>Catholic University School</b> <sup>113</sup>	University College, Dublin <sup>114</sup>
Séamus Henchy	1972 – 1988	St Mary’s College Galway <sup>115</sup>	National University of Ireland, Galway  University College, Dublin <sup>116</sup>
Frank Griffin	1973 – 1991	CBS Drogheda  Franciscan College, Multyfarnham, Westmeath <sup>117</sup>	University College, Dublin <sup>118</sup>
<u>Thomas Finlay</u>	<u>1974 – 1994</u>	<u><b>Clongowes Wood College</b></u> <sup>119</sup>	<u>University College, Dublin</u> <sup>120</sup>
<u>Tom O’Higgins</u>	<u>1974 – 1985</u>	<u><b>St Mary’s College, Rathmines</b></u>  <u><b>Clongowes Wood College</b></u> <sup>121</sup>	<u>University College, Dublin</u> <sup>122</sup>

<sup>105</sup> Charles Lysaght, ‘Walsh, Brian Cathal Patrick’ *Dictionary of Irish Biography*

<<https://www.dib.ie/biography/walsh-brian-cathal-patrick-a8868>> accessed 10 November 2023.

<sup>107</sup> Paucic J. Dempsey, ‘Budd, Frederic Gardner Orford’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/budd-frederic-gardner-orford-a1105>> accessed 10 November 2023.

<sup>108</sup> *ibid.*

<sup>109</sup> Ronan Keane, ‘Fitzgerald, William O’Brien (‘Billy’)’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/fitzgerald-william-obrien-billy-a3194>> accessed 10 November 2023.

<sup>110</sup> *ibid.*

<sup>111</sup> Lawrence William White, ‘Ó Caoimh, Aindrias (Ó Cuiv, Ayindries; O’Keeffe, Andreas (Andrew))’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/o-caeimh-aindrias-o-cuiv-ayindries-okeeffe-andreas-andrew-a6826>> accessed 10 November 2023.

<sup>112</sup> *ibid.*

<sup>113</sup> ‘Mr Justice McLoughlin dies at 70’ *The Irish Times* (11 September 1972)

<<https://www.irishtimes.com/newspaper/archive/1972/0911/Pg012.html#Ar01205:7EC7EE81F80378D78F81A7BE81679185A7C082A7EF8698058697EF86E80577B7F878880E7F287F84089477A9317C994777A9667CB97B7E07648547937A27EC7E08017B487D7DF89284195A86B96F>> accessed 10 November 2023.

<sup>114</sup> *ibid.*

<sup>115</sup> Kevin Costello, ‘Henchy, Séamus Anthony’ (*Dictionary of Irish Biography*)

<<https://www.dib.ie/biography/henchy-seamus-anthony-a9693>> accessed 10 November 2023.

<sup>116</sup> *ibid.*

<sup>117</sup> ‘New Judge of High Court Appointed’ *The Irish Times* (9 October 1971)

<<https://www.irishtimes.com/newspaper/archive/1971/1009/Pg009.html#Ar00901>> .

<sup>118</sup> *ibid.*

<sup>119</sup> ‘Former Chief Justices’ (*The Supreme Court of Ireland*)

<<http://www.supremecourt.ie/SupremeCourt/sclibrary3.nsf/pagecurrent/B8E6388E466B6FB680257315005A41D3?opendocument&l=en>> accessed 10 November 2023.

<sup>120</sup> *ibid.*

<sup>121</sup> *ibid.*

<sup>122</sup> *ibid.*



John Kenny	1975 – 1982	<b>Catholic University School</b> <sup>123</sup>	University College, Dublin <sup>124</sup>
Weldon Parke	1976 – 1981	Cork Grammar School <b>Sandford Park School Dublin</b> <sup>125</sup>	Trinity College, Dublin <sup>126</sup>
Anthony Hederman	1981 – 1993	<b>Castleknock College</b> <sup>127</sup>	University College, Dublin <sup>128</sup>
Niall McCarthy	1982 – 1992	CBS Dún Laoghaire <b>Clongowes Wood College</b> <sup>129</sup>	University College, Dublin <sup>130</sup>
<u>Liam Hamilton</u>	<u>1985 – 2000</u>	<u>CBS Mitchelstown</u> <sup>131</sup>	<u>University College, Dublin</u> <sup>132</sup>
Hugh O’Flaherty	1990 – 1999	CBS Cahirciveen St Brendan’s College Killarney <sup>133</sup>	University College, Dublin <sup>134</sup>
Séamus Egan	1991 – 1995	CBS Synge Street <b>Blackrock College</b> <sup>135</sup>	University College, Dublin <sup>136</sup>
John Blayney	1992 – 1997	<b>Belvedere College</b> <b>Glenstal Abbey School</b> <sup>137</sup>	University College, Dublin <sup>138</sup>
<u>Susan Denham</u>	<u>1992 – 2017</u>	<u>Alexandra College, Dublin</u> <sup>139</sup>	<u>University College, Dublin</u> <u>Trinity College, Dublin</u>

<sup>123</sup> Gerard Hogan, ‘Kenny, John Joseph’ (*Dictionary of Irish Biography*)  
<<https://www.dib.ie/biography/kenny-john-joseph-a4502>> accessed 10 November 2023.

<sup>124</sup> *ibid.*

<sup>125</sup> ‘Death of Mr Justice Parke’ *The Irish Times* (19 February 1981)  
<<https://www.irishtimes.com/newspaper/archive/1981/0219/Pg013.html#Ar01300:7015B071B5C500051374C52872758574959A6DF6A07016B56EC73A70F7506D67AD6F87C26B28576D386C6B68F26D89077B95237DB5387BC5BE7DD5D384A71286C7277DD8BF7FF8D46E6513718528>> accessed 10 November 2023.

<sup>126</sup> *ibid.*

<sup>127</sup> CastleknockCollege.ie, Judge Anthony Hederman R.I.P.  
<<https://www.castleknockcollege.ie/2014/01/14/judge-anthony/>> accessed 28 November 2023.

<sup>128</sup> *ibid.*

<sup>129</sup> Adrian Hardiman, ‘McCarthy, Niall St John’ (*Dictionary of Irish Biography*)  
<<https://www.dib.ie/biography/mccarthy-niall-st-john-a5583>> accessed 10 November 2023.

<sup>130</sup> *ibid.*

<sup>131</sup> ‘Former Chief Justices’ (*The Supreme Court of Ireland*)  
<<http://www.supremecourt.ie/SupremeCourt/sclibrary3.nsf/pagecurrent/B8E6388E466B6FB680257315005A41D3?op=ndocument&l=en>> accessed 10 November 2023.

<sup>132</sup> *ibid.*

<sup>133</sup> ‘A Very Pragmatic Judge who is result Oriented’ *The Irish Times* (16 April 1999)  
<<https://www.irishtimes.com/news/a-very-pragmatic-judge-who-is-result-oriented-1.174208>> accessed 10 November 2023.

<sup>134</sup> *ibid.*

<sup>135</sup> Dickson (n 26) 318.

<sup>136</sup> *ibid.*

<sup>137</sup> *ibid.*

<sup>138</sup> *ibid.*

<sup>139</sup> Former Chief Justices’ (n 120).

			<u>Columbia University, New York</u> <sup>140</sup>
Harry Whelehan	1994	<b>Glenstal Abbey School</b> <sup>141</sup>	University College, Dublin <sup>142</sup>
Declan Costello	1995 – 1998	Sacred Heart Convent School, Leeson Street  St Xavier's School, Donnybrook <sup>143</sup>	University College, Dublin <sup>144</sup>
Donal Barrington	1996 – 2000	<b>Belvedere College</b> <sup>145</sup>	University College, Dublin <sup>146</sup>
<u>Ronan Keane</u>	<u>1996 – 2004</u>	<b>Blackrock College</b> <sup>147</sup>	<u>University College, Dublin</u> <sup>148</sup>
Francis Murphy	1996 – 2002	<b>St Mary's College, Rathmines</b> <sup>149</sup>	University College, Dublin <sup>150</sup>
Kevin Lynch	1996 – 1999	<b>St Mary's College Rathmines</b> <sup>151</sup>	University College, Dublin <sup>152</sup>
Henry Barron	1997 – 2003	<b>St Columba's College, Dublin</b> <sup>153</sup>	Trinity College, Dublin <sup>154</sup>
Frederick Morris	1998 – 2001	<b>Glenstal Abbey School</b> <sup>155</sup>	University College, Dublin <sup>156</sup>
<u>John Murray</u>	<u>1999 – 2015</u>	<b><u>Crescent College, Limerick</u></b>  <b><u>Rockwell College Tipperary</u></b> <sup>157</sup>	<u>University College, Dublin</u> <sup>158</sup>

<sup>140</sup> *ibid.*

<sup>141</sup> Vincent Browne, 'Experienced Hamilton in line for next Chief Justice Job' *The Irish Times* (10 September 1994) <<https://www.irishtimes.com/newspaper/archive/1994/0910/Pg006.html#Ar00603:83B77088178886978088F798>>. accessed 28 November 2023.

<sup>142</sup> *ibid.*

<sup>143</sup> Terry Clavin, 'Declan (David) Costello' *Dictionary of Irish Biography* <<https://www.dib.ie/biography/costello-david-declan-a10016>>. accessed 28 November 2023.

<sup>144</sup> *ibid.*

<sup>145</sup> Simon Carswell, 'Ex-judge and 'barrister to underdog' Donal Barrington dies' (3 January 2018) *The Irish Times* <<https://www.irishtimes.com/news/ireland/irish-news/ex-judge-and-barrister-to-underdog-donal-barrington-dies-1.3344138>> accessed 28 November 2023.

<sup>146</sup> *ibid.*

<sup>147</sup> 'Former Chief Justices' (n 120).

<sup>148</sup> *ibid.*

<sup>149</sup> Dickson (n 26) 325.

<sup>150</sup> *ibid.*

<sup>151</sup> *ibid* 323.

<sup>152</sup> *ibid.*

<sup>153</sup> *ibid* 317.

<sup>154</sup> *ibid.*

<sup>155</sup> Vincent Browne, 'Experienced Hamilton in line for next Chief Justice Job' *The Irish Times* (10 September 1994) <<https://www.irishtimes.com/newspaper/archive/1994/0910/Pg006.html#Ar00603:83B77088178886978088F798>> accessed 10 November 2023.

<sup>156</sup> *ibid.*

<sup>157</sup> 'Former Chief Justices' (n 120).

<sup>158</sup> *ibid.*

Catherine McGuinness	2000 – 2006	<b>Alexandra College, Dublin</b> <sup>159</sup>	Trinity College, Dublin <sup>160</sup>
Adrian Hardiman	2000 – 2016	<b>Belvedere College</b> <sup>161</sup>	University College, Dublin <sup>162</sup>
Hugh Geoghegan	2000 – 2010	<b>Clongowes Wood College</b> <sup>163</sup>	University College, Dublin <sup>164</sup>
Nial Fennelly	2000 – 2014	<b>Clongowes Wood College</b> <sup>165</sup>	University College, Dublin <sup>166</sup>
Joseph Finnegan	2001 – 2012	CBS Synge Street St Mary's College, Dundalk <sup>167</sup>	University College, Dublin <sup>168</sup>
Brian McCracken	2002 – 2006	<b>The High School, Dublin</b> <sup>169</sup>	Trinity College, Dublin <sup>170</sup>
Nicolas Kearns	2004 – 2015	<b>St Mary's College, Rathmines</b> <sup>171</sup>	University College, Dublin <sup>172</sup>
Fidelma Macken	2005 - 2012	Marist Convent, Carrick-on-Shannon <sup>173</sup>	Trinity College, Dublin London School of Economics <sup>174</sup>
Richard Johnson	2006 – 2009	<b>Glenstal Abbey School</b> <sup>175</sup>	University College, Dublin <sup>176</sup>
Liam McKechnie	2010 – 2021	<b>Presentation Brothers College, Cork</b> <sup>177</sup>	University College Cork <sup>178</sup>

<sup>159</sup> Carol Coulter, 'The Sheedy Affair puts judicial system in the political spotlight: Likely contenders for leading judicial posts' *The Irish Times* (April 3 1999).

<<https://www.irishtimes.com/newspaper/archive/1999/0403/Pg008.html#Ar00801:5EC2AE63B2CF5C63CC6083E85C760E60A62B67E65B6AB67360F71A63C7325C28336058505C7A8B60AAA75D7AAB603AC26AFB4F6C4B666C4B4F6CAB665A8B5C5C0B747143B17563CE70F5FA751616710816752832711A35752A525A52AE5DF2CF65983369B850613833650850>> accessed 10 November 2023.

<sup>160</sup> *ibid.*

<sup>161</sup> Dickson (n 26) 320

<sup>162</sup> *ibid.*

<sup>163</sup> *ibid.* 320.

<sup>164</sup> *ibid.*

<sup>165</sup> *ibid.* 318.

<sup>166</sup> *ibid.*

<sup>167</sup> *ibid.* 319.

<sup>168</sup> *ibid.*

<sup>169</sup> *ibid.*, 324.

<sup>170</sup> *ibid.*

<sup>171</sup> 'Mr Justice Nicholas Kearns' *The Irish Times* (10 November 2004)

<<https://www.irishtimes.com/news/mr-justice-nicholas-kearns-1.1165689>> accessed 28 November 2023.

<sup>172</sup> *Ibid.*

<sup>173</sup> 'Fidelma Macken' *The Irish Times* (15 July 1999)

<<https://www.irishtimes.com/news/mr-justice-nicholas-kearns-1.1165689>> accessed 10 November 2023.

<sup>174</sup> *ibid.*

<sup>175</sup> 'Richard Johnson obituary: Serious and Thoughtful Judge' *The Irish Times* (24 August 2019)

<<https://www.irishtimes.com/opinion/richard-johnson-obituary-serious-and-thoughtful-judge-1.3994588>> accessed 10 November 2023.

<sup>176</sup> *ibid.*

<sup>177</sup> Carol Coulter, 'Mr Justice McKechnie Nominated for Supreme Court' *The Irish Times* (23 June 2010)

<<https://www.irishtimes.com/newspaper/archive/2010/0623/Pg004.html#Ar00407:17E92A1989371898171A68241D77982AD7C71AA8171C48241C48171C882410B82413083215590E19391C3E78174278244AA8924EE8A0>> accessed 20 November 2023.

<sup>178</sup> *ibid.*

<u>Frank Clarke</u>	<u>2012 – 2021</u>	<u>Drimnagh Castle CBS<sup>179</sup></u>	<u>University College, Dublin<sup>180</sup></u>
Mary Laffoy	2013 – 2017	<b>Cólaiste Mhuire, Tourmakeady<sup>181</sup></b>	University College, Dublin <sup>182</sup>
Sean Ryan	2014 – 2018		University College, Dublin <sup>183</sup>
Peter Kelly	2015 - 2020	O’Connell School <sup>184</sup>	University College, Dublin <sup>185</sup>
Mary Finlay Geoghegan	2017 – 2019	Convent of the Sacred Heart, Monkstown <sup>186</sup>	University College, Dublin College of Europe <sup>187</sup>
<u>Donal O’Donnell</u>	<u>March 2010</u>	<u>St Mary’s CBS, Belfast<sup>188</sup></u>	<u>University College, Dublin</u> <u>University of Virginia<sup>189</sup></u>
John MacMenamin	2012 -2022	<b>Terenure College<sup>190</sup></b>	University College, Dublin <sup>191</sup>
Elizabeth Dunne	July 2013		University College, Dublin <sup>192</sup>
Peter Charleton	June 2014	<b>St Mary’s College, Rathmines<sup>193</sup></b>	Trinity College, Dublin <sup>194</sup>
Iseult O’Malley	October 2015		Trinity College, Dublin <sup>195</sup>
George Birmingham	April 2018	St Paul’s College, Raheny <sup>196</sup>	Trinity College, Dublin <sup>197</sup>

<sup>179</sup> Carolan (n 35)

<sup>180</sup> *ibid.*

<sup>181</sup> Carol Coulter, ‘The Sheedy Affair puts judicial system in the political spotlight: Likely contenders for leading judicial posts’ *The Irish Times* (April 3 1999) <<https://www.irishtimes.com/culture/the-sheedy-affair-puts-judicial-system-into-the-political-spotlight-1.169934>> accessed 28 November 2023.

<sup>182</sup> *ibid.*

<sup>183</sup> ‘Announcement of six Judges Designate of the Court of Appeal’ (*Merrion Street*, 23 July 2014) <<https://web.archive.org/web/20140808052718/http://www.merrionstreet.ie/index.php/2014/07/announcement-of-six-judges-designate-of-the-court-of-appeal/?cat=12>> accessed 10 November 2023.

<sup>184</sup> Mary Carolan, ‘Peter Kelly profile. Fearless legal force for half a century’ *The Irish Times* (15 June 2020) <<https://www.irishtimes.com/news/crime-and-law/peter-kelly-profile-fearless-legal-force-for-half-a-century-1.4278917>> accessed 28 November 2023.

<sup>185</sup> *ibid.*

<sup>186</sup> Supreme Court of Ireland, ‘Annual Report 2018’ <[http://www.supremecourt.ie/supremecourt/sclibrary3.nsf/\(WebFiles\)/721D16DCC8DE6F45802583B00037C20A/\\$FILE/2018%20Supreme%20Court%20Annual%20Report.pdf](http://www.supremecourt.ie/supremecourt/sclibrary3.nsf/(WebFiles)/721D16DCC8DE6F45802583B00037C20A/$FILE/2018%20Supreme%20Court%20Annual%20Report.pdf)>.

<sup>187</sup> Dickson (n 26) 319.

<sup>188</sup> Pat Leahy, ‘Supreme Court Judge O’Donnell to become next Chief Justice’ *The Irish Times* (28 September 2018) <<https://www.irishtimes.com/news/crime-and-law/courts/supreme-court/supreme-court-judge-donal-o-donnell-to-become-next-chief-justice-1.4686079>> accessed 10 November 2023.

<sup>189</sup> *Ibid.*

<sup>190</sup> ‘Mr Justice John MacMenamin SC’ *The Irish Times* (10 November 2004) <<https://www.irishtimes.com/news/mr-john-macmenamin-sc-1.1165691>> accessed 10 November 2023.

<sup>191</sup> *ibid.*

<sup>192</sup> ‘Current Judges of the Supreme Court’ (*The Supreme Court*) <<http://www.supremecourt.ie/SupremeCourt/sclibrary3.nsf/pagecurrent/5C73008BBE0F9BB98025741800405F3C?op=endocument&l=en>> accessed 10 November 2023.

<sup>193</sup> Stephen Collins, ‘Cabinet approves judicial appointments’ *The Irish Times* (22 November 2006) <<https://www.irishtimes.com/news/cabinet-approves-judicial-appointments-1.1032118>> accessed 10 November 2023

<sup>194</sup> *ibid.*

<sup>195</sup> Carol Coulter, ‘New High Court Judges Nominated’ *The Irish Times* (8 May 2012) <<https://www.irishtimes.com/news/new-high-court-judges-nominated-1.713402>> accessed 10 November 2023.

<sup>196</sup> Honourable Justice George Birmingham, <<https://www.burrenlawschool.org/law/hon-mr-justice-george-birmingham>>. accessed 28 November 2023.

<sup>197</sup> *ibid.*

Mary Irvine	2019 - 2022	<b>Mount Anville Secondary School</b> <sup>198</sup>	University College, Dublin <sup>199</sup>
Marie Baker	December 2019	St Mary's High School, Middleton <sup>200</sup>	University College Cork <sup>201</sup>
Séamus Woulfe	July 2020	<b>Belvedere College</b> <sup>202</sup>	Trinity College, Dublin Dalhousie University Nova Scotia <sup>203</sup>
Gerard Hogan	October 2021		University College, Dublin University of Pennsylvania Trinity College, Dublin <sup>204</sup>
Brian Murray	January 2022		Trinity College, Dublin University of Cambridge <sup>205</sup>
David Barniville	July 2022	<b>Blackrock College</b> <sup>206</sup>	University College, Dublin <sup>207</sup>
Maurice Collins	November 2022	<b>Rockwell College Tipperary</b> <sup>208</sup>	University College Cork <sup>209</sup>
Aileen Donnelly	June 2023		University College, Dublin <sup>210</sup>

<sup>198</sup> Pat Leahy, 'Mary Irvine to be nominated as President of the High Court' *The Irish Times* (12 June 2020) <<https://www.irishtimes.com/news/crime-and-law/ms-justice-mary-irvine-to-be-nominated-as-president-of-the-high-court-1.4277609>> accessed 10 November 2023.

<sup>199</sup> *ibid.*

<sup>200</sup> 'Current Judges of the Supreme Court' (n 192).

<sup>201</sup> *ibid.*

<sup>202</sup> *ibid.*

<sup>203</sup> *ibid.*

<sup>204</sup> *ibid.*

<sup>205</sup> Mary Carolan, 'Brian Murray to be nominated for appointment to Supreme Court' *The Irish Times* (27 January 2022) <<https://www.irishtimes.com/news/ireland/irish-news/justice-brian-murray-nominated-for-appointment-to-supreme-court-1.4786098>> accessed 28 November 2023.

<sup>206</sup> 'Masters of the Bench: The Hon Mr Justice David Barniville' (*The Honourable Society of the Middle Temple*) <<https://www.middletemple.org.uk/bencher-persons-view?cid=46274>> accessed 10 November 2023

<sup>207</sup> *ibid.*

<sup>208</sup> 'Maurice Collins Speech & Business and Social Gathering' (*Rockwell College Union*, 13 November 2018) <<https://www.rockwellcollegeunion.com/blog/governance/business-and-social-gathering-photos>> accessed 10 November 2023.

<sup>209</sup> Department of the Taoiseach, 'Appointments to the Supreme Court and the High Court' (*Gov.ie*, 2 November 2022) <<https://www.gov.ie/en/news/a2b47-appointments-to-the-supreme-court-and-the-high-court-2-november-2022/>> accessed 10 November 2023.

<sup>210</sup> 'Ms. Justice Aileen Donnelly set for Supreme Court' (*Law Society Gazette*, 24 May 2023) <<https://www.lawsociety.ie/gazette/top-stories/2023/may/ms-justice-aileen-donnelly-set-for-supreme-court>> accessed 10 November 2023.