
Seth Barrett Tillman

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THE GOLDEN THREAD
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The 33rd Amendment on the establishment of a Court of Appeal.

By Leah Holmes

October 4th

The establishment of a Court of Appeal was a promise to the electorate prior to the 1996 general election. In the 1995 referendum, over 90% of the electorate voted in favour of a Constitutional change that would allow for a Court of Appeal. The 33rd Amendment of the Constitution will see the establishment of a Court of Appeal for Ireland, which will have the power to revise and overturn the decisions of the Supreme Court. The new Court of Appeal is expected to be an institution that will work to bring the law into the 21st Century.

The concept of the establishment of a Court of Appeal is not new. However, the delay in the establishment of the Court is a cause for concern. The delay is due to the fact that the current Supreme Court is not equipped to deal with the increasing number of cases that require a higher level of legal expertise.

The current Supreme Court is composed of judges who have been serving for many years. Their judges are often appointed to the Supreme Court because of their long service in the legal profession. The new Court of Appeal will bring fresh blood to the legal system and will ensure that the law is brought up to date.

The new Court of Appeal will be a court of appeal for the Supreme Court. This means that the Court of Appeal will be able to deal with cases that are of a constitutional nature. The Supreme Court will continue to deal with cases that are of a routine nature.

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and time consuming, but also essential for ensuring matters. This also ensures that cases will become clearer and more weighty on the matter. For prospective and current members, it is essential to have a courts system which is efficient and timely. It is evident that there are a number of court cases which remain in the Court.

Notwithstanding the astounding yes vote to the reform of the Irish appeals system, it has been met with a substantial amount of criticism. Paul Anthony McDermott, Constitutional Lawyer, expressed his reservations about the possible establishment of a new Court of Appeal, asserting that the introduction of a new court will only increase the delays. “In my experience in law, the more layers you introduce to a system and the more courts & judges you have, the more cases there’ll be, the more delays there’ll be. It won’t solve the problem that Irish people are very litigious”. Our very own Professor Seth Barrett Tillman has been quite vocal with his concerns over the proposed changes. He claims that the issue with the current backlog is a “productivity problem” which “a new court can’t solve” further adding that the new Court of Appeal is “a new bailout”. Professor Tillman, along with many other commentators, believes that this will not be a solution to the existing problem. The Master of the High Court has made his own comments on the matter calling the new system a “crude devise” which will not reduce the backlog but rather increase the number of appeals. “The judges have come up with this idea for a Court of Appeal with lots of judges but it’s a crude device which avoids addressing the problems of excessive complexity and paperwork.” Possible separation issues between the High Court, Court of Appeal and the Supreme Court have too been advocated. Michael Gallagher, Professor of Comparative Politics, Trinity College Dublin, has raised such concerns. He believes that the new Court of Appeal will also hear some Constitutional cases which may blur the dividing line between the two Courts.

With regard to whether the 3rd Court of Appeal will be beneficial to Ireland. Is it possible that it will be a much-needed overhaul of the current courts and judges system? It may be assessed that the new Court is the most straightforward, could the new courts truly separate or will they become a more complex version of the existing courts? Only time will tell with the Irish Courts system.