



## **Judge O’Scannlain Speaks on the Politicization of the Judiciary**

*Hillsdale College Hosts Ninth Circuit Court of Appeals Judge, Diarmuid O’Scannlain*

By Maureen Collins

Judge Diarmuid O’Scannlain of the Ninth Circuit Court of Appeals addressed students and faculty on Hillsdale College’s campus on Thursday, September 21. His speech, “Neither Force nor Will: The Growing Politicization of the Judicial Branch,” addressed the idea that politics and not reason should govern the judiciary—a view which is becoming increasingly prevalent.

Under the Constitution, the judiciary is to interpret the law. By its design, citizens vote for congressmen but not for federal judges, because judges are not supposed to make political decisions. According to O’Scannlain, this is changing—and not for the better.

“The increasing politicization of the judicial branch is a cancer that strikes at the very heart of the American ideal of self-governance,” O’Scannlain said. Such politicization, he argued, played out in the heated and contentious hearings for President Trump’s judicial nominees. By comparison, O’Scannlain’s own nomination hearing in 1986 lasted only 20 minutes.

O’Scannlain admits the judiciary itself deserves some blame for this. “Might I say with respect and regret that we judges have invited this perception,” he said. “By employing legal reasoning divorced from text, history and structure, our courts have resolved vexing social issues in place of legislators.”

The legal education system is also to blame, he said. Law schools have abandoned the idea that judges are “neutral actors” for the idea that “judges are political actors donned with black robes.”

“This blending of law and politics in an academic setting instills in students, who are just beginning their legal careers, that lawyers and judges are not operating based on text or precedent, but purely on political bias and machinations,” he said.

While the situation at hand might seem bleak, O’Scannlain nevertheless remains hopeful about the future of the judiciary. He is “heartened” by the appointment of Justice Neil Gorsuch to the Supreme Court, and noted that good citizenship driven by good education can play a role in returning the judiciary to its proper place.

O’Scannlain praised Hillsdale College’s blend of classical education and American constitutionalism. He has hired three Hillsdale alumni as law clerks. Two former clerks are currently co-teaching a class with the judge on constitutional jurisprudence.

Photos of the lecture [are here](#).

## **About Hillsdale College**

Hillsdale College, founded in 1844, has built a national reputation through its classical liberal arts core curriculum and its principled refusal to accept federal or state taxpayer subsidies, even indirectly in the form of student grants or loans. It also conducts an outreach effort promoting civil and religious liberty, including a free monthly speech digest, *Imprimis*, with a circulation of more than 3.7 million. More information at [hillsdale.edu](http://hillsdale.edu).

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