



AN COINBHINSIÚN AR AN mBUNREACTH
THE CONVENTION ON THE CONSTITUTION

Seventh Report of the Convention on the Constitution

Dáil Reform

March, 2014

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1. Chairman's Introduction

Introduction

Over the weekend of the 1st and 2nd of February, 2014, the Convention held its eighth and penultimate plenary meeting to consider the first of two topics that Convention members had selected from a number of themes under the 'Any Other Amendments' category, sometimes referred to as the 'ninth clause' of the Convention's terms of reference. (Appendix A).

Over 800 submissions were received by the Convention under 'Any Other Amendments' which were grouped under six broad themes. In addition, the Convention consulted widely hosting nine regional meetings across the country during October and November, 2013 giving the public an opportunity to participate in the process. In early December, Convention members were asked to select the themes they wished to deal with over the final two plenary meetings. The outcome of this was that political and institutional reform, specifically Dáil reform, was selected for the eighth meeting with economic, social and cultural rights being chosen for the ninth and final meeting, to be held towards the end of February.

Background

Membership of the Constitutional Convention comprises 66 citizens, 33 parliamentarians and an independent Chairman. The 66 citizens were selected randomly by a polling company using the electoral register and on the basis of groups representative of Irish society and generally balanced in terms of gender, age, region, social class and occupational status.

Political parties and groups in Dáil Éireann and Seanad Éireann nominated representatives on the basis of their relative strengths in the Oireachtas. Political parties represented in the Northern Ireland Assembly were invited to nominate one representative each.

The Convention operates on the basis of the following principles; openness, fairness, equality, efficiency and collegiality.

The Convention continually strives to provide the best possible method of conducting its business in a manner which enhances the experience for Convention members and demonstrates that this model of deliberative democracy can achieve its ambitious objectives.

Over plenary weekends, the Convention receives a range of papers and presentations from academic and legal experts; and advocacy groups, in addition to the written submissions from members of the public.

At each meeting, the Convention aims to spend the greater proportion of its time in deliberations and discussion. This is primarily achieved through participation in round table discussions, supported by facilitators. Great effort is made to ensure that the briefing materials provide an appropriate level of information to enhance the quality of the discussions.

The Convention was given 12 months to complete its task. A short extension to this timeframe - to the end of March - was granted in recognition of the Convention's wish to add a plenary meeting to the programme in order to deal with the topics submitted under 'Any Other Amendments'.

For its part, the Government gave an undertaking to respond to the various recommendations of the Constitutional Convention within four months of the publication of its reports; to arrange a full debate in the Houses of the Oireachtas in each case; and if it accepts a recommendation that the Constitution be amended, to include a timeframe for the holding of the referendum.

Eighth Plenary Meeting

It was, perhaps, not so surprising that Convention members chose to discuss Dáil reform. In May and June of 2013 they dedicated two plenary meetings to discussing the Dáil electoral system and arising therefrom, made a number of recommendations in the Convention's Fourth Report. Having thoroughly examined the system by which our public representatives are elected, there is a certain logic to the Convention members deciding to follow through on its previous work by considering improvements to the way those representatives actually discharge their responsibilities in the Dáil.

As ever, the Convention members were served extremely well by their Academic & Legal Support Team, led by Prof. David Farrell, and consisting of Dr. Clodagh Harris, Lia O'Hegarty, Dr. Eoin O'Malley and Dr. Jane Suiter, which provided a number of well-crafted background papers on the Dáil and Dáil reform as well as making presentations during the course of the weekend. In addition, the Secretary to the Convention, Art O'Leary, presented a masterclass on the Friday evening before the plenary that covered the basics in terms of the role of Dáil Éireann, including the passing of laws, holding the government to account and overseeing public expenditure.

The Convention also received expert presentations from Dr. Muiris MacCarthaigh, Queen's University Belfast Dr. Meg Russell, University College London, and Dr. Mary C. McCarthy, University College Cork, each of whom was generous and skilful in imparting knowledge and answering questions.

The discussions over the weekend were enhanced by contributions from panellists, including former Taoiseach Mr. John Bruton, former Minister Mr Noel Dempsey, former Clerk of the Dáil Mr Kieran Coughlan and Mr Jerry Buttimer TD, Chairman of the Oireachtas Committee on Health & Children, whose collective experience - past and present - was greatly appreciated by Convention members.

Seemingly a familiar topic, it was evident from the many contributions of Convention members over the course of the weekend that the functioning of Dáil Éireann is also a complex matter with many facets, some quite technical. It was also clear that while certain reforms proposed might require constitutional change, many others could be achieved within the institution itself, for example, through changes to Standing Orders and practice.

This was also a special plenary meeting in that the Convention had the pleasure of the company of a number of distinguished parliamentarians from the 'Arab Spring' countries including Libya, Tunisia, Egypt and Yemen who were visiting Ireland at the invitation of the Irish Section of AWEPA (European Parliamentarians with Africa) to participate in 'Reconstituting Constitutions, 2014'. The delegation attended the plenary meeting to observe the Convention's model of deliberative democracy in action and to address the members on their reflections from their respective points of view.

Recommendations

The results of the ballot were quite clear. A substantial majority of Convention members want to see a range of further Dáil reforms to enhance those already in place. In respect of reforms requiring Constitutional change, Convention members recommended that the role of the Office of the Ceann Comhairle be enhanced by its inclusion in the text of the Constitution and by the election of the office-holder by secret ballot; the strengthening of the role of Dáil committees by a similar inclusion; and an amendment to Article 17.2 regarding expenditure proposals.

The Convention made a wide range of other recommendations which do not, necessarily or at all, require changes to the Constitution but which the Convention feels would greatly enhance the workings of the Dáil.

This Report will be laid in the library of the Houses of the Oireachtas in due course and I look forward to the response of the Government within 4 months.

Acknowledgments

I would first like to congratulate all members of the Convention for their tenacity and concentration in tackling what was a challenging subject. In keeping with previous plenary meetings the members completed their task in the spirit of openness and respect which underpins all our discussions and, of course, with consistent good humour.

I would like to thank the Academic and Legal Team, led by Prof. David Farrell and including Dr. Jane Suiter, Dr. Clodagh Harris, Lia O'Hegarty and Dr. Eoin O'Malley for their continued advice and support. They were ably assisted in their work by two interns, Colm Byrne and Paul Deane.

The Convention members were indebted to the academic experts, Dr MacCarthaigh, Dr Russell and Dr. Murphy for their excellent presentations and papers and also the valuable contributions by the panellists, including John Bruton, Noel Dempsey, Kieran Coughlan and Jerry Buttimer, TD.

Tom Arnold
Chairman

2. Convention Recommendations

1. Amendments to the Constitution

	Yes	No	No opinion
Reference to the Office of the Ceann Comhairle should be enhanced to give it more status.	88	7	5
Secret ballot to elect the Ceann Comhairle	88	12	0
Include reference to Committees in Constitution	76	9	15

	Yes	No	Refer elsewhere for further consideration
Amend Article 17.2 of the Constitution (relating to prior government approval for expenditure proposals)	53	11	36

Changes to Standing Orders (Dáil rules) or Parliamentary Practice

1. Dáil Reform

	Yes	No	No opinion
Dail Reform Committee should include external members and former TDs	85	8	7
The Dáil Reform Committee should bring forward proposals for genuine reform, reflecting the Convention discussion	99	0	1
Introduction of Family-friendly hours	63	20	17

2. Ceann Comhairle

	Yes	No	No opinion
Secret ballot to elect the Ceann Comhairle (which may require constitutional change)	88	11	1
Members set the Dail agenda (ensuring adequate time for debate) in a forum chaired by the Ceann Comhairle	73	18	9

3. Committees

	Yes	No	No opinion
Proportionate allocation of committee chairs and secret ballot for their election	84	11	5
More technical and professional resources to the committees	93	5	1
The Working Group of Committee Chairs (like the House of Commons Liaison committee) should be given the power to call Taoiseach	70	14	16
Have a 'committee week' each month the Dail is sitting, with only Leaders' Questions taken in a Dail plenary session	89	8	3

4. Whip

	Yes	No	No opinion
More "free votes" on Dáil and committee business	84	15	1

5. Financial matters

	Yes	No	Refer elsewhere for further consideration
Create procedure to allow all TDs to make recommendations that involve a charge on the public purse, or the People	68	11	21

3. Convention Programme



AN COINBHINSIÚN AR AN mBUNREACTH
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Recommendations to the Houses of the Oireachtas on the reform of Dáil Éireann

Saturday

9.30 a.m. Welcome by Chair

Presentations

9.45 a.m. Functions of Dáil Éireann and the recent history of Dáil Reform – *Dr. Muiris MacCarthaigh (QUB)*

10.20 a.m. Constitutional position (and legal limitations) – *Lia O’Hegarty*

10.45 a.m. *Roundtable discussions*

11.45 am Reform in the House of Commons – *Dr. Meg Russell (UCL)*

12 noon Comparison with other countries – *Dr. Jane Suiter (DCU)*

12.25 p.m. Summary of the challenges – *Prof. David Farrell (UCD)*

12.30 p.m. *Roundtable discussions*

2.15 p.m. Plenary session - participants to hear the emerging themes from the discussion at other tables

3 p.m. Options for reform – *Dr. Mary C. Murphy (UCC)*

3.15 p.m. *Panel discussion* – John Bruton (*former Taoiseach*), Noel Dempsey (*former Minister and Govt. Chief Whip*), Kieran Coughlan (*former Clerk of the Dáil*), Dr. Mary C. Murphy (*UCC*), Jerry Buttimer (*Chairman, Oireachtas Health Committee*), Meg Russell (*UCL*)

4.30 p.m. *Roundtable Discussion*

Sunday

10a.m. Summary and emerging themes from previous sessions

10.30 a.m. Agree ballot paper

11 a.m. Discussion with visiting politicians from Egypt, Tunisia, Libya and Yemen (organised by the Irish delegation of AWEPA, the Assoc. of European Parliamentarians with Africa)

12 noon *Convention business*: Discussion about what to do with the remaining issues on the “Any other Amendments” list.

12.50 p.m. Announcement of Results

4.1 The relationship between the Dáil and the Government - Prof. David Farrell (UCD)

The structure of government in Ireland bears many similarities to the British ('Westminster') tradition (*MacCarthaigh and Manning 2011*). At its heart is the close relationship between the government and the Dáil (parliament). The government is elected by and from the Dáil (i.e. the ministers are Dáil deputies). In theory this should mean that the Dáil has an important power relationship over the government (indeed, this is what is implied under article 28.4.1): after all, if the Dáil elects the government then surely it can sack it too. While there are instances of where the Dáil has 'sacked' a government (e.g. by voting against the budget, which forces an election), for the most part the relationship is one in which the government controls the Dáil.

The major reason for this is due to the powerful hold of political parties over our system of representative democracy. With the exception of the small number of independents in the Dáil, the bulk of our TDs are members of a political party, and follow the direction of their party leaders. The party or parties (if a coalition government) that 'win' the election and form the government therefore control the Dáil.¹ This can be seen in a number of key respects, for instance:

- The government party (or parties) determines who shall be the Ceann Comhairle (chairperson of the Dáil). Officially the Ceann Comhairle is elected by an 'open ballot' of all TDs, but in reality since the government party/ies hold the majority of seats in the Dáil, their preferred candidate wins.
- The government sets the Dáil agenda, deciding on the order of business, on how long to spend on certain items, and whether to curtail debate by calling a vote (by use of 'the guillotine'). While there are meetings between party whips to try and achieve consensus on this, ultimately if none can be found the government has the final word.
- The government (through the role of the government party whip) determines how the Dáil shall vote on legislation (again because its in-built Dáil majority ensures that it virtually always wins Dáil votes).
- The government picks the chairs of all the Dáil committees (except for the few committees, such as Public Accounts, which are chaired by opposition TDs), in effect treating committee chair appointments as part of the patronage powers of the Taoiseach.
- Particularly through its control of the Dáil agenda and the operation of the party whip system, the government also has a strong hold over how the committees operate, and certainly over the degree of input they might have in amending legislation.

The question to consider is whether anything can be done to give the Dáil greater influence, in particular, how to change the power relationship between Dáil and government. In a separate briefing document we examine whether amendments to the Constitution might change things. In this briefing document the focus is on the changes that might be made to how the Dáil and the political parties operate – none of which would require a constitutional change. We focus on three main features: how the Dáil operates; the Dáil committees; and the use of party whips.

1. The Dáil

The current government had made some reforms to how the Dáil operates, such as the introduction of ‘Friday sittings’, and letting the Dáil debate legislation at ‘heads of bill’ stage. (Appendix B to this briefing note gives a sense of how the Dáil operation has evolved in recent years.) But the fact remains that the Dáil is still largely under the control of the government. This is only to be expected in ‘Westminster’ parliaments such as ours. However, there are good reasons to believe that in our case the control of government over parliament is greater than in many other countries. The tables in Appendix A to this note provide some evidence on this (see Table 1 for instance). The question, therefore, is whether it might be possible to make some changes to Dáil structures so as to give the chamber more autonomy.

Areas that might be worth considering include the following:

- *The election of the Ceann Comhairle:* As Table 3 shows, the Dáil is one of very few parliaments in Western Europe to elect its Chairperson by an open ballot, which – in effect – means that the Taoiseach of the day determines who shall be Ceann Comhairle. As Meg Russell’s briefing note explains until 2001 Britain used the same procedure to pick the Speaker of the House of Commons. Today, among the countries of Western Europe only Ireland, Denmark and Sweden continue to elect their parliamentary chairpersons this way. The implication of moving to a secret ballot to elect the Ceann Comhairle is that he or she would then have the support of the Dáil; the office would no longer be treated as the ‘gift’ of the Taoiseach. While it might be a stretch to suggest that this would give the Ceann Comhairle more of a say over how the Dáil operates, it could at least embolden the office of Ceann Comhairle, and help encourage a more pro-active reforming zeal from the office holder (such as we’re seeing in the British House of Commons).
- *The control of the Dáil agenda:* The current practice is that the government (via its chief whip) decides on the Dáil agenda (with some effort to do so in agreement with the other party whips). The government had promised to address this, but based on the increasing use of the guillotine in recent years, it’s clear that more needs to be done. Apart from the UK, in most other European parliaments the agenda is set either by the parliament’s chairperson (see Table 3), or (as in Germany) by proportional allocation to parties based on the number of seats they have in parliament, or more usually by a committee convened by the parliament’s chairperson comprising the leaders of all the parties (see Table 2). Were we to shift to a system of electing the Ceann Comhairle by secret ballot then the latter option for determining the Dáil agenda might be worth considering.

2. Dáil committees

There have been some reforms to Dáil committees in recent years, such as a reduction in their number, but they still remain largely under the control of the government of the day. This can have implications for the amount of time and effort TDs put into committee work as opposed, say, to their constituency work.

Areas to examine include:

- *The appointment of committee chairs*: The current practice is that the government controls most of the committee chairs, allowing opposition parties to chair a few (including the Public Accounts committee which is always chaired by a opposition TD) depending roughly on the balance of power in the Dáil. In effect, this means that the allocation of committee chairs is the prerogative of the Taoiseach, an additional source of patronage in his armoury. There are proposals to move to a system of allocating the committee chair systems proportionally among the parties (using the d'Hondt system of proportional representation). This would be a welcome first step. A further step worth considering is that once it has been determined which parties shall chair which committees there should then be a secret ballot of all TDs to elect the chairs. This would take it away from the patronage of the Taoiseach and helps create the sense that committee chairs are an alternative career structure to ministerial office – thus incentivizing TDs to take their committee role more seriously.
- *Who gets to be on a committee*: the current situation is that committee membership is largely seen as a right rather than a privilege. A question to consider is whether it has to be the case that all TDs should have a place on a Dáil committee. Recent reforms to reduce the number of committees has certainly helped ameliorate the problem of TDs being spread too thinly across a large number of committees (McKenna 2011), but as a result of this reform we now have some committees that are far too large – just to ensure that every TD has a committee post. The question first posed by Michael Laver in 1997 still remains whether it is right that each and every TD (apart from government ministers) should be a member of a committee. If committee positions were to become a privilege rather than a right, this too could help incentivize TDs to take the committee role more seriously. (Of course, there would be a need to devise a fair mechanism for determining who gets to be on a committee and on which committee.)
- *The resourcing of committees*: Arguably current supports provided for TDs focuses too much on their constituency role. This wasn't meant to be. The introduction of state support for TDs' offices in (2005) was supposed to help their legislative work; however, over the years the practice had tended to be to use this budget line to pay for constituency support. Meanwhile, as research by Conan McKenna (2011) shows, the Dáil committees are rather light on administrative support: according to his data the average Dáil committee is supported by two-to-three staff; by contrast in the New Zealand parliament there are four staff to support each committee, whereas in the British House of Commons there are more than five per committee. This would suggest, at least, that administrative support for committees could be increased, though only if it were clear that this were going to make a difference to the effectiveness of committees (e.g. tied in with reforms to reduce the number of committee posts, it would be expected that those lucky enough to serve on committees would take their paperwork responsibilities seriously).

3. Party whips

This last area for consideration relates to how the political parties operate in the Dáil (i.e. this is an area for 'party' reform rather than Dáil reform). Following the Westminster tradition, the parties all use 'whips' to keep their TDs in line. What this means is that the TDs vote as they are instructed to by their party leaders. Most parliaments operate some sort of procedure like this to keep their members in line, because ultimately in order to operate effectively a parliament needs a degree of disciplined voting by its member (Bowler et al. 1999).

The question is whether the Dáil takes this discipline a bit too far, resulting in one of the most party-controlled parliaments in Europe (Farrell et al. 2013). Does the party whip need to be applied rigidly for all votes in the Dáil? It is understandable why a government would need to enforce the whip to ensure that it passes its budget. But what about on votes of conscience, or on legislation that might not be so critical to the survival of the government? Should the party leaderships be more flexible in allowing debate in party ranks about draft legislation, in allowing back bench TDs put forward amendments and/or express their opposition to features of the legislation?

And is there really a need to use party whips at committee stage? Allowing TDs a free vote would encourage them to be more involved in the detail of the legislation at committee stage. And it would not endanger the government's ability to pass the legislation through its final stage in the Dáil.

4. A final warning note

We should end with a warning note. Constitutional reforms and/or political reforms to how the Dáil operates have their limitations. There simply is no 'magic bullet' here. Ultimately, if change is to happen it has to start with the political parties and with the individual TDs who must be prepared to embrace the changes and work with them.

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**Appendix A:
Some comparative trends**


The following tables are based on a range of different sources, some of which are quite old and therefore may not be entirely up to date.

Table 1. Index of Government Dominance over the Parliament

		Score
High	Greece	5
	Ireland	4
	UK	4
Medium	Germany	2
	France	1
	Netherlands	1
	Portugal	1
	Spain	0.5
Low	Belgium	-1
	Denmark	-1
	Finland	-1
	Italy	-1
	Norway	-1
	Iceland	-2
	Sweden	-4

Source: Niamh Hardiman, 'Conclusion: Changing Irish Governance', in Niamh Hardiman ed. *Irish Governance in Crisis* (Manchester University Press, 2012)

Table 2. Curtailing of debate in Parliament (such as through the use of Guillotines)

The majority (i.e. government) decides	The length of debate is agreed in advance between all the parties	It is not possible to curtail debate
France	Austria	Finland
Greece	Belgium	Netherlands
Ireland	Denmark	Sweden
United Kingdom	Germany	
	Iceland	
	Italy	
	Luxembourg	
	Norway	
	Portugal	
	Spain	
	Switzerland	
More government control		Less government control

Source: <http://www.uni-potsdam.de/db/vergleich/Publikationen/Parliaments/PMR-W-Europe.pdf>

Table 3. Some comparative data on Parliamentary Chairpersons (Ceann Comhairle)

	Elected by secret (S) or open (O) ballot ^a	Power of Chairperson to summon a plenary ^b	Power of Chairperson to set agenda of parliament ^c
Austria	S	2	1
Belgium	S	1	1
Denmark	O	2	2
Finland	S	2	2
France	S	0	0
Germany	S	1	0
Greece	S	2	2
Iceland	S	2	1
Ireland	O	0	0
Italy	S	2	1
Luxembourg	S	1	0
Netherlands	S	2	0
Norway	S	0	0
Portugal	S	1	1
Spain	S	2	0
Sweden	O	2	0
Switzerland	S	0	1
United Kingdom	S	0	0
TOTALS	O = 3/18	0 = 5/18	0 = 9/18
Source	IPU, 2013	Doring, 2001	Doring, 2001

Sources: <http://www.ipu.org/english/home.htm>; <http://www.uni-potsdam.de/db/vergleich/Publikationen/Parliaments/PMR-W-Europe.pdf>

Notes:

- a Implication of voting for Chairperson by ‘open ballot’ is that MPs will follow party whip instructions. A ‘secret ballot’ makes it less likely for the party leadership to determine who becomes parliamentary chairperson.
- b 2 = Chairperson has unrestricted powers to call a plenary session;
1 = there are some restrictions on the Chairperson’s ability to call a plenary session (e.g. he or she may need the agreement of the parties);
0 = Chairperson has no powers to call a plenary session
- c 2 = Chairperson has unrestricted powers to set the agenda of the parliament;
1 = there are some restrictions on the Chairperson’s ability to set the agenda (e.g. he or she may need the agreement of the parties);
0 = Chairperson has no powers to set the agenda

**Appendix B:
Statistics on Oireachtas activities**

	2009	2010	2011	2012
Dail Sitting Days	101	100	108	123
Seanad Sitting Days	100	97	81	110
Bills published	79	61	84	214
Amendments (to Bills) proposed	4,610	4,782	2,249	4,450
Parliamentary Questions (PQs) tabled	34,094	44,943	37,397	56,027
Requests to Research Service	2,340	2,550	3,131	1,847
Visitors to Leinster House	103,315	87,575	75,058	109,300
Number of Oireachtas (Civil Service) Staff	409	387	367	366

4.2 Briefing note on Oireachtas Committees – Art O’Leary

Introduction

A Committee is a group of Members chosen by either or both the Dáil and the Seanad to study a particular subject area. This often involves “shadowing” the work of a Government Department, including proposed legislation and estimates for Government expenditure. The membership of each Committee usually reflects the proportion of the seats held by each of the political parties in the Houses.

Why does the Oireachtas need committees?

- they increase efficiency as they allow the Parliament to conduct a vast amount of parliamentary work simultaneously (580 meetings last year), rather than having bottlenecks in the Dail and Seanad Chambers;
- they provide an opportunity for the public to interact directly with parliamentary processes - approx 1,600 people appear before committees every year;
- they allow Members to focus their attention on areas of their own personal specialist expertise e.g. Finance, Justice, Social Protection etc.;
- they enable the Parliament to manage increasingly complex scrutiny issues in areas that span a number of Departments e.g. the previous Climate Change committee dealt with issues under the remit of Environment, Transport, Energy, Agriculture etc.

Types of Committees and their roles and functions.

Standing Committees are permanent Committees under Standing Orders (the rules of the House) and are automatically established after a general election e.g. the Public Accounts Committee, which ensures that there is accountability and transparency in the way that government departments and agencies spend and manage taxpayers’ money.

Other Committees can be established from time to time by order of either House. A Committee established by one House is known as a **Select Committee** and comprises Members from that House only. Dáil Éireann usually asks Select Committees to conduct the detailed clause-by-clause study of Bills (Committee or Third Stage). In recent years, Select Committees of Dáil Éireann have also been established to consider Estimates (of Expenditure), Motions, International Agreements and other proposals referred by Dáil Éireann in relation to a particular Government Department.

Joint Committees are made up of members of both the Dáil and the Seanad, working together under common Orders of Reference. They have typically been established to ‘shadow’ the activities of Government Departments and public bodies falling within the remit of those Departments in relation to general policy issues.

Special Committees may be formed by either House in order to perform a particular task, for example, to consider particular Bills. However, this is rarely done nowadays and the business is usually referred to the relevant Select or Joint Committee.

The full list of committees is attached at Appendix A. The various powers available to committees are attached at Appendix B.

Recent notable changes to committee business

- **Pre-legislative scrutiny** (examining draft proposals for legislation before they are formally published).

A new Standing Order was introduced in Dáil Éireann in November, 2013 so each Minister MUST, save in exceptional circumstances, send his/her proposals for legislation to a committee before the Bill is formally introduced in the Oireachtas. Each Committee should therefore have a better opportunity to examine the implications of the Bill, to consult with those who might be affected, and to influence the detail of the content. If the Bill is NOT sent to the committee in advance of publication, the Minister must provide a formal explanation in a debate in Dáil Éireann.

- **EU Scrutiny**

The influence of the EU in our national affairs has grown and an early (and thorough) examination of draft proposals for European legislation is becoming an increasingly important part of an Oireachtas Committee's work. Laws such as the Habitats Directive can have a huge impact on individual countries in the EU and it is therefore critical that Parliaments and their committees are vigilant as soon as these draft proposals are published. The Lisbon Treaty (which was passed in a referendum in this country) allows each national parliament to propose yellow or red cards to these proposals which can change them or block them totally.

Committee workload

	2009	2010	2011*	2012	2013
No. of committee meetings	559	565	291	572	580
No. of hours of meetings	998	967	519	1032	1130
No. of witnesses	1570	1435	651	1661	1767
No. of policy reports published	42	40	19	18	20

* there was a General Election in 2011 which meant that Oireachtas committees only worked for approx. 6 months that year.

Appendix A – List of Committees

Select/Joint Committee on Agriculture, Food and the Marine
Select/Joint Committee on Education and Social Protection
Select/Joint Committee on Environment, Culture and the Gaeltacht

Select/Joint Committee on European Union Affairs
Select/Joint Committee on Finance, Public Expenditure and Reform
Select/Joint Committee on Foreign Affairs and Trade
Select/Joint Committee on Health and Children

Joint Committee on the Implementation of the Good Friday Agreement
Joint Committee on Public Service Oversight and Petitions

Select/Joint Committee on Jobs, Enterprise and Innovation
Select/Joint Committee on Justice, Defence and Equality

Committee on Members' Interests (Dáil Éireann)
Committee on Members' Interests (Seanad Éireann)
Committee on Procedure and Privileges (CPP) (Dáil Éireann)
Committee on Procedure and Privileges (CPP) (Seanad Éireann)

Committee of Public Accounts (also known as PAC)

Public Consultation Committee (Seanad Éireann)

Select/Joint Committee on Transport and Communications

Appendix B – Powers of Committees

Although a Committee is given various powers to carry out its tasks, it remains subject to the Houses and can not expand or increase its own powers or functions, unless the Houses formally agree to this.

The powers which may be delegated to Committees are contained in Standing Orders and include:

- power to send for persons, papers and records;
- power to take oral and written evidence;
- power to print and publish minutes of evidence taken in public (and related documents);
- power to invite written submissions and oral presentations from interested persons or bodies;
- power to appoint sub committees, to refer matters to them and to delegate powers to them;
- power to draft recommendations for legislative change and for new legislation;
- power to consider and report on proposals for EU legislation which have been referred to the Committee;
- power to require a Minister or Minister of State to attend a meeting to discuss policy, or proposed primary or secondary legislation (before it is published);
- power to require a Minister to attend a meeting to hear the views of the Committee before attending a meeting of the EU Council;
- power to require principal office-holders in State agencies or bodies to attend a meeting to discuss their official responsibilities;
- power to engage specialist or technical knowledge, subject to budget and sanction;
- power to travel, subject to budget and sanction;
- power to print and publish reports and related documents;
- power to request a debate in plenary;
- power to meet in private.

4.3 Functions of Dáil Éireann and the recent history of Dáil Reform - Dr Muiris MacCarthaigh (QUB)

In earlier meetings of the Convention concerning the electoral system, as well as other briefing notes for this meeting on Dáil reform, Members of the Convention will have heard and read about the perceived shortcomings of our parliamentary system of government, and in particular the strong control held by the executive over the work of the Oireachtas. In this Briefing Note, I wish to provide a brief account of the origins of this issue as well as previous attempts to address it by means of Dáil reform.

The political and legal authors of the 1922 Constitution recognised the imperfections of the British Cabinet system, especially control of government by a disciplined parliamentary party and the domination of parliament by the Cabinet which was already apparent by this time. The Irish Free State Constitution therefore contained some considered attempts to try and avoid this, including an emphasis on the role of the legislature as opposed to the executive, and innovative opportunities for executive oversight that were not available in Westminster at this period. The Constitution also stated that the Dáil would govern its time of assembly and dissolution.

Apart from these primary Constitutional provisions, procedures in both Houses of the Oireachtas were to be governed by two main sources. This has remained the case since and are a) *Standing Orders*, which provide the procedural rulebook for members to follow, and b) *Salient Rulings of the Chair*, which is a handbook of precedents on which the Ceann Comhairle in the Dáil and the Cathaoirleach in the Seanad can refer to when making their rulings. The Dáil Standing Orders were essentially modelled on House of Commons practice, codified in a document known as *Erskine May* (the 12th edition of which was available in 1922), but unlike *Erskine May* Dáil Standing Orders have been relatively slow to change ever since. Thus in terms of day-to-day functioning, the essential features and language of Westminster were adopted, including for the legislative, debate and questioning processes. A strong Committee of Public Accounts was also created as per its House of Commons equivalent.

In the aftermath of the Civil War, procedures designed to provide for more equilibrium between parliament and government were abandoned to the advantage of the latter, as the government sought to establish authority over the new state. The nature of the Irish political party system that took shape at this time also reinforced an adversarial parliamentary environment, in which the executive were not inclined to cede control of the agenda to the opposition. Compared to Westminster, where the parliamentary opposition had several opportunities and means to have their views heard, propose legislation, and control the House agenda, in Dáil Éireann there were few equivalent provisions in the Standing Orders for the parties outside of government.

The successor 1937 Constitution repeated the provision that each House (the Seanad being reconstituted after its closure in 1936) would set its own rules and standing orders. However, by this time the reality of party government determined that in effect power to decide the legislative agenda, including times of assembly and agenda, was firmly in the executive's hands, and has remained since. While opposition parties complained,

parliamentary reform was not a significant priority for any political party for several decades after the 1937 Constitution (see Appendix 1). It was not until 1971 when, in the face of increased opposition and media pressure, Taoiseach Jack Lynch conceded the need for an examination of the standing orders, and established an 'Informal Committee on Reform of Dáil Procedure' to consider the issue. The 33 changes that ensued from this committee's work did little to provide the opposition with more opportunity for setting the agenda or raising questions, however, and instead reflected a view that government was entitled to expedite its business as efficiently as possible.

During the 1983-87 Fine Gael/Labour Party government, a new position of 'Leader of the House with special responsibility for Dáil Reform' was created and a number of reforms emerged during this period, including the broadcasting of parliamentary business, the first extension of the committee system, and a new 'priority question' facility. A decade later, the Rainbow Coalition of 1994-7 instigated a wide-ranging Dáil debate on the issue of Dáil reform and parliamentary accountability in October 1996 which lasted for several days and involved considered contributions from all sides of the House. The Coalition subsequently established within the Dáil Committee of Procedures and Privileges a 'Sub-Committee on Dáil Reform', which still exists.

An all-party Oireachtas Committee on the Constitution was established in 1997, and in 2002 this Committee produced a report on 'Parliament'. The report was brief, and did not address the issue of standing orders, saying merely that,

It is not the task of the All-Party Committee to conduct an exhaustive analysis of the standing and functioning of the Houses of the Oireachtas, although we believe that these questions are important and urgent enough to form the subject of a dedicated and comprehensive examination. The great majority of the issues which arise are not in any way dependent on the wording of the Constitution itself: on the contrary, the Constitution is sufficiently broadly-phrased to allow for a wide range of alternative approaches¹.

It is important to note that just as there has been an increase in the frequency of reports produced calling for parliamentary reform, there have been important developments in recent years that are often neglected in discussions about parliamentary reform. These include the increasing influence of the committee system (including a number of high profile inquiries), much improved resources for members, the introduction of Leaders' Questions, and new provisions for Dáil Éireann to debate Ireland's priorities within the EU. Nonetheless, in the 2011 general election, there was widespread agreement amongst the main political parties that substantial reform of the way Dáil and Seanad Éireann conduct their business was needed. A number of reforms have occurred since 2011 that provide for, amongst other things, longer parliamentary sittings and more efficient use of parliamentary question time, but comments over the last year by the government chief whip and others suggest that some recent amendments to standing orders have not had the desired effect, and there is scope for much more to be done.

¹ The All-Party Oireachtas Committee on the Constitution (2002) *Seventh Progress Report: Parliament*, Dublin, Stationery Office: 10.

4.4 Parliament and the Executive in Ireland - *Dr Muiris MacCarthaigh (QUB)*

Introduction: The separation of powers

Most parliamentary democracies are founded upon a three-way division of power between the legislature (parliament), executive (government) and judiciary (the courts). In other words, a healthy democracy has a system of 'checks and balances' between the parliament, the government and the courts. This idea has influenced the design of constitutions for centuries, and it is a core feature of the Irish constitutions of 1922 and 1937. In this briefing paper, we look at the constitutional position of the parliament vis-a-vis the government in the 1937 Constitution and consider what this tells us about the role of Irish parliamentarians.

Parliament and the Executive in the 1937 Constitution of Ireland

'The National Parliament' is the subject of Articles 15 to 27 of The Constitution of Ireland, with a good deal of emphasis on its composition and operation. According to Article 15.1.1, the national parliament of Ireland is called 'the Oireachtas', and it consists of 'the President and two Houses...a House of Representatives to be called Dáil Éireann and a Senate to be called Seanad Éireann'. The Senate was to have 60 seats (elected by a complex electoral system) but the 1937 Constitution did not specify the number of seats Dáil Éireann should have, leaving that issue to be decided by legislation (see Appendix 1 below). It did however carry forth from the 1922 Constitution the idea that there should be one TD for every 20-30,000 thousand members of the population.

The tasks of the Parliament under the Constitution can be grouped into two categories: *lawmaking* and *non-lawmaking*. In terms of the **lawmaking** role, Article 15 states quite deliberately that the 'sole and exclusive power of making laws for the State is hereby vested in the Oireachtas'. So the principal role of Irish parliamentarians is to make law for the state, laws that are within the boundaries of the Constitution. Proposed legislation only becomes law when it has been approved by both Houses, and signed by the President.

In relation to the non-lawmaking functions of Parliament, a number of tasks are identified, some of which directly concern the Executive. Article 16.2.1 says that 'Dáil Éireann shall be composed of members who represent constituencies', and Article 18.4 notes that members of the Seanad are elected indirectly to that House. So we can conclude that members of the Houses of the Oireachtas have an important **representative** function. This means that Parliament provides a forum for discussion and debate concerning any and all policy issues affecting those who elect its members to office.

Members of Dáil Éireann are exclusively tasked with the **election of the Executive**, or Government. To understand this we must first consider how the Government is created.

Article 13.1 states:

1° The President shall, on the nomination of Dáil Éireann, appoint the Taoiseach, that is, the head of the Government or Prime Minister.

2° The President shall, on the nomination of the Taoiseach with the previous approval of Dáil Éireann, appoint the other members of the Government.

Article 28 completes the process of government formation by stating:

1. The Government shall consist of not less than seven and not more than fifteen members who shall be appointed by the President in accordance with the provisions of this Constitution.
2. The executive power of the State shall, subject to the provisions of this Constitution, be exercised by or on the authority of the Government.

In practice therefore, after a general election (and possibly on other occasions), a Prime Minister or 'Taoiseach' is nominated by the members of Dáil Éireann for appointment by the President, and once appointed seeks approval from that House for the other 14 members of government, which the President then also appoints. This 'Cabinet' of Ministers is then bestowed with the state's Executive authority. The Constitution states that all members of the executive must be members of the Oireachtas. This means that another role of the Oireachtas is to **provide Ministers for Government**. Article 28.7.1 says that the Taoiseach, Tánaiste and Minister for Finance must be members of Dáil Éireann only. Article 28.7.2 states that the Taoiseach may appoint up to two members of Seanad Éireann to Government, but this has rarely occurred, and in practice the Executive is comprised of members of the party or parties holding a majority of seats in Dáil Éireann.

Another key task for Dáil Éireann is the **oversight of the Executive** it has elected - this is a critical function in parliamentary democracy. The relevant Article here is 28.4.1, which simply states that 'The Government shall be responsible to Dáil Éireann'. (Note there is no role for the Seanad in the election or dismissal of government). So members of Dáil Éireann have a duty to hold the government to account. While this is a deeply important provision in the Constitution, it is also perhaps an Article that is difficult to fully understand without reference to the reality of political parties, which are of course not mentioned in the Constitution. Also, it should be noted that considerable power is given to the Taoiseach under the Constitution over both the Executive and Parliament. For example, Article 28.9.4 allows the Taoiseach to demand the resignation of any Minister as he or she wishes. The Taoiseach can also resign and request that the President dissolve Dáil Éireann without obligation to seek approval for this from other members of the government.

Dáil Éireann also has a **financial oversight** function (Article 17.1, also Articles 21.1 and 28.4.4). It requires members of Dáil Éireann to approve and check how the activities of the state are funded, mainly through the annual presentation by the Government of the Budget and a debate on its contents. The state's financial watchdog, the Comptroller and Auditor-General, is required to report to Dáil Éireann. The Seanad has little if any direct role in this work.

The only policy area where the Constitution is specific about the duty of the Government to Parliament is in relation to international affairs. Article 29 says that the Government may enter international agreements and bind the state in international law, but such agreements must be laid before the Dáil and if any of these agreements involve a charge on public funds they require the approval of the Dáil. So again this expects members of the Dáil to approve the actions of government. If an international agreement is to be subsumed into the domestic law of Ireland, that can only be carried out 'as may be determined by the

Oireachtas' as it requires legislation, and thus the Dáil, Seanad and President must approve it.

Finally, the Constitution also requires members of both Houses of the Oireachtas to perform some other, less common, tasks: declaration of an emergency, removal of a judge from office, and impeachment of a President as necessary.

Appendix 1

Constituency size and total Dáil membership since 1923¹

Legislation	Year of revision	Number of TDs in constituency						Total number of constituencies	Total number of TDs
		3	4	5	7	8	9		
Electoral Act 1923 (No. 12 of 1923)	1923	6	4	9	5	3	1	28 ¹	147 ¹
Electoral Act 1935 (No. 5 of 1935)	1935	15	8	8	3			34	138
Electoral (Amendment) Act 1947 (No. 31 of 1947)	1947	22	9	9				40	147
Electoral (Amendment) Act 1959 (No. 33 of 1959)	1959 ²	21	9	9				39	144
Electoral (Amendment) Act 1961 (No. 19 of 1961)	1961	17	12	9				38	144
Electoral (Amendment) Act 1969 (No. 3 of 1969)	1969	26	14	2				42	144
Electoral (Amendment) Act 1974 (No. 7 of 1974)	1974	26	10	6				42	148
Electoral (Amendment) Act 1980 (No. 17 of 1980)	1980	13	13	15				41	166
Electoral (Amendment) Act 1983 (No. 36 of 1983)	1983	13	13	15				41	166
Electoral (Amendment) Act 1990 (No. 36 of 1990)	1990	12	15	14				41	166
Electoral (Amendment) Act 1995 (No. 21 of 1995)	1995	12	15	14				41	166
Electoral (Amendment) (No. 2) Act 1998 (No. 19 of 1998)	1998	16	12	14				42	166
Electoral (Amendment) Act 2005 (No. 16 of 2005)	2005	18	13	12				43	166
Electoral (Amendment) Act 2009 (No. 4 of 2009)	2007	17	15	11				43	166
	(Recommended)								

¹Excludes 6 university members returned for 2 constituencies of 3 members each.

²This revision was found to be unconstitutional by the High Court.

Source: MacCarthaigh and Manning (2010), pp.470-1

Note: The Constituency Commission report of 2012 recommended that the number of members in Dáil Éireann be reduced by 8 to 158 seats at the next election, and that the number of constituencies be reduced from 43 to 40. This has been enacted in the Electoral (Amendment) (Dáil Constituencies) Act 2013.

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4.5 THE CONSTITUTIONAL PARAMETERS OF DAIL REFORM – *Lia O’Hegarty*

This paper sketches the constitutional situation regarding the Dail reform. In this regard, it considers:

- whether constitutional change might be required; and
- whether other proposed changes, in law or in practice, might be made comfortably *within* the current constitutional framework.

1. Government Responsibility to the Dail

The first key point is in Article 28.4.1^o of the Constitution, which states: ‘The Government shall be responsible to Dail Eireann’.

Thus in theory, the Dail controls the Government. But the reality is that – in normal times – the Government controls the Dail.

Collective Responsibility

The second key point is that the Government is collectively responsible to the Dail. Collective responsibility means that the members of Government stand together or fall together.ⁱ In principle, it is open to the Government to direct a Minister as to how a decision should be taken within his portfolio.

In its favour, it can be said that Collective Responsibility enables fast and firm decision-making, and enhances public confidence.ⁱⁱ The same principle applies in the U.K. but it has been applied more flexibly there.ⁱⁱⁱ

Individual Ministerial Responsibility

A parallel convention, also inherited from the Westminster system although not expressly stated in the Constitution, is that of ‘Individual Ministerial Responsibility’. If a Minister commits certain types of error (e.g. serious mismanagement of his department, or even a serious policy failure) there is an obligation on him, and him alone, to resign.

Although there is no reference to individual ministerial responsibility in the Constitution, it has been accepted that the rule does exist here: politicians speak the language of individual responsibility and the rule is probably the basis of a Minister’s (imperfect) obligation to answer questions in the Dail.

While Collective and Individual Responsibility interact, Collective Responsibility has the upper hand:^{iv}

‘[T]he collective nature of the responsibility enormously strengthens the Government’s power at the expense of the legislature. For it means that a deputy who disapproves of the actions of an individual minister is not usually allowed the chance to vote to remove the minister alone. All he has is the chance to vote against, and possibly bring down, the entire Government. A supporter of the Government is likely to balk at this, however strong his feelings about the individual minister may be. The result is that the

individual ministerial responsibility doctrine is robbed of most of its effectiveness.'
(Morgan, 1990)^v

Possible Reforms

All members of the Government are Ministers (although it is possible to have a Minister without a portfolio). Some submissions made to the Convention suggest that the Dail needs to be more separate from the Government, in order to enable true accountability. Specifically, they suggest that some or all ministers should not be members of the Houses of the Oireachtas.^{vi} This would of course require an amendment to the Constitution.

This approach has been considered in part previously by the Constitutional Convention in its deliberations on the electoral system, where it voted in favour of allowing ministers to be drawn from outside parliament, and again in favour of requiring ministers to vacate their Oireachtas seats once appointed to ministerial office. (Note: Both the Constitution Review Group and All-Party Oireachtas Committee on the Constitution had previously recommended against this.)

There is historical precedent for this approach. The 1922 Constitution provided for 'extern' ministers. Thus there could be up to 7 extern ministers, external to 'Cabinet' (i.e. the Executive Council). Each extern minister was to be individually responsible – an expert who would pursue his policies independently. In 1927 the Constitution was amended to enable all 12 ministers to be members of the Executive Council. Thereafter, no more extern ministers were appointed.

But, even if we continue with the system whereby ministers are Oireachtas members, what changes could be made to enhance individual ministerial responsibility? It is submitted that any changes in this regard should be level of parliamentary practice, not at the level of the Constitution.

2. The Reach of Modern Government

Article 28.2 of the Constitution states: 'The executive power of the State shall ... be exercised by or on the authority of the Government.'

The work of Government, the executive branch, is nowadays spread way beyond the Ministers (and their Departments) to a vast range of agencies. Examples include the HSE or the National Roads Authority. However, the Government still retains responsibility in those areas: although it can delegate power temporarily, it cannot divest itself of responsibility. How then can the Dail hold the Government to account?

As Michael D. Higgins wrote (before he became President of Ireland):

'Recent decades have ... seen the Dail lose accountability to a plethora of extra-parliamentary bodies. As a consequence there has been a serious erosion of transparency and accountability. ... A constitutional issue, indeed, arises as to what precisely the minister involved in such a delegation must specify, ... [i.e.] the boundaries of what is policy and what is an administrative matter...' (2010)

Possible Reforms:

MacCarthaigh has analysed this problem in detail.^{vii} He says *'it will be necessary for parliament to align its scrutiny function to match the cross-departmental and cross-sectoral nature of public administration'*. Again, here, the solutions lie in the realm of parliamentary practice rather than constitutional law.

It might also be queried whether Ministers should more frequently be summoned to appear before Oireachtas committees when agencies under the remit of their Departments are being quizzed

3. Parliamentary Procedures and Parliamentary Resources

A crucial point in all of this is that each House of the Oireachtas – here, the Dail – has the power to make its own **rules**, known as Standing Orders. Article 15.10 of the Constitution makes it clear that the Dail is master of its own procedures.

Perhaps many aspects of current Standing Orders make it especially difficult for the Dail to call the Government to account. The lion's share of parliamentary time is taken over by a Government-driven agenda. The Government effectively has the exclusive hold over initiating legislation. If that is the case, there is an argument for revising Standing Orders so as to better give effect to Article 28.4.1^o. All of this is, however, within the discretion of the Dail itself – where the Government ordinarily commands a majority.

Likewise with **resources**. It might be thought that parliamentary resources should be improved in a number of respects, to give effect to Article 28.4. 1^o. This might help to balance out the Government's huge advantage in having the vast resources of the civil service at its disposal. For example, it has been suggested that Chairs of committees could be remunerated as well as Ministers (along the lines of the U.S. model), and that a team of parliamentary lawyers could be available to draft Private Members' Bills (as is the case in Canada). Again, however, expenditure is a matter for the Dail, with the Government not just commanding a majority, but having a peculiarly strong role in initiating budgetary proposals.

(Article 28.4.3^o of the Constitution explains that it is for the Government to prepare estimates of expenditure for Dail approval. Article 17.2 goes further and states that the Dail shall not appropriate public money for any purpose unless the Government has first recommended that purpose.)^{viii}

4. The role of Dail Committees

Committees are not mentioned in the Constitution. However, it is (rightly) assumed that they are permitted in order to tackle the large amount of parliamentary business.

Michael D. Higgins (again before he became President) called for Committees to have *'decision-forming, decision-shaping, decision-making and decision-taking'* functions available to them rather than just responding to government policy, which is usually presented as a *fait accompli* (2010). However, it is difficult to see how the Dail could actually delegate decisions to a subdivision of it, unless the Constitution were changed.

If we continue with the current constitutional system, then since committees do not actually make decisions on behalf of parliament, but merely recommend decisions *to* parliament, it is at least arguable that their composition could vary such that a Government majority is not necessary on every committee. (Indeed, current practice already concedes that it is not possible for committees to correspond exactly with the overall allocation of political power in parliament – they can only mirror it approximately.)

Parliamentary Inquiries

A particularly thorny aspect of committee work is the area of parliamentary inquiries. Ten years after the failed Abbeylara inquiry, this is as much in the news as ever – with the current controversy involving the PAC and the Garda whistleblowers, and the looming banking inquiry.

In the ‘Abbeylara case’,^{ix} the Supreme Court held that the Houses of the Oireachtas did not have inherent constitutional power to conduct a ‘fact-finding’ inquiry regarding a fatal shooting by the Gardai and a subsequent investigation by the Garda Commissioner. The Court held that the Houses of the Oireachtas were not entitled to conduct inquiries culminating in ‘findings of fact’ damaging the reputations of individuals (other than members of parliament) – at least where such individuals were not *directly* accountable to parliament.

The Court was keen to point out that it was not trying to stop ‘generalised’ Dail inquiries into the performance of the Government or the executive branch generally:

‘I do not see any reason why the Oireachtas cannot conduct inquiries of the nature which they have, for practical purposes, traditionally done including inquiries into matters concerning the competency and efficiency in departmental or public administration as well as ... the proper or effective implementation of policy, and to make findings accordingly.’ (Murray J.)

Nevertheless, the judgment tends to have a ‘chilling effect’ on parliamentary inquiries, which if now attempted must navigate a delicate route, always keeping within their constitutional function. And, as mentioned earlier in this paper (see Heading 2. above), it is difficult to know precisely where executive accountability to the Dail begins and ends. Furthermore, the high standard of fair procedures identified by the Supreme Court deters parliamentarians from the robust style of questioning to which they are accustomed. Added to this is the rule against bias, which means that politicians must not prejudge matters in the media, itself a tall order given the huge publicity to which politicians are exposed:

‘the members of such an inquiry would have to accept a self-denying ordinance which would, for example, prevent them from carrying out any media appearances or interviews dealing with the subject matter of the inquiry both before and during its currency’. (McGuinness J.)

Although the current Government brought a referendum to the people to expressly insert a parliamentary inquiry power into the Constitution, this referendum was defeated. Thus the Abbeylara case still governs this area. It remains to be seen if the parliamentary inquiry

power can function well within the four corners of the Constitution as interpreted in 'Abbeylara'. In this regard, the anticipated banking inquiry and the legislation on which it is founded – the Houses of the Oireachtas (Inquiries, Privileges and Procedures Act 2013 – will prove to be an interesting 'test'.

5. Some EU Aspects

Article 29.4.7 of the Constitution (as inserted following the referendum on the Lisbon Treaty) provides that certain 'options or discretions' in EU law may be exercised by the State, subject to the '*prior approval*' of both Houses of the Oireachtas. Without going into detail on these, they relate to the 'enhanced co-operation procedure' under EU law, the Area of Freedom, Security and Justice, and so on. In such areas, Ireland is not obliged to participate in EU measures, but may choose to 'opt in' to each one. Likewise under Article 29.4.8 (also inserted post-Lisbon) Ireland may choose to agree to certain changes to EU voting rules – but again, subject to the '*prior approval*' of both Houses of the Oireachtas.

If the spirit, and not merely the letter, of these constitutional provisions is to be observed, then it can be argued that such matters, when they arise, require to be properly scrutinized by the Houses in advance, and not merely given a parliamentary 'rubber stamp'. Again, this is an area where parliamentary practice may need to 'step up' to the constitutional plate.

Conclusions:

In the matter of Government/Dail relations, the *letter* of the Constitution is observed. However, arguably the *spirit* of this provision is not observed.

One major reason for this is the **party system**, which is particularly strong in Ireland. The Constitution does not mention political parties yet nowadays they are a significant reality of political life. Constitutionally speaking, people are entitled to organize themselves into parties and in turn to submit to the confines of the whip system. After all, Article 40.6.1^o.ii guarantees the right to Freedom of Association. They may appear particularly harsh where matters of conscience are involved – and we have seen a recent example of that with the Protection of Life in Pregnancy Bill – but, although Article 44.2.1^o guarantees Freedom of Conscience, this can hardly prohibit the party whip system, as members of parliamentary parties may voluntarily leave where personal conscience so demands.^x

MacCarthaigh and Manning have published a comprehensive survey of Dail Reform measures suggested to date.^{xi} Of those, almost none would require constitutional change. Only the enhancement of committee inquiry powers would have necessarily required such change, and that matter has already been put to the people in a referendum and firmly defeated.

My conclusions are two-fold:

1. The system envisaged in the Constitution is not working to its full potential.
2. But equally, the bulk of reform could be carried out without any change to the text of the Constitution.

ENDNOTES:

¹ Lord Melbourne: ‘*Now is it to lower the price of corn or isn’t it? It does not much matter what we say, but mind, we must all say the same*’

² Garrett Fitzgerald: ‘*it is vital that the Government act collectively and together, vital that the Government should take clear-cut decisions clearly written and communicated... Otherwise there is chaos.*’ (Dail Debs 1970)

³ E.g. in the 1975 referendum on continuing EEC membership, Mr. Wilson’s Cabinet was divided: the dissenters within Cabinet were permitted to give their own views in the referendum campaign.

⁴ An example of this was in 1976 when the then Minister for Defence insulted the then President, Cearbhal O Dalaigh. The Taoiseach waved aside calls for, and even an offer of, the Minister’s resignation – even though the behaviour at issue can be regarded as quintessentially one of individual ministerial responsibility. In the event, the President himself resigned following this unfortunate episode. An rare example of the contrary case was in 1970 when two Ministers (Haughey and Blaney) fell under suspicion in relation to the Arms Crisis. In that instance, the Government of the day distanced themselves from the two Ministers and denied any collective responsibility for them.

⁵ Morgan goes on to explain: ‘*much of the mud stirred up by a resignation, in what might well be spectacular circumstances, would be bound to rub off on the Government... To avoid this, the usual course of action is that the minister resists calls for his resignation whilst the Taoiseach declares that he regards the issue as one of confidence in the Government, thereby shifting the matter on to the plane of collective responsibility.*’ Morgan, CONSTITUTIONAL LAW OF IRELAND (1990)

⁶ See e.g. series of submissions by Donal O Brolchain & others

⁷ MacCarthaigh, ACCOUNTABILITY IN IRISH PARLIAMENTARY POLITICS (2005) and ‘Parliamentary Scrutiny of Departments and Agencies’ in MacCarthaigh and Manning (eds.), THE HOUSES OF THE OIREACTHAS (2010)

⁸ For a recent example of these provisions being scrutinized by the courts, see the challenge to aspects of the bank ‘bailout’ made before, but not upheld by, the High Court in *Collins v. Ireland* [2013] IEHCR

⁹ *Maguire v. Ardagh* [2002] I.R.

¹⁰ There are precedents for the whip having been relaxed even among Cabinet Ministers. In 1979 Taoiseach Jack Lynch faced a difficulty when the then Minister for Agriculture indicated he could not vote for a Bill regulating access to contraception. The Taoiseach allowed the matter to be put down to conscience and left it at that. Previously in 1974 the Taoiseach Mr Cosgrave and another Minister actually voted against a Bill that had been put forward by the Minister for Justice, Pat Cooney. Garrett Fitzgerald, a member of Government at the time, tried to distinguish the Bill as not being a Government Bill as such, but rather one introduced by a Government Minister, in circumstances where the Government (coalition) parties had relaxed the whip.

¹¹ MacCarthaigh and Manning, ‘Parliamentary Reform’ in MacCarthaigh and Manning (eds.), THE HOUSES OF THE OIREACTHAS (2010)

4.6 Reform in the House of Commons- *Dr. Meg Russell (University College London)*

Essential background

The House of Commons is the lower chamber of the UK parliament. It has 650 members, elected in single-member constituencies using the 'first past the post' electoral system (average constituency size: 68,000 electors). As in Ireland, the government must maintain the confidence of the lower house to remain in office. There is also an upper house, the House of Lords, which has roughly 800 members and is unelected. Ministers must be parliamentarians, but may be drawn from either chamber; in practice most come from the Commons. The electoral system means that two parties - Labour and Conservative - dominate the Commons (currently having 85% of seats), and the norm since 1945 has been single party majority government. But in the last election in 2010 no party won an overall majority, and the Conservatives and Liberal Democrats (centre party) formed a coalition.

Key reforms to date

The government has traditionally been seen as holding a dominant position over the House of Commons, as a result of single party government, cohesive party voting (i.e. MPs generally following the party whip), and institutional rules which give significant advantages to ministers (e.g. with respect to setting the agenda). But over the past 30+ years there have been various reforms, some of which are considered to have shifted the balance away from the government and towards parliament. It would be impractical to list all such reforms, but the following are key examples. The letters in brackets indicate the mechanism by which the reform was agreed, as discussed further down.

- **1979:** establishment of a system of departmental 'select committees', responsible for government oversight and investigations, but not the committee stage of legislation. Chairs and members roughly proportionally allocated between the parties (P).
- **1980s- (and particularly post-1997):** publication of some government bills in draft form for 'pre-legislative scrutiny' by select committees (G).
- **1997-2004:** gradual introduction of a system of 'programming' of legislation, to replace 'guillotines' (M).
- **2001:** introduction of a secret exhaustive ballot for election of the Speaker (P).
- **2002:** enhanced resources for select committees, and creation of a 'scrutiny unit' of specialist staff to support committee investigations (M).
- **2002:** Prime Minister begins to give oral evidence twice annually to the 'Liaison Committee', made up of select committee chairs (G).
- **2006:** introduction of an evidence-taking phase by the 'standing committees' that deal with the committee stage of legislation, and a name change to 'public bill committees' (M).
- **2007:** introduction of pre-appointment scrutiny hearings for various senior public appointments by select committees (G).

- **2010:** ending of appointment by party whips to select committees, replacing this with election of committee members and chairs in secret ballots (W).
- **2010:** creation of a new category of backbench time in plenary (i.e. when the Commons meets as a whole), and a 'Backbench Business Committee' (wholly comprising backbenchers) to schedule this (W).
- **2011:** passage of Fixed Term Parliaments Act, greatly reducing the Prime Minister's power to call an early parliamentary dissolution, and setting parliaments at 5 years (G).

The 1979 reforms are generally seen as a watershed, and the select committees have been incrementally strengthened since. The 2010 changes are also seen as crucially important.

Alongside these changes have been significant reforms in the House of Lords. Most obviously, the chamber's composition was changed in 1999 (with removal of most of its hereditary members). But of more interest here were several new select committees established to review the constitutional implications of legislation. These include a Joint Committee on Human Rights, comprising members of both chambers. These committees, each of which has its own legal adviser, have become influential and helped to strengthen parliament as a whole.

The effects of reform

The reforms described have been incremental, and have occurred alongside various changes outside Westminster (notably the growing volatility of voters). Hence their effects are difficult to pinpoint with certainty. But most believe that the cumulative effect has been positive. Those who have watched the Commons for decades consider it to be transformed (e.g. Ryle, 2005).

The select committee system has encouraged members to develop policy expertise, and helped them to do so. This gives MPs job satisfaction, and results in a more independent mindset. Since 1979, when the committees were established, it has become more common for MPs to openly dissent from (and vote against) their party line - though several other things may help to explain such change. The committees are well-respected, partly due to their nonpartisan ethos. Their resources and media profile have grown, and their proposals are listened to (Russell and Benton, 2011). The Liaison Committee is now an effective voice for the committees, both through question sessions with the Prime Minister, and pressing for further procedural reforms.

The legislative process has become somewhat more rational, with less 'gameplaying' to (on the opposition side) talk out bills, or (on the government side) shut down debate. Nonetheless complaints remain (see below). The committee stage of bills is more effective than it was - although whipping in public bill committees remains strict, ministers frequently rethink following evidence or suggestions in committee (Thompson, 2012). Nonetheless the more major changes probably come through Lords committees, and government compromises designed to avoid defeat in that chamber (Russell, 2013).

The effect of the secret ballot for the Speaker (the equivalent of Ireland's Ceann Comhairle) was delayed, as the first such vote was not until 2009. This occurred when the former

Speaker was forced out during the MPs' expenses crisis, and this placed major focus on reform. The winning candidate, John Bercow, had campaigned on reforming ticket, and has become a strong advocate of parliament against the executive.

The 2010 reforms came after all of this, and in a Commons where 227 MPs (35%) were new. One of their first tasks was election of select committee chairs, which is done on a cross-party basis. This was followed by election of the Backbench Business Committee, and of select committee members. The select committees are generally seen as stronger post-2010. Like the Speaker, their chairs not only have an elected mandate, but had to appeal for votes across the party divide. This encourages development of a distinctly parliamentary (rather than party) voice. The Backbench Business Committee has scheduled many key debates, including some that have been awkward for party leaders, and resulted in rebel votes (e.g. on EU membership).

Mechanisms to achieve reform

As annotated above, the reforms to the Commons have emanated from different sources:

- (P): The House of Commons **Procedure Committee**, comprising backbenchers. This is a permanent committee, and successfully proposed the original establishment of the select committees. Subsequently it became overtaken by the Modernisation Committee, but may rise to prominence again in future.
- (M): The House of Commons **Modernisation Committee** was established when Labour entered office in 1997, due to frustration at the lack of change post-1979. Controversially this was chaired by the Leader of the House (a government minister), which meant its recommendations tended to be fairly cautious, or even favourable to government, but were largely guaranteed government backing. Abolished by the new government in 2010.
- (W): The most radical recent reforms were proposed by the '**Wright committee**', formally named Select Committee on the Reform of the House of Commons (chaired by backbencher Tony Wright). This was a one-off temporary committee, with fairly narrow terms of reference, established in the wake of the MPs' expenses crisis in 2009.
- (G): Some proposals were proposed **directly by government**, but in general only having been urged by other groups for several years previously. Fixed term parliaments formed part of the coalition agreement.

Items have been put on the agenda of these various groups by parliamentarians, academics and research institutions (e.g. Hansard Society, Constitution Unit) regularly making reform proposals. The **Liaison Committee** (made up of select committee chairs) has been a particularly important persuasive force.

Three requirements: reform proposals, leadership and a 'window of opportunity'

Despite numerous proposals for parliamentary reform in the UK, some wait years before implementation, and others (as discussed below) have not been acted upon at all. So it is important to consider why and when reform happens. Academic (and member of the House of Lords) Philip Norton has suggested that reform proposals, however well worked out, will not succeed without two other essential conditions: political leadership, and a 'window of opportunity' (see Norton, 2000). The notion of a 'window of opportunity' may seem rather vague, but captures the idea that a particular kind of 'political moment' (often a crisis) is needed for reform to happen. That is, the system is normally resistant to reform, due to the

government's majority in the Commons, and its natural fear of changes that will strengthen parliament. Unusual circumstances are thus needed to break through. The bigger the reform, the more unusual those circumstances will need to be.

Norton's analysis fits most of the key reforms listed above:

- The 1979 changes had been on the agenda for a long time, and resisted by the Labour government. Leadership came from Norman St John Stevas, who became Shadow Leader of the House in 1978, and embraced the reforms from opposition. When the Conservatives won the 1979 general election, Prime Minister Margaret Thatcher was effectively trapped into implementing them.
- The change to Speaker elections in 2001 followed a crisis caused by chaotic scenes the previous year when 12 candidates had stood for election. The old system - based on successive votes in the chamber, and more suited to previous conditions when there was only one serious candidate, backed by the government - was seen as an embarrassment and no longer fit for purpose (see Kelly, 2010). A move to secret ballots was thus agreed.
- The Modernisation Committee was only effective when there was a respected, reform-minded Leader of the House. But it needed a 'window of opportunity' as well. Reforming Leader Robin Cook (2001-03) was often blocked by the Prime Minister and Chief Whip. Subsequent Leader Jack Straw (2006-07) seized the opportunity created when another reformer - Jacqui Smith - was appointed Chief Whip, and created public bill committees.
- The Wright committee resulted from a near meltdown at Westminster following the MPs' expenses crisis. The introduction of select committee elections also benefited from a change of government (back from Labour to Conservative/Liberal Democrat), as it chimed with opposition policy. The Backbench Business Committee was - uniquely - forced on frontbenchers of both main parties thanks to strong leadership by backbenchers (for a discussion see Russell, 2011).

What hasn't changed

While a lot has changed, it would be wrong to conclude that all reformers' desires have been met. The executive undoubtedly remains strong, and some key proposals have failed to be acted upon. Notably:

- While public bill committees now have more rational timetables, and hear evidence from outside groups, they remain (unlike the select committees) temporary, nonspecialist and chosen by party whips.
- While the Backbench Business Committee gives backbenchers significantly more access to the agenda than previously (and there is separate time reserved for opposition parties), frustrations remain about timetabling of government bills, which is controlled by government whips. The call by the Wright committee for a 'House Business Committee' to schedule this was initially agreed by the 2010 coalition government, but has since been dropped. (N.B. In my view the effect of this reform would be limited, even if agreed.)

The primary concerns thus apply to the legislative process, which is understandably closely guarded by the executive. Unlike public bill committees, select committees have little formal decision-making power - their strengthening has therefore been seen as less of a threat.

Reform, politics, and culture

My experience of reform (in both chambers) at Westminster is that a great deal depends on politics and culture. Often reformers focus on the rules, but the real goal is to change culture, and the way that politics is done. The primary problem is often not that parliament lacks a power, but that parliamentarians choose not to use it. But changing culture is necessarily more difficult than changing rules. The following points may help:

- Reformers must recognise that party representatives are naturally inclined to act together, due to respect and loyalty to their party, and shared policy goals. They also have strong commitments to their constituencies. They probably more readily see themselves as defenders of party interests, and local interests, than of parliamentary interests per se.
- Some desired reforms may simply be unrealistic, particularly where they seek to force members to change behaviour which to them makes sense. For example, a suggestion that party whipping should be banned (made by some in the UK, as well as Ireland) overlooks that parties are ultimately voluntary associations of people, and if those people choose to vote together little can be done to stop them. Likewise, forcing discussions out into the open (e.g. through a 'parliamentary bureau' or 'House Business Committee') may have little effect if members choose to continue informal discussions behind-the-scenes.
- Experts in parliamentary strengthening note the importance of members of parliament having ownership of changes made to their own institution (e.g. Power, 2011). To be effective, proposals must therefore demonstrate benefits to members themselves. This suggests that forums for parliamentarians to consider and agree reforms (like the reform committees established at Westminster) and parliamentary leadership may be important.
- To discourage blind loyalty to parties it may be sensible to focus instead on encouraging more rational evidence-based decision-making, by offering parliamentarians new opportunities to develop expertise. And to create opportunities to achieve influence across party lines. In the UK the select committee system, election of the Speaker and committee chairs and new rules for sponsoring backbench debates have done this.
- Once new rules or structures have been agreed, members socialised under the old system may not easily adapt to the new. Thus culture may change only gradually, with new intakes of members. At Westminster successive groups of members in both Commons and Lords have arrived with gradually higher expectations of what they can achieve.

Even if reforms succeed in changing culture, the results may be frustratingly difficult to measure. For example, more open cross voting on the floor may not be the right goal. More discussion and dissent within parties behind-the-scenes (and indeed building democracy within parties) may be more effective. Remember that if party members agree with leaders this may be for two reasons: because leaders are doing what

members want, or the other way around. Likewise if government and parliament agree, it may be because government is anticipating what parliament wants, and seeking to avoid confrontation. This is an effective (indeed perhaps the most effective) means of exercising parliamentary power.

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4.7 Comparisons with other countries - summary of a presentation by Dr. Jane Suiter (DCU)

Government-vs-Opposition Dynamic

The Irish parliamentary system is based on the Westminster model although it differs in having an alternative electoral system as well as more political parties. Like the parliament in the UK, the Irish political system is driven by a government versus opposition dynamic which, in Ireland's case, is strengthened by a three-line whip system. As a consequence, cross-party consensus voting is conspicuous by its absence. This is at odds with other EU Member States such as Germany where 80%-90% of Bundestag members could support a particular piece of legislation. Interestingly, the Bundestag votes on a regional rather than on a strictly party basis, which promotes collegiality and consensus building. This could be an exemplar for reform in the Dáil.

Voting the Dáil

In Ireland, political patronage is in the gift of party leaders. It is they who determine the career progression of individual party members, for example, in appointments to the chairs of the Dáil committees or to junior ministerial or cabinet positions. It is, therefore, hardly surprising that Dáil deputies tend to adhere to their party's line, particularly when voting in the chamber. Dáil deputies may also find themselves being removed from committees if they decide to defy a whip.

The Executive, the Legislative Process and the Civil Service

While the relationship between the executive and the legislature is an area which merits consideration for reform, we need to be aware that behind that relationship lies a powerful bureaucracy. The civil service very often takes a leading role in policy formulation. It has the resources - both legal and administrative - to do so in contrast to the institution of the Dáil. In addition, government ministers may lack the particular expertise required in certain areas of policy thus relying heavily on the advice of the civil servants in their departments. It could be argued that the balance of power favours the civil service in this regard, therefore justifying a re-balancing by providing Dáil members and their parties with additional resources to ensure more effective participation in the legislative process.

Table 1. Index of Government Dominance over the Parliament


		Score
High	Greece	5
	Ireland	4
	UK	4
Medium	Germany	2
	France	1
	Netherlands	1
	Portugal	1
	Spain	0.5
Low	Belgium	-1
	Denmark	-1
	Finland	-1
	Italy	-1
	Norway	-1
	Iceland	-2
	Sweden	-4

Source: Niamh Hardiman, 'Conclusion: Changing Irish Governance', in Niamh Hardiman ed. *Irish Governance in Crisis* (Manchester University Press, 2012)

There is also a question of whether the extent of executive dominance over the Dáil should be reduced. As illustrated in Table 1, Ireland along with Greece and the UK has the highest level of executive control in Europe.

The Guillotine

Table 2. Curtailing of debate in Parliament (such as through the use of Guillotines)

The majority (i.e. government) decides	The length of debate is agreed in advance between all the parties	It is not possible to curtail debate
France	Austria	Finland
Greece	Belgium	Netherlands
Ireland	Denmark	Sweden
United Kingdom	Germany	
	Iceland	
	Italy	
	Luxembourg	
	Norway	
	Portugal	
	Spain	
	Switzerland	
More government control		Less government control

Source: <http://www.uni-potsdam.de/db/vergleich/Publikationen/Parliaments/PMR-W-Europe.pdf>

In the Irish system there are five stages to the formation and passing of legislation, allowing for debate and scrutiny as a proposed bill progresses. However, in order to curtail elongated political debate and discussion on a particular bill, a government may choose to expedite the process within a short timeframe by use of the guillotine. This procedure adds to the political domination of the executive and arguably leads to poor legislation as a

consequence of inadequate scrutiny. As outlined in Table 2, France, Greece, the UK and Ireland make the most use of the guillotine. Other EU Member States do also use the guillotine but typically its application is subject to an advanced agreement with political parties on the time frame for debate. Interestingly, neither Finland, the Netherlands or Sweden impose time-limit restrictions on debates in their respective parliaments.

The Ceann Comhairle

The election of the Ceann Comhairle is conducted by an open vote whereby Dáil members all know how each other voted. The open vote process encourages a partisan approach to voting thus favouring parties in government. An alternative would be to introduce a secret ballot process which would open-up the voting procedure, broadening the support base for the successful candidate and, at the same time, lessening any fear of possible political repercussions from not following the party line.

Consideration might also be given to giving the Ceann Comhairle the authority to summon in certain circumstances plenary sessions of the Dáil. With the exception of Ireland and the UK, such authority already exists in most other EU member States. Additionally, the Ceann Comhairle could also be made responsible for the setting of the Dáil agendas, a situation which is common in other EU Member States with the exception of Ireland, France, Spain and Sweden.

Table 3. Some comparative data on Parliamentary Chairpersons (Ceann Comhairle)

	Elected by secret (S) or open (O) ballot ^a	Power of Chairperson to summon a plenary ^b	Power of Chairperson to set agenda of parliament ^c
Austria	S	2	1
Belgium	S	1	1
Denmark	O	2	2
Finland	S	2	2
France	S	0	0
Germany	S	1	0
Greece	S	2	2
Iceland	S	2	1
Ireland	O	0	0
Italy	S	2	1
Luxembourg	S	1	0
Netherlands	S	2	0
Norway	S	0	0
Portugal	S	1	1
Spain	S	2	0
Sweden	O	2	0
Switzerland	S	0	1
United Kingdom	S	0	0
TOTALS	O = 3/18	0 = 5/18	0 = 9/18
Source	IPU, 2013	Doring, 2001	Doring, 2001

Sources: <http://www.ipu.org/english/home.htm>; <http://www.uni-potsdam.de/db/vergleich/Publikationen/Parliaments/PMR-W-Europe.pdf>

Dáil Committees

The valuable work of the Dáil committees can be undermined by partisan tensions and the competing demands of constituency business. A reform of the Dáil will not entirely depend on changes to its rules, regulations and procedures. The culture of Irish politics and its adherence to clientilism also need to change. Committees do important work but are under-resourced.

Examination of Expenditure

The way the Dáil examines national expenditure needs to be reviewed. A strong case could be made that much more scrutiny should take place in advance of monies being allocated and spent. For example, in Denmark, ministers are called to parliamentary committees to discuss every aspect of the country's expenditure before the bills are sent to Europe.

4.8 Options for Reform - Summary of presentation by Dr. Mary C. Murphy (UCC)

Is Reform Required?

The question to start with is “Is Dáil reform required?” Advocates for reform believe that there is a case to be made that as an institution the Dáil is currently not ‘fit for purpose’, failing to contribute effectively to the legislative process or to hold government to account, even dysfunctional in nature, citing recent events in support of these assertions. Political scientists categorise the Irish system as a ‘weak, reactive legislature. Weak parliaments are typically associated with dominant executives and conversely, strong parliaments are associated with weak governments.

There is an important balance to be found between these polar positions and this requires making choices.

The Dáil fulfils two primary functions – sustaining government but also scrutinising it. These functions are not entirely compatible with each other. The Irish parliamentary system gives priority to sustaining government (over scrutiny). Altering the balance between the two can challenge the dominance of the executive which may simultaneously undermine the stability of the system. Shifting more power to the parliament can result in governments that do not have the capacity to last the full term and/or to push through promised legislative programmes. In other words ‘fixes’ may lead to unanticipated effects.

Options for Reform

So, we need to make choices. Do we want our parliament to prioritise scrutiny at the potential cost of creating unstable governments? What are the options for creating parliamentary reforms? We have looked at Constitutional change; strengthening the role of the Ceann Comhairle; and a recent (and unsuccessful) attempt to further strengthen the powers of Dáil committees.

There are, however, other options that might also be considered - political reform, institutional modernisation and cultural change.

Political reform might be a more appropriate approach because it would involve a (re)balancing of power via internal institutional change, for example, by amending Standing Orders.

Institutional modernisation would involve practical and procedural changes to the day-to-day business of the Dáil in terms of timetables, family friendly hours, greater use of information technology and the introduction of a Committee Week.

A caveat to be aware of is that such changes may have the unintentional effect of solidifying executive dominance as such changes may facilitate the government getting more business through the Dáil more quickly.

Cultural change is not readily achievable through changes in procedures or rules although in time mindsets and practices can and do change. However, cultural change may facilitate the emergence of a new generation of politicians, whose ambitions are less concentrated on

achieving ministerial office, and more focused on carving-out rewarding careers as parliamentarians. This is probably not an achievable goal in the short-term as it requires attitudinal and behavioural changes, including a higher regard for participation in and positions held on Dáil committees. Voter expectations may also require some change to ensure that their public representatives can allocate sufficient time to their parliamentary roles.

There are other areas of reform that could be considered such as giving greater independence to the role of the Ceann Comhairle, reviewing how the Dáil sets its agenda, examining the process used to appoint the chairs of committees, finding ways of incentivising participation in the committee system and increasing administrative support for committees.

The party whip system plays an important role in ensuring that business proceeds and decisions are made. However, if it is over tightly managed it may restrict the capacity of the Dáil. Introducing flexibility into the system could be tricky. But perhaps some limited use of the 'free vote' might be introduced. A desirable outcome of such changes would be a more robust scrutiny of proposed legislation which is done in a more constructive (less adversarial) manner. Such an approach would engage Dáil members to a greater extent than present, giving them an enhanced sense of fulfilment and reward.

Summary

Dáil Eireann matters very much to all of us. It is the primary institution of the State, the key source of its political legitimacy and plays a central role in our governance. The Dáil has changed greatly over the past 30 or 40 years, albeit in incremental steps, and is a much improved institution for that. A small number of (possibly minor) reforms may well produce some further important and fundamental changes, including attitudinal and cultural change. There is no ideal parliamentary system anywhere in the world. As a country we have to make our own choices about the type of reforms and outcomes we wish to see.

5. Summary of the Panel Discussion on Dáil Reform

Consideration of Dáil Reform was greatly enhanced by the inclusion in the plenary session of a panel discussion involving distinguished former parliamentarians who in their time were advocates for political reform: former parliamentarians John Bruton and Noel Dempsey; the current Chairman of the Oireachtas Health Committee, Jerry Buttimer TD, representing, as it were, the political present; and Kieran Coughlan, the recently retired and long serving Clerk of the Dáil.

As former and current practitioners of the Dáil system and its procedures, their reflections from times past to times present provided Convention members with unique and valuable insights on how the Dáil has changed over time and how it might be improved for the future. Dr Meg Russell of University College London and Dr Mary C. McCarthy of University College Cork provided an important academic overview of the proceedings.

The Convention was very fortunate to have such a distinguished panel for this plenary meeting. The following is a short summary of the key points raised during the course of the discussion.

Dáil Reform

How the Dáil operates has radically changed over the past 40 years. Reforms have been ongoing, and many incremental changes have taken place. Institutional reform is a slow process and takes time to show results. Often the rules that are (or sometimes are not) operated take time in catching up with changes in common practice.

Given the nature of our electoral system and the volatility of the electorate, it is difficult to persuade politicians to take a longer term view. While there is much criticism of the relative time that Dáil deputies allocate to constituency work, this work is valuable and helps to keep members 'grounded' and in touch with the needs of the people they represent. However, perhaps the balance of time available favours the local agenda to the detriment of the national agenda.

Reform Objectives

In a healthy democracy there is a balance to be sought between having a strong parliament on the one hand and an effective executive on the other. These are not mutually exclusive objectives. Nor are they easily achieved, requiring constant adjustments and review. Very often it is not so much about adjusting the rules as changing the culture – away from adversarial posturing and grandstanding and towards more reasoned policy making, and agendas that are less partisan-driven and more parliament-driven.

Role of the Dáil

The Dáil's most important role is to scrutinise legislation. Laws passed are semi-permanent in nature while much else that takes place in the Chamber is short lived. The Finance Bill is a hugely important legislative event each year, with a myriad of amendments often introduced late in the process but with Dail members never having sufficient time to adequately deal with them.

Role of the Ceann Comhairle

The office of Ceann Comhairle is central to reforms in the Dáil. The role and the 'semi' independence of the office should be enhanced, including by electing the office holder by secret ballot. The role of the Ceann Comhairle in managing Dáil time could help ensure that an adequate level of debate takes place on proposed legislation. The 'Speakers' List' might also be abolished with the Ceann Comhairle ensuring a more inclusive approach to members' contributions and perhaps allowing 'structured interruptions' and encouraging participation by backbenchers ('an underused pool of talent').

Dáil Committees

The current committee system is working well but would benefit from some 'strengthening'. Recent reforms in this regard, particularly in respect of the pre-legislative scrutiny, have proved positive for both members and the citizens who elect them.

The committee system involves a greater collegiate engagement by Dáil members, with an increased emphasis on their parliamentary roles over more partisan objectives. An additional feature is that civic society is involved in this early stage of the legislative process where previously this was the sole domain of the civil service. Legislative lobbying by interest groups is now more open and accountable as a consequence.

Recent events have also shown how effective Dáil committees can be in holding State bodies and organisations to account. This role could be further enhanced but would require additional resources, particularly time. The committee system encourages the development of its members' skills and expertise, and could form the basis of a career path for parliamentarians.

The inclusion of a 'Committee Week' in the Dáil schedule, i.e. a week almost entirely dedicated to committee work, could provide a greater level and depth of scrutiny and help members manage their time better. Priority plenary business could also be held during such a week but this should be limited so as not to interrupt committee business. A longer Dáil term might be a way of accommodating this reform. Such an initiative is already common in other jurisdictions.

Budgetary Amendments

By international standards, the current restriction whereby members of the opposition may not propose legislative amendments entailing a charge on the Exchequer seems overly restrictive. This might be reviewed to see how such amendments might be accommodated, without prejudice to a Government's prerogative to manage budgets, such as allowing recommendations to emanate from the Dáil to the Government.

Who should lead Dáil Reform?

Generally, reform from within organisations can be fraught with difficulties, including potential conflicts of interests. In Dáil Éireann, the hips by the very nature of their roles are ill-equipped for such a task. An 'outside body' perhaps might provide a more appropriate forum for proposing change. Such a body, chaired by the Ceann Comhairle, might include a broad representation including current and former members of the Dáil, individuals not associated with the business of the Dáil and other citizens.

To succeed, reforms must come from and be accepted by parliamentarians themselves. Reform of the electoral system would be a prerequisite to reform of the Dáil in terms of changes in the culture of clientelism and the adversarial nature of politics.

6. Convention Roundtable Discussions

The roundtable discussions looked first at general arguments for and against reforming Dáil Éireann and its working practices. The role of the Ceann Comhairle featured prominently. One suggestion was that he or she should be elected by secret ballot, and the role should be strengthened and stipulated in the Constitution, others suggesting rotating the holder of the role each year. The use of the whip was also mentioned in discussions, with participants encouraging an easing or loosening of the whip system, particularly on issues of conscience, and on Private Members' Business, where the vote does not risk collapsing the government.

Less use of the guillotine was another suggestion. Another issue that featured prominently was the idea of a dedicated permanent Dáil Reform Committee, tasked with looking at reforming the Committee system in particular. Some argued that the government agenda should be agreed with a particular Backbench Committee, or that the Dáil's workload should be better distributed during the year. Others suggested that a broader, cultural change was required. A different approach again was to adopt and bring into use already-existing mechanisms. Other various ideas included changing the Dáil seating plan, making it more family-friendly, introducing more pre-legislative scrutiny, having more opposition input into legislation, introducing greater accountability for civil servants and all others responsible for managing the public purse, and forcing the Government of the day to publish legal advice it receives.

In terms of looking at implementing changes to Committees, a dominant suggestion was that of providing better resources for Committees, such as secretarial and legal advice in drafting reports and legislation, while it was also argued that there should be greater transparency when it comes to resources. Better scheduling would avoid clashes with plenary Dáil business, it was suggested. Looking at Committee Chairs, some argued they should be elected, while others said they should be Opposition members. Yet others suggested that Committees should be drawn from a pool of one-half Government Oireachtas members and one-half Opposition Oireachtas members. The Chief Whips hold too much power in this regard, some argued.

One idea raised was that a 'Committee Week' should be instituted where the Oireachtas spends an entire week per given period on dealing only with Committee work. TDs who fail to work or attend at Committee meetings should be removed from their Committee, and they should not be allowed to drop in and out of Committee hearings. Deputies should be put on Committees that they are interested in. Overall, Committees should have better communications and have a higher profile, some said. Committees should be sent to learn from other smaller parliaments.

It was argued that Standing Orders should be reformed. Another point was that reports by Committees should be debated in the Dáil before being looked at by the relevant Department. Newer TDs should have more of an influence, some argued. Others said that a Dáil Reform Committee should hold a free vote on the Constitutional Convention's recommendations, and leverage the power of expected actions from there.

A wide range of suggestions and ideas were put forward. The idea of allowing Deputies to abstain from votes on matters of principle was raised. Another idea was to properly implement and respect Standing Orders, and perhaps to first scrutinise them to ascertain if they are fit for purpose. Some suggested the Comptroller and Auditor General should have more involvement, or that former TDs should be brought into the process somehow. Several participants were keen to know how the mooted Committee Week could work in practice.

Participants also stressed that the Ceann Comhairle needs to control grandstanding. Some said that the speaking time allocation should be based on attendance, while others said it should simply be more equitable. Committees should be chaired primarily or entirely by Opposition Deputies, suggested some. Overall, TDs should spend less time on constituency work. The annual agenda should be published by the government.

Appendix A: Convention on the Constitution – Terms of Reference

<p>“Go gceadaíonn Dáil Éireann:</p> <p>Coinbhinsiún ar an mBunreacht a ghairm chun breithniú a dhéanamh ar na nithe seo a leanas agus chun cibé moltaí a dhéanamh is cuí leis agus chun tuairisciú do Thithe an Oireachtais:</p> <p>(i) téarma oifige na hUachtaránachta a laghdú go cúig bliana agus é a chur ar comhfhad leis na toghcháin áitiúla agus leis na toghcháin don Eoraip;</p> <p>(ii) an aois vótála a laghdú go 17 mbliana;</p> <p>(iii) an córas toghcháin don Dáil a athbhreithniú;</p> <p>(iv) an ceart a thabhairt do shaoránaigh a bhfuil cónaí orthu lasmuigh den Stát chun vótáil i dtoghcháin Uachtaráin in ambasáidí de chuid na hÉireann, nó ar shlí eile;</p> <p>(v) foráil maidir le pósadh comhghnéis;</p> <p>(vi) leasú a dhéanamh ar an gclásal i dtaobh ról na mban sa teaghlach agus rannpháirteachas níos mó ag mná sa saol poiblí a spreagadh;</p> <p>(vii) rannpháirteachas na mban sa pholaitíocht a mhéadú;</p> <p>(viii) an cion arb é diamhaslú é a bhaint as an mBunreacht; agus</p> <p>(ix) tar éis na tuarascálacha thuas a chríochnú, cibé leasuithe iomchuí eile ar an mBunreacht a bheidh molta aige; agus</p> <p>go dtugann sí dá haire:</p> <p>— gur 100 duine mar a leanas a bheidh i gcomhaltas an Choinbhinsiúin:</p> <p>— Cathaoirleach a bheidh le ceapadh ag an Rialtas;</p> <p>— 66 shaoránach atá i dteideal vótáil i reifreann, arna roghnú go hamasach sa chaoi go mbeidh siad ionadaitheach do shochaí na hÉireann i gcoitinne;</p>	<p>That Dáil Éireann:</p> <p>approves the calling of a Convention on the Constitution to consider the following matters and to make such recommendations as it sees fit and report to the Houses of the Oireachtas:</p> <p>(i) reducing the Presidential term of office to five years and aligning it with the local and European elections;</p> <p>(ii) reducing the voting age to 17;</p> <p>(iii) review of the Dáil electoral system;</p> <p>(iv) giving citizens resident outside the State the right to vote in Presidential elections at Irish embassies, or otherwise;</p> <p>(v) provision for same-sex marriage;</p> <p>(vi) amending the clause on the role of women in the home and encouraging greater participation of women in public life;</p> <p>(vii) increasing the participation of women in politics;</p> <p>(viii) removal of the offence of blasphemy from the Constitution; and</p> <p>(ix) following completion of the above reports, such other relevant constitutional amendments that may be recommended by it; and</p> <p>notes that:</p> <p>— membership of the Convention will consist of 100 persons as follows:</p> <p>— a Chairperson to be appointed by the Government;</p> <p>— 66 citizens entitled to vote at a referendum, randomly selected so as to be broadly representative of Irish society;</p>
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<p>— comhalta de Thionól Thuaisceart Éireann as gach páirtí de na páirtithe polaitíochta sa Tionól a ghlacfaidh le cuireadh ón Rialtas; agus</p> <p>— comhaltaí de thithe an Oireachtais, chun ionadaíocht neamhchlaonta a dhéanamh ar na Tithe;</p> <p>— féadfar ionadaithe a cheapadh faoi réir na gcritéar roghnóireachta thuas, agus beidh na hionadaithe sin in ann páirt a ghlacadh sna himeachtaí agus vótáil faoina n-ainm féin;</p> <p>— comhaontóidh an Coinbhinsiún a rialacha níos imeachta féin d’fhonn a ghnó a sheoladh go héifeachtach ar shlí a bheidh chomh heacnamúil agus is féidir;</p> <p>— beidh aird chúig ag an gCoinbhinsiún ar Chomhaontú Aoine an Chéasta agus ar Chomhaontú Chill Rímhinn;</p> <p>— tráth nach déanaí ná dhá mhí tar éis dháta na chéad éisteachta poiblí a thionólfadh an Coinbhinsiún tabharfaidh an Coinbhinsiún tuarascáil do Thithe an Oireachtais agus déanfaidh sé moltaí dóibh ar gach ceann de na nithe atá leagtha amach ag (i) agus (ii) thuas;</p> <p>- tuairisceoidh an Coinbhinsiún do Thithe an Oireachtais agus déanfaidh sé moltaí dóibh ar gach ní eile a luaithe a bheidh a phléití críochnaithe aige agus, in aon chás, tráth nach déanaí ná bliain amháin ó dháta na chéad éisteachta poiblí;</p> <p>— féadfaidh an Coinbhinsiún aighneachtaí a iarraidh agus glacadh leo ó chomhlachtaí leasmhara agus lorgóidh sé cibé comhairle shaineolaíoch is dóigh leis is inmhianaithe;</p> <p>— déanfar gach ní a bheidh os comhair an Choinbhinsiúin a chinneadh trí thromlach de vótaí na gcomhaltaí a bheidh i láthair agus a vótálfadh, seachas an Cathaoirleach a mbeidh vóta cinniúna aige nó aici i gcás comhionannas vótaí; agus</p>	<p>— a member of the Northern Ireland Assembly from each of the political parties in the Assembly which accepts an invitation from the Government; and</p> <p>— members of the Houses of the Oireachtas, so as to be impartially representative of the Houses;</p> <p>— substitutes may be appointed subject to the selection criteria above, who will be entitled to contribute to the proceedings and vote in their own name;</p> <p>— the Convention will agree its own rules of procedure for the effective conduct of its business in as economical manner as possible;</p> <p>— the Convention will have appropriate regard to the Good Friday Agreement and the St. Andrews Agreement;</p> <p>— not later than two months from the date of the first public hearing held by the Convention, the Convention will make a report and recommendation to the Houses of the Oireachtas on each of the matters set out at (i) and (ii) above;</p> <p>— the Convention will report and make recommendations to the Houses of the Oireachtas on each remaining matter as soon as it has completed its deliberations, but in any event not later than one year from the date of the first public hearing;</p> <p>— the Convention may invite and accept submissions from interested bodies and will seek such expert advice as it considers desirable;</p> <p>— all matters before the Convention will be determined by a majority of the votes of members present and voting, other than the Chairperson who will have a casting vote in the case of an equality of votes; and</p>
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<p>— tabharfaidh an Rialtas freagra san Oireachtas laistigh de cheithre mhí ar gach moladh a dhéanfaidh an Coinbhinsiún agus, má tá sé chun glacadh leis an moladh, cuirfidh sé an creat ama in iúl ar lena linn atá sé ag brath aon reifreann gaolmhar a sheoladh.</p>	<p>— the Government will provide in the Oireachtas a response to each recommendation of the Convention within four months and, if accepting the recommendation, will indicate the timeframe it envisages for the holding of any related referendum.”</p>
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Appendix B: Rules and procedures of the Convention

1. Timing, Frequency and Openness of meetings

Meetings of the Convention will generally take place in a hotel at weekends (Saturdays and Sundays) during 2013. At least one meeting will be held outside Dublin. It is proposed to hold one meeting per month, with the exception of July and August. Members of the public will not have access to the meetings but the plenary sessions will be streamed live at www.constitution.ie.

2. Role and duties of the Chairperson

The Chairperson shall be the sole judge of order and shall be responsible for the smooth running of the Convention in accordance with these rules and the terms of the Resolution of the Houses of the Oireachtas of 10 July, 2012. He shall engage such support services as are necessary for the effective administration of the forum and, from time to time, make such recommendations to the Convention on the management of business as he sees fit.

3. Work Programme

The work programme shall be agreed by the Convention on foot of a proposal by the Chairman. The programme shall be reviewed regularly but any subsequent changes shall only take effect with the agreement of the Convention.

4. Steering Group

A Steering Group shall be established to support the Convention in the efficient and effective discharge of its role and functions. In practice, the Group shall assist with planning and operational issues associated with the work programme. The Steering Group shall consist of the Chairperson and representatives from the political parties, the public members and such other representatives as the Convention sees fit.

5. Debates/speaking arrangements

The format and structure of speaking arrangements shall be agreed in advance and as a general principle, all contributions by members should be brief, respectful and non-repetitive. Any member wishing to speak should indicate and will be called upon by the Chairperson, who will endeavour to ensure fairness in the allocation of speaking time to all members. In an effort to make most efficient use of time in plenary session, members are encouraged to use the opportunity of roundtable discussions to express their views, ask further question of the experts and deliberate with one another. These discussions can be reflected in a brief report to the plenary session.

6. Tabling and Circulation of Papers

All documents received by the Convention secretariat shall be made available to all members of the Convention via the www.constitution.ie website. Alternative arrangements will be made for those members who are not in a position to access the site. Deadlines for receipt of submissions and circulation of documents in advance of plenary meetings should be agreed by the Convention.

7. Presentations to the Convention

Following receipt of submissions on any matter, the Convention may choose to hear oral presentations from any representative group or individual to assist in its deliberations. For the efficient administration of the process, the Steering Group may wish to make recommendations in relation to the selection of interested bodies to present to the Convention. Invitations shall be issued by the Chairperson on behalf of the Convention.

8. Voting

Votes, if required, shall be by secret ballot of the members present and voting. Votes shall be overseen by the Chair with the support of at least 2 members of the Convention.

9. Advisory Panel

The Convention shall establish an advisory panel of academics, constitutional lawyers and others with demonstrated expertise, for access to such expert advice as it considers desirable. The process for selection and appointment of any such advisers shall be agreed by the Convention, on the advice of the Steering Committee.

10. Irish language facilities

A simultaneous translation service from Irish into English will be available for all plenary sessions of the forum.

11. Press and Communications

Authorised members of the media shall be permitted to attend plenary sessions of the Convention, subject to such terms and conditions as may be laid down by the Convention. As a general principle, the Chairperson shall act as spokesperson in relation to administrative or procedural matters.

12. Reports

Reports of the Convention shall be published as soon as practicable after a decision has been reached at each meeting. It shall be possible to finalise the detail of the content of each report other than in plenary session, subject to the agreement of the Convention.

13. Review of Procedures

The Chairperson shall consult with members of the Convention and other interested parties and conduct such reviews of the procedures and administration of the Convention as he sees fit.

14. Convention secretariat

The Chairperson shall have direction and control over the staff of the secretariat and other supports and resources available, subject to the wishes of the Convention.

Appendix C - Glossary of Terms

Acts – laws that have been passed by both Houses of the Oireachtas and signed by the President.

“Abbeylara” Judgment – the Supreme Court ruled that Oireachtas committees can NOT make findings of fact about any individual which might affect their livelihood or reputation. A proposal to change this provision was defeated in a referendum in 2011.

Agenda – the government sets the weekly Dáil schedule of business and it is put to the Dáil for agreement every day on the “*Order of Business*”. A typical week in the Dáil is attached in Appendix 1.

Attorney General – the legal adviser to the Government.

Backbencher – a TD who isn’t a Minister or a main spokesperson for a political party

Bills – draft laws which have not yet been approved by both the Dail and the Seanad.

Before they become law, they must pass through 5 stages in the Dail and the Seanad:

1st Stage (Introduction) – the text of the Bill is published.

2nd Stage – Members have a general discussion about the principles of the Bill and what it is intended to achieve.

3rd Stage (Committee) – Members (in the Dail it’s normally a committee) go through the Bill line by line and make suggestions (called amendments) to improve it.

4th Stage (Report) – another line-by-line examination of the Bill, where further changes can be made.

5th Stage – Each House has a final discussion on the Bill but no changes may be made at this point.

Bills can be introduced in either the Dáil or the Seanad and when it goes through the 5 stages it goes to the other House where the process begins again from 2nd Stage.

Budget – the Government’s annual financial plan where changes are announced to taxation and/or the way public money is spent.

Cabinet – the Government consists of up to 15 members, including the Taoiseach and the Tanaiste.

Cathaoirleach of the Seanad – the Chairperson of Seanad Éireann (the Senate).

Ceann Comhairle – the Chairperson of Dáil Éireann, who oversees the proceedings and ensures that the rules and procedures of the House are followed.

Committees - Every government department has a committee which examines its legislation, funding and all other matters for which a Minister is responsible. Oireachtas Committees deal with a huge amount of parliamentary business outside the more formal chambers of the Dáil and the Seanad. Committees are also the only forum where members of parliament can engage with the public.

Main types of committees:

Select Committees are made up of members of just one House (either the Dail or the Seanad).

Joint Committees are made up of members of both Houses, working together.

Comptroller and Auditor General (C&AG) – the independent person appointed to ensure that public money is managed and spent properly.

Dáil Éireann – the House of Representatives, currently made up of 166 TDs, but this number will be reduced to 158 at the next election.

Divisions (Votes) – each House makes decisions either by consensus or by voting, called a division.

Estimates – Every year, each government department presents a plan for expenditure to the Dáil. These plans are usually examined in some detail by committees before approval by Dáil Éireann.

EU Directive - a piece of legislation from the EU which every country is obliged to implement e.g. the Habitats Directive, which forced us to introduce the ban on turf-cutting in protected bogs.

European Commission – the executive arm of the EU (i.e. like our government) which proposes legislations, implements decisions and looks after the day-to-day running of the EU.

European Council – made up of the Heads of Government of each of the Member States, the President of the Council (Herman van Rompuy) and the President of the EU Commission. It has no power to pass legislation but it sets the priorities and general policy direction of the EU. Meetings of the Council are called EU Summits.

European Parliament - the parliament of the European Union, made up of 766 MEPs who are elected by 375m European citizens. Ireland has 11 MEPs and we will be electing our representatives in May this year. The Parliament works with the EU Commission and the EU Council to pass legislation.

Green paper – a discussion document published by the Government, inviting the views of the public and civil society groups.

Guillotine – a time-limit on a debate in either House or on any of the stages in the passing of a Bill.

“Heads” of a Bill – a brief description of the detail of a draft law, before it is “translated” into more technical legal language by the lawyers in the Attorney General’s Office.

Houses of the Oireachtas – Dáil Éireann and Seanad Éireann.

Leaders Questions – every day when the Dáil is in session, each opposition leader is given the opportunity to ask the Taoiseach (or Tanaiste) a brief question on a matter of public importance.

Order of Business – at the start of the main business in the Dáil, the Taoiseach announces the government business to be taken that day. The Leader of the House does the same thing in the Seanad.

Order paper – the document which sets out the business before each House. It is available every day at www.oireachtas.ie

Pairs (or pairing) – when a Member (normally a Minister) is unable to be in the House for a vote, s/he is “paired” with a member of the opposition, who will not vote even if they are in attendance. This arrangement ensures that the Government aren’t unfairly penalised if, for example, Ministers have to be away on government business.

Parliamentary Questions (PQs) – Dáil Éireann sets aside time every day where TDs can formally ask questions of Ministers about issues relating to their Departments. Each Minister answers questions in the Chamber on a rota basis or members can ask questions on any day for a written reply.

Parliamentary Inquiries – the Dáil and Seanad occasionally ask committees to conduct formal inquiries into matters of significant importance, such as the DIRT Inquiry or the soon-to-be-established Banking Inquiry. Witnesses can be forced to hand over documents and to give evidence under oath.

Parliamentary Parties are groups of TDs, Senators and MEPs from the same party, who generally meet every week in Leinster House to discuss policy issues and other political party business.

Private Members Business – 3 hours are set aside every week for opposition parties and groups to choose the business to be taken in each House. This is normally a debate on an issue of major political importance or a Private Member’s Bill (a draft law published by a TD or a Senator who is not a Minister)

Public Accounts Committee – known as the public spending watchdog, this Dáil committee ensures that there is accountability and transparency in the way that government departments and agencies spend and manage taxpayers’ money. They have been in the news recently because of their meetings about the financial issues in the Central Remedial Clinic (CRC).

Seanad Eireann – the Senate (or Upper House), made up of 60 Senators.

Separation of Powers – the Constitution provides for 3 separate organs of State – the Parliament, the Government and Courts. None of these institutions can interfere with the work or functions of the others.

Standing Orders – the rules and procedures of each House, which clearly set out how business is to be conducted.

Statutory Instruments, also known as secondary legislation, are generally Ministerial Orders, Regulations and bye-laws. They are not specifically passed into law by the Houses of the Oireachtas but the power to create them has been delegated by law to a Minister or Agency.

Technical Group – in the current Dail, there is a group of independent members and smaller parties who have joined together to form a group so that they can have access to speaking rights and other rights in the Dáil Chamber.

Topical Issues – Members of the Dáil can raise issues of concern with any Minister and every day, the Ceann Comhairle selects four of these matters, each for a 12-minute debate.

Whip – every political party has a Whip, whose job is to encourage members of the party to vote in a particular way in the Dáil or Seanad. “Losing the whip” generally means that the Member is expelled from his/her parliamentary party, normally after voting against the party on a particular matter.

White papers are generally published by departments when they wish to set out government policy on a matter.

Typical week in Dáil Éireann

Tuesday	P.Q.s to a Minister	2.00 p.m. - 3.15 p.m. <i>(75 mins)</i>
	Leaders’ Questions (Taoiseach)	3.15 p.m. - 3.36 p.m. <i>(21 mins)</i>
	P.Q.s to the Taoiseach	3.36 p.m. - 4.36 p.m. <i>(60 mins)</i>
	Order of Business (Taoiseach)	4.36 p.m. - 5.06 p.m. <i>(30 mins)</i>
	Topical Issues	5.06 p.m. - 5.54 p.m. <i>(12 mins x 4)</i>
	Government business	5.54 p.m. - 7.30 p.m.
	Private Members’ Business	7.30 p.m. - 9.00 p.m. <i>(90 mins)</i>
Wednesday	P.Q.s to a Minister	9.30 a.m. – 10.45 a.m. <i>(75 mins)</i>
	Government business	10.45 a.m. – 12 noon
	Leaders’ Questions (Taoiseach)	12 noon – 12.21 p.m. <i>(21 mins)</i>
	Order of Business (Taoiseach)	12.21 p.m. - 12.51 p.m. <i>(30 mins)</i>
	Topical Issues	12.51 p.m. - 1.39 p.m. <i>(12 mins x 4)</i>
	Government business	2.40 p.m. - 7.30 p.m.
	Private Members’ Business	7.30 p.m. - 9.00 p.m. <i>(90 mins)</i>
Thursday	P.Q.s to a Minister	9.30 a.m. – 10.45 a.m. <i>(75 mins)</i>
	Government business	10.45 a.m. – 12 noon
	Leaders’ Questions (Tánaiste)	12 noon - 12.21 p.m. <i>(21 mins)</i>
	Order of Business (Tánaiste)	12.21 p.m. - 12.41 p.m. <i>(20 mins)</i>
	Government business	12.41 p.m. - 4.42 p.m.
	Topical Issues	4.42 p.m. - 5.30 p.m. <i>(12 mins x 4)</i>
Friday	<i>(Every fortnight)</i>	
	Committee Report or Private Member’s Bill	10.00 a.m. – 12 noon
	Private Member’s Bill	12 noon - 2.00 p.m.

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