

The Honourable Ms Justice Aileen Donnelly an alumna of UCD School of Law, delivered the following speech at the 39th Bank of Ireland Awards Ceremony:



'Thank you to the School of Law and to Paul Ward in particular for the invitation to act as adjudicator for the Bank of Ireland Essay Prize. It's a real privilege to be invited here to the UCD Sutherland School of Law to present these awards. I congratulate the past and present faculty members and of course other staff here at UCD, for the ingenuity, perseverance and sheer hard work that went into the development of this building. It is a testimony to the commitment of the staff of the School of Law and the Development office in UCD that so many graduates were prepared to assist with the financing. It also says a lot about the high regard of the alumni for the School of Law.

When Paul asked me, or should I say trapped me, into agreeing to act as the adjudicator for the awards I had little idea how difficult it would be. I was presented with 8 of the highest scoring essays from the year. To say that I was impressed with the high standard of legal knowledge and reasoning displayed would be an understatement. The topic "Common Law jurisdictions have endeavoured to derive a test for pure economic loss arising from negligent words as opposed to acts. Critically discuss" is not an easy one for Superior Court judges, seasoned lawyers or diligent academics. The topic raises issues, such as the definition of pure economic loss, the historical reasons behind its exclusion from recoverability and the policy reasons

underlying the judicial decisions in this area. The essay demanded an ability to comprehend the development of this law across common law jurisdictions and an ability to distil the resulting analysis into the limit of words placed on the essay.

Although the task was not an easy one, I am satisfied that the 3 medal winners were outstanding and thoroughly deserve their prizes. Each took a different approach,

Hayley impressed with her focus on the facts of the cases; using those facts to illustrate in a concrete fashion the development of the jurisprudence in the UK, Ireland, Canada and Australia.

Juliette highlighted policy considerations at place in the various judgments and how that played into the developments in jurisdiction. She pointed out the lack of a systematic approach in the common law world to pure economic loss, the fact that much discretion appears to be left in the hands of the judiciary and that debates remain to be had about the scope of the duty.

Kian's essay was a masterpiece of clarity. It distilled the pre and post Hedley Byrne positions with admirable succinctness. He then questioned whether Irish law would benefit from reform and in particular from Statutory reform although he pointed out that even with statutory reform, a difficulty would remain, as such a difficulty must, to quote Kian "in any system where the two aims are mutually incompatible, on the one side the courts desire to right a wrong and the other side the need to give certainty to the law."

As I say, the standard of research and the ability to express oneself with the clarity that legal writing demands was very high. The fact that these are first year law students is particularly significant. It shows how the requirement of legal writing is now seen as important from the very beginning of a law student's education. I recall that when I was in UCD the first time we were ever required to write anything was in the Summer Examinations. That came as a bit of a shock but at least by the time the essay requirement came around we had experienced what it was like to put our thoughts on paper. I know that within a year or two of when I left UCD, an entirely new syllabus had been organised which incorporated a series of legal writing assignments.

Clinical Legal skills are now offered, including Advocacy and Mooting and Legal Practise. Civil and criminal procedure is also an important part of the syllabus. I have no doubt but that the education available will prepare people more thoroughly to become professional lawyers. Of course, the various law courses available in this law school are not designed solely for the purpose of producing practising lawyers. Law graduates are qualified for a wide range of careers. A thorough understanding of law, the legal system and legal reasoning gives an edge in business, finance, banking,

politics, civil and public administration and in organisations concerned with civil society such as human rights focussed NGOs. That is the situation even when the academic focus is on law, but where you have undergraduate courses which have an additional aspect such as economic, languages, politics or social justice the aptitude of the graduates for tackling the widest variety of career challenges is enhanced.

From my own point of view, I never thought when I studied at UCD that I would one day become a Judge and certainly not a High Court judge. At that time, women judges were few and far between. Ms. Justice Mella Carroll of the High Court and before her District Justice Eileen Kennedy were trail blazers, but their very exceptionality made it unthinkable that I could be one. I also did not attend a fee paying school and I can recall a more senior graduate of UCD Law School berating me for choosing the Bar as a career because “I had no contacts.” Later on in my career at the bar I could not conceive of a day when a lesbian woman would be appointed to the bench.

Thankfully those kind of barriers are being broken down. The most recent statistic I have from the Court Service is that 33.54% of judges are female. We have a society that is more accepting of those who are gay and lesbian. On the other hand, the recent released statistics on the difference between the numbers of persons in Universities who are grant assisted and those in Technical Institutes is a reminder that economic inequalities play a huge factor in equality of access to education, and no doubt, to further advancement. I think those statistics may be indicative of structural inequalities that can limit the potential of individuals to reach the heights which their talent and hard work would otherwise permit. Women may still find a glass ceiling on advancement and those without access to money or contacts may find advancement in the legal professions far more challenging than those with the advantage of both. At an institutional level as well as at an individual level these barriers can and must be challenged.

I am satisfied however that there are great opportunities in society for you as law graduates and in particular great opportunities for personal and professional satisfaction as legal professionals. Congratulations to all the winners here this evening. You and your families can be rightly proud of your achievements. I wish you all well in your studies here at UCD and the very best for your future careers, whatever you decide to do. ‘