

Obvious issues of fact and law. Article 34 inconsistency and repugnancy of Statutory Court vestiture and jurisdiction relative to 1961 Courts Establishment and Constitution & Courts Supplemental provisions Act 1961

What presents itself as germane to the **Contentious Issue**, is the establishment and jurisdiction processes employed by the Dail Eireann lawmakers in 1961. Purportedly the Courts Establishment and Constitution Act 1961 established the new District Court vestiture at section 5, and the Circuit Court at Section 4. The Courts Supplemental Provisions Act 1961, purportedly conferred jurisdiction to the District Court judges at sections 33 & 34, and the Circuit Court judges at Section 22 .(3) (a) (ii) & (5) (a) (b) as being validly enforced.

Therefore on this basis because myself as well as Dr. Stephen Manning brought a Contest to the District Court jurisdiction and previously matters were also at Circuit Court (Manning Case) statutory jurisdiction, the resulting Constitutional footing which is now questioned, it becomes necessary to examine the chain of Oireachtas lawmaking purporting to create, the Heirarchial Architecture & Jurisdiction for the new Statutory Courts envisaged by Article 34 of the 1937 Constitution, to ensure there are no Statutory or Constitutional infirmities in the identified legislation and its implementation.

Firstly, it is Trite law that, the Courts Establishment and Constitution Act 1961, commenced on the 29th September 1961, conferred no self executing jurisdictional power for judges to hear cases. **However**, it must be also pointed out that, the new District Court & Circuit Court created by the Act, were standing established at Section 4 & 5 respectively as being commenced, but, it is **NOT PURSUANT** to Article 34 of the Constitution.

Secondly, Section 7 of the aforementioned Act, was intended to cease the “ existing courts” described in Article 58 (transitory provision) as the Supreme Court of Justice, the High Court of Justice, the Circuit Court of Justice, and the District Court of Justice 1924 that were in existence immediately before the coming into operation of this Constitution shall, subject to the provisions of this Constitution relating to the determination of questions as to the validity of any law, continue to exercise the same jurisdictions respectively as theretofore. But as a matter of fact and law, those “existing Courts” had never been lawfully commenced and enforced by an original

no. 5 Commencement Order for the Courts of Justice Act 1924 on the 5th June 1924, or within 5 months of 12th April 1924 pursuant to section 2 of the Act, being signed by Timothy Michael Healy after receiving the Kings assent.

Thirdly it was inferred from Article 50 of the 1937 Constitution that laws in force if not inconsistent with the Constitution , would continue to be of full force and effect. However, to the contrarian effect, the jurisdiction power of judges to hear cases under the 1924 Courts of Justice Act had never been lawfully commenced and enforced on the 5th June 1924, with the resulting effect that the importation of those purported existing jurisdiction as validly transferring power to the new District Court judges at Sections 33-34 & Circuit Court judges pursuant to Section 22 .(3) (a) (ii) & (5) (a) (b) of the Courts Supplemental Provisions Act 1961, was an impossibility. Furthermore this purported existing jurisdiction importation, contains vestiges of Crown power and prerogative that are inconsistent with, and repugnant to the 1937 Constitution.

Fourthly, Section 3 of the Courts Supplemental Provisions Act 1961 (also commenced on the 29th September 1961) sought to validly repeal section 2 of the Courts of Justice Act 1924, but in fact that section was never lawfully commenced and enforced as intended on the 5th June 1924, and therefore it could not be repealed, revived, or re-enacted pursuant to the provisions of section 21 of the 1937 Interpretation Act.

Fifthly, section 48 of the Courts Supplemental Provisions Act 1961 that sought to adapt the enactments and powers of existing Courts, judges, officers, and rules of court under the 1924 Courts of Justice Act as being in force and operative was in effect null and void, because the 1924 Act had never been lawfully commenced and enforced on the 5th June 1924

Sixthly, section 6 of the Offences against the State Act 1939 sets out clearly the position in regard to usurping and participating in a tribunal not authorised by law shall be guilty of a felony, which is cited as follows;

6.—(1) Every person who usurps or unlawfully exercises any function of government, whether by setting up, maintaining, or taking part in any way in a body of persons purporting to be a government or a legislature but not authorised in that behalf by or under the Constitution, or by setting up, maintaining, or taking part in any way in a purported court or other tribunal not lawfully established, or by forming, maintaining, or being a member of an armed force or a purported police force not so authorised, or by any other action or conduct whatsoever, shall be guilty of felony and shall be liable on conviction thereof to suffer penal servitude for a term not exceeding ten years or to imprisonment for a term not exceeding two years.

(2) Every person who shall attempt to do any thing the doing of which is a felony under the foregoing sub-section of this section or who aids or abets or conspires with another person to do or attempt to do any such thing or advocates or encourages the doing of any such thing shall be guilty of a misdemeanour and shall be liable on conviction thereof to imprisonment for a term not exceeding two years.

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