



Cúirt Uachtarach na hÉireann
Supreme Court of Ireland

Tribute to Ms Justice Elizabeth Dunne

**Delivered by Mr Justice Donal O'Donnell, Chief Justice
in Supreme Court on 20 February 2026**

I would like to welcome all Ms Justice Dunne's many friends to the Supreme Court today, but in particular, her husband James, her children Lucy and Daniel, and her brothers Liam, Terry, and Gary. You are all very welcome.

Today is the final act in what on any reckoning is an extraordinary judicial career. The description of a judicial career as extraordinary, especially on retirement risks becoming devalued by overuse, but in the case of Mr Justice Elizabeth Dunne, it is an understatement.

Understatement is indeed a very appropriate word in discussing Elizabeth's career. The popular image of barristers and judges tends towards grandiloquence. If so, Elizabeth Dunne is the antidote. She is calm, thoughtful, low-key, efficient, matter of fact, and yes, understated. Throughout her career she has approached the biggest and most difficult cases in the same way as the most inconsequential. As she would say herself "it's our job so let's just get on with it" - and so I will.

As we know, Elizabeth was born 70 years ago in Roscommon, the fourth in her family. Her father was a member of An Garda Síochána and was stationed there at the time and went on to become a superintendent. Elizabeth suffered the terrible loss of her father at age 14 which must have been devastating. But she got on with it, did what she knew would have made her father proud and graduated in law from UCD and the King's Inns and was called to the Bar in 1977 at the age of 21.

It is hard to explain to people today, what the legal profession and Law Library was like then (and I am of course far too young to remember it, but I have heard about it in some of my older colleagues), but it is worth trying now to recall what

it must be like for a young woman, fresh from college with no connections in the legal profession. The world was changing, but it would not have been surprising, indeed it would have been thought of as brave, if she had sought to make her way in areas like property law and family law, where women were beginning to carve out practices. Elizabeth did practise in these areas but she also practised more extensively in the field of banking and also in defamation, where she acted for a number of media defendants. That was an area which had a reputation for machismo, given to theatrics and the occasional explosion - and that was just the clients - but Elizabeth dealt with it all in a quiet unfussy way, her simple presence always reducing the temperature which might have been threatening to reach boiling point.

In 1996, after 19 years of practice as Junior Counsel she was appointed as a judge of the Circuit Court alongside Olive Buttimer and Alison Lindsay in what can be called the second wave of judicial feminism. It is extraordinary that they were the second, third, and fourth women to be appointed to the Circuit Court in its history. And this is something of a theme in Elizabeth's career. By my count, Elizabeth was effectively the second woman appointed to the Circuit Court, the sixth woman appointed to the High Court, and in due course, the fourth woman appointed to the Supreme Court.

And when we tell the story of social change, it is inevitable that there is considerable concentration on person who can be said to be The First - that is indeed the title of the biography of Sandra Day O'Connor - but could easily be the title of a biography of Eileen Kennedy, Catherine McGuinness, Mella Carroll or Susan Denham. But it is the people who come second, third or fourth through the door, who are arguably more important in the history of social change. They make the difference between something that is symbolic or token, and real change. They are the people who, by their efforts, make that change normal to the point where it is no longer a question of counting or remarking. And the low-key understated efficiency of someone like Elizabeth is an essential quality in that journey.

When she was appointed to the Circuit Court her career took another unexpected pivot. As an all-rounder she might have expected to be deployed in the Civil List, but instead she moved into crime and in took over the Dublin Circuit Criminal List in Court 8, which is the busiest in the country. That was another area of what

Mark Zuckerberg might have recognised as turbulent masculine energy, and there was I recall some scepticism about what this banking lawyer might know. But I am aware, from my own knowledge, of how Elizabeth won the respect, admiration and ultimately the genuine affection of all the practitioners in that area because of her unshowy efficiency and palpable fairness, and when she left it on her promotion there was universal approval of the choice but real disappointment that they were losing her as presiding judge. And that has been a recurring theme in Elizabeth's career.

In 2004 she was appointed to the High Court and given her broad experience might have expected to be deployed in a number of areas in which she practised or adjudicated in before. But in the great unpredictable ways of the legal system, she found herself almost immediately presiding in one of the major constitutional cases of our, and indeed one of the most high-profile social issues to reach the Courts when she presided in the case of *Zappone and Gilligan v Revenue Commissioners* which raised the question of same sex marriage. A case like this attracts considerable media attention. This case was part of a wave of similar cases being adjudicated on in Courts in western countries, and came with a substantial public relations campaign, as at least part of the objective of the litigation was consciousness raising. Cases like this are certainly fascinating, but extremely difficult at a legal level. But they also pose particular risks for judges: the risk of the unguarded statement in a moment of foolishness, or worse saying something that would forever be skewered as encapsulating the outdated views of society, at the time of rapid change like for example the prosecutor in the Lady Chatterley case famously asking the jury if they would really let their wives or servants read such a book, or the risk that an otherwise fine judgment would be marred by the indulgence of reaching for a memorable phrase, or a desire to be associated with fashionable opinions, and most obviously, the real risk of mistaking one's own moral views for the dictates of the Constitution.

It is a daunting task for a judge let alone one recently promoted with no previous track record in constitutional law.

Elizabeth dealt with it briskly, carefully calmly and respectfully. It is sometimes forgotten that the precise posture of that case, was not a direct challenge to the definition of marriage in Irish law, but rather involved complex questions of private

international law in relation to recognition of a marriage solemnised in British Columbia. Elizabeth's judgment carefully navigated all these complex issues, and without heat or moralising, flamboyance or public handwringing, and delivered her decision which.

I am not aware of any significant dispute with that result, any outcry or still less any suggestion that it reflected some predisposition on the part of the judge. It was I think recognised that this was simply a judge doing their job as they saw it, without fear or favour, something that was brought home to me years later when I saw the disappointed Plaintiff and the Judge, women of similar age and interests engaged in amiable conversation at a university function.

The decision in that case led directly to the Marriage Referendum and one of the great days for Irish democracy, when a change to our Constitution and our law was decided by an overwhelming majority of the People, who took ownership of their own constitution and decided the type of society they wished to live in. And so the decision was important in empowering the People. And that is constitutional decision-making in a real sense. Too often commentators portray constitutional law as something made by the attention grabbing *yes* that pushes the boundaries: but in fact, it is also made, and made more secure, by the quiet *no* that respects them.

Subsequently, she moved to the technically difficult but what might have been thought to be the quieter and less controversial areas of personal insolvency, bankruptcy and the Special Summons List for recovery of possession of property, and arrived there just in time for the tsunami created by the financial crisis. This posed real problems for the Courts. On the one hand, any functioning economy requires that there be an effective process for recovery of possession of secured property, and for the resolution of personal debt. On the other hand, these cases came with stories of sometimes great personal hardship. But also, in some instances the financial difficulties sometimes induced people, particularly those who had once amassed great wealth, to behave in ways which were reprehensible. A court had to be able to distinguish between these cases and tailor its approach accordingly. Elizabeth met all the situations in the same way, by simply doing her job and calling it as she saw it. Famously, that meant that in *Start Mortgages v Gunn* she found that there was a lacuna in the 2009

Conveyancing and Law Property Act, which precluded the recovery of possession under statutory mechanism, for pre-existing charges, where demand had not been made before the coming into force of the Act. That necessitated a legislative amendment but that was simply as she saw it, the law and so she said so.

In 2013 she was appointed to the Supreme Court. That meant playing on a bigger pitch, and to continue the sporting analogy, in a lot of different positions, but she dealt equally efficiently and briskly with the different cases the list throws up concerning the law of property, criminal law, constitutional law, European law, planning immigration and defamation and much more.

In the enormously complex and significant case of *Costello v Ireland*, known colloquially as CETA, she found herself in the position of writing the lead judgment in a court that divided 4:3, and holding that the Government could not ratify the Comprehensive Trade Agreement between the EU and Canada. Again, she simply called it as she saw it, and as it happened, not as I saw it because I was in the minority. And I developed a greater respect, for James, Lucy and Daniel, and for anyone else who tried to persuade Elizabeth to even change the channel on the television, let alone change her mind, but everything was done in the most polite, and solicitous way, and without any raised voices or bruised feelings.

In addition to this 30-year track record Elizabeth has taken on a whole range of extra judicial roles, such as chairing the Referendum Commission in 2013, in relation to the abolition of the Seanad, and the creation of a Court of Appeal. She was elected by her colleagues to the executive committee of the Association of Judges, she has been a longstanding member of the Superior Court Rules Committee. She was also elected by her colleagues as a board member of the Courts Service Board, and in 2024 I asked her to take on the arduous role of chair of the Court's Service Board. For a number of years she has been the Irish representative on the Network of Supreme Administrative Courts of the European Union. She did all these things without demur or complaint, but I think even her patience and capacity were tested to the limit when on the retirement of John MacMenamin in 2022 she became the Senior Ordinary Judge in the Supreme Court and perhaps appropriately therefore the fourth most Senior Judge in the Irish court system.

The position of Senior Ordinary Judge of the Supreme Court is one of those unusual positions of which the Court system specialises and which so far as I can see, come with a range of duties, and responsibilities and no benefits. It is mentioned in a number of statutes going back at least as far as the Court of Justice Act 1928. The functions of the Senior Ordinary Judge, and here I have to apologise to non-legal attendees, for some technical legal language, but the function of the SOJ is *"so far as practicable to prevent the Chief Justice of the day from making a holy show of themselves"*. Elizabeth has been a loyal, ever supportive, and constructive friend, and I will miss her greatly.

This is on any version an extraordinarily impressive list of achievements, but it does not capture her most lasting achievement as a Judge. In many cases it is true to say that the high point of a judge's career or at least their reputation is the day they are appointed, and it is all downhill from here. But I think it can be said as absolute truth that every step along the way, whether in the Circuit Court, the High Court or the Supreme Court, she has won not just the respect but the real friendship and affection of all her colleagues. She is the epitome of that judge other judges value most – a good colleague. She is someone who over time just continues to win the respect and affection of colleagues who encounter her because she has a quality that are often undervalued in judges; behind all the legal knowledge and courtroom experience there is a kind, generous and sympathetic person, who is unfailingly helpful to her colleagues.

You know something of the affection in which somebody is held by the nickname. Only superstars are known by a single name: there is Beyoncé, there is Bono, and there is Liz- or and sometimes Liz Dunne, single syllables nice robust, no nonsense, what you see is what you get, simple, efficient, understated.

I got the sense however that Elizabeth chafed a little bit under this entirely admirable soubriquet and would really have preferred something a little less Coronation Street and a little more Downton Abbey. And if you search on the Internet for nicknames for Elizabeth you come across an intriguing message, and I quote:

"I got the nickname Liz before I knew it and I'm needing a change. I am just trying to find a nickname that suits me better personally. I am a bit of a Francophile; I love the Golden Age of Hollywood and want something classy and

elegant. I am changing jobs soon and feel that this is an opportunity to reinvent myself by finding an unconventional nickname that is more suited to me. Any ideas?"

The author is anonymous, but the metadata suggests it may have originated somewhere in Dublin 7.

I would like the artist, formerly known as Liz, to know that her ever helpful colleagues have given this plaintive plea some deep thought. We excluded all the obvious ones: Eliza, Elsie, Betsy, Bess, Lizzie, Beth, Libby and Elle, and we gave some thought to, but ultimately rejected Eilis Sibeal and even the quite classy and elegant Elise. Other options such as Bella, Birdie, Lizzie, and Lilibeth were rejected out of hand. And then it was suggested, with that talent for original thinking for which I think you will agree the Supreme Court is justly famed, that that the idea of a nickname imposed for life was really outdated, and which unduly, and yes indeed disproportionately, constrains human personhood when read, as it must in the light of the constitutional value of dignity - you should be allowed have a nickname for a day, which should however be presented in verse with a complex rhyming scheme - so here goes:

What name can we give her, our colleague and friend

As three decades of judging come to an end

When all is done and dusted

We might just have sussed it

Her name today can only be one

It's farewell to Elizabeth, Judge Dusted and Dunne.