

## THE SUPREME COURT

Keane C.J.  
McGuinness J.  
Geoghegan J.  
29/00

FARLEY

.v.

IRELAND AND OTHERS

EXTEMPORE RULING delivered on the 26th day of May 2000 by Keane C.J. [NEM DISS]

The applicant issued proceedings in which he claims a declaration that the Courts (Supplemental Provisions) (Amendment) Bill, 1999 constituted a breach of constitutional law in accordance with Article 34.5.1 and Article 35.4.1, 2 and 3 of the Constitution: that presumably is a reference to the Courts (Supplemental Provisions) (Amendment) Act, 1999. This court of course would have no jurisdiction to deal with a Bill. Now the plaintiff in his statement of claim says that the Bill which was an Act in fact dealing with the remuneration of certain retired judges was unconstitutional in breaching certain articles of the Constitution and the defendants who are Ireland, An Taoiseach, Cabinet Ministers and the Attorney General brought a motion before the High

Court seeking an order striking out the proceedings on the ground that the pleadings disclosed no cause of action and that they were frivolous and vexatious. In an affidavit, the Chief State Solicitor stated that the Courts (Supplemental Provisions) (Amendment) Bill, 1999 had been enacted as the Courts (Supplemental Provisions) (Amendment) Act, 1999. The affidavit states that this Act is an act providing for pensions of certain retired judges and the affidavit goes on to say there is no such provision as Article 35.4.1, 2 and 3 but insofar as the plaintiff may be taken to be relied on the entire of Article 35 of the Constitution, that article provides for the appointment of an independent judiciary and it is clear that the provisions of the Act do not and could not touch upon those matters in any way.

It is clear from the terms of the Constitution that Article 35 sets out in detail the provisions in relation to judges and provides that the remuneration of a judge shall not be reduced during his continuance of office and also provides in Article 36 that the following matter shall be regulated in accordance with law, that is to say, the number of judges of the Supreme Court and of the High Court and the remuneration, age of retirement and pensions of such judges. Now the Act that the plaintiff seeks to challenge does precisely that. It deals with the pensions of certain retired judges and that was entirely within the competence of the Oireachtas to enact. The plaintiffs proceedings also referred

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to the Act as being in breach of the Act of Settlement of 1700 and the Act of Settlement in Ireland of 1830. The appointment and remuneration, including the pensionable remuneration of judges, is in Ireland dealt with solely under the provisions of the Constitution and legislation enacted by the Oireachtas and the statutes to which the plaintiff refers have nothing whatever to do with the remuneration of the judges concerned.

I am satisfied that the High Court judge was entirely correct in finding that these proceedings disclose no cause of action and that they are frivolous and vexatious and I would affirm the order of the High Court.



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17/07/00