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## **A century of Irish parliamentary government**

**Peter Finnegan**  
*Houses of the Oireachtas*

**Muiris MacCarthaigh**  
*Queen's University Belfast*<sup>1</sup>

### **Introduction**

The centenary of the sitting of the first Dáil in January 1919 provides an opportune time to reflect on the evolution of the Irish parliamentary experience over that period, and the role played by the national parliament as the locus of Irish democratic politics. And though the Irish experience of parliamentary politics is not without its shortcomings, there are not many contemporary states within Europe or indeed globally that can attest to ten decades of unbroken parliamentary government from the early twentieth century to the present. In this forum piece we survey the principal changes to the structure, operation and character of the Oireachtas and Irish parliamentary politics since the First Dáil met in the turbulent post-WWI period. In a final section we look to the future of Irish parliament.

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## The emergence and design of the Oireachtas

The sitting of the First Dáil in 1919 was a vital element of a wider nationalist effort to introduce an alternative system of government to the incumbent British one which had operated with increasing ineffectiveness from Dublin Castle and London. Local authorities declared allegiance to the new legislature, and within weeks a number of 'arbitration courts' were approved by the First Dáil, succeeded a year later by the more extensive system of Dáil Courts. In June 1919 the Dáil decreed the 'establishment of a National Civil Service' and Dáil departments emerged, albeit with varying forms of effectiveness, as the War of Independence took hold (Maguire, 2008, p. 96). As well as the significant propaganda aspect to the elected candidates of the 1918 Westminster elections taking their seats in the new legislature in Dublin, and not London, the occasion of the First Dáil was decisive in attaching a parliamentary form of government to the nationalist independence movement (Farrell, 1973).

Given that the legislature is such a critical element of representative democracy, the design, or re-design, of a country's parliament is an issue of considerable significance. Three years after its first sitting, and in keeping with the 1922 Irish Free State Constitution, Dáil Éireann was joined by a second parliamentary chamber – Seanad Éireann. Prior to this, the last incidence of bicameralism in Ireland had been that of 'Grattan's parliament', which came to an end in 1800 when the Acts of Union by the Parliament of Ireland and the Parliament of Great Britain respectively resulted in the United Kingdom of Great Britain and Ireland, and the end of a legislature in Dublin.<sup>2</sup>

The pressure for the restoration of a parliament in Dublin was integral to the Home Rule movement of the late nineteenth century, and both of the defeated Home Rule Bills of 1886 and 1893 had proposed some form of upper house for the protection of Protestant interests in what was an overwhelmingly Catholic polity. The third Home Rule Bill of 1912 was passed into law by Westminster but its implementation was suspended with the onset of WWI. It contained a proposal for a forty-member upper house initially involving a

<sup>2</sup> And prior to this, there had been a tricameral parliament during the fourteenth and fifteenth centuries, with the chambers of Peers (Lords) and Commons conjoined to a third chamber for the 'proctors' or representatives of the clergy. This latter chamber ceased in 1536 following its opposition to Reformation-inspired legislation, and clerical representation was confined to the Lords.

combination of nomination and direct election by peer groups (using a form of PR), and later solely by means of direct election. As per the Home Rule proposal, the second chamber provided for in the Irish Free State Constitution was primarily designed to give voice to the minority Protestant unionist tradition in the new state, with members nominated initially by the Dáil and later the Seanad, and directly elected by eligible citizens.

The Irish language has played a central role in the Oireachtas over the last 100 years. When the members of the First Dáil met in the Mansion House in Dublin on 21 January 1919, all of the day's business was carried out using the Irish language. Rannóg an Aistriúcháin (the Translation Section) has been an integral and valued part of the Houses of the Oireachtas since then and has almost 100 years' experience and expertise in legal translation, primarily in the production of official translations of the Acts of the Oireachtas. Rannóg an Aistriúcháin is also responsible for the official grammar of the Irish language – *An Caighdeán Oifigiúil* – which was first published in 1958 and comprehensively revised in 2016. Recent years have seen somewhat of a resurgence of the language at official level with Irish gaining official language status at EU level in 2007. Two Oireachtas committees focus on issues relating to the Irish language and the Gaeltacht, and conduct a significant proportion of their business through Irish.

D'imir an Ghaeilge ról lárnach san Oireachtas le 100 bliain anuas. Nuair a tháinig comhaltaí na Chéad Dála le chéile i dTeach an Ard-Mhéara i mBaile Átha Cliath an 21 Eanáir 1919, seoladh gnó uile an lae trí mheán na Gaeilge. Aonad lárnach measúil de chuid Thithe an Oireachtais is ea Rannóg an Aistriúcháin ó shin i leith agus tá beagnach 100 bliain de thaithí agus de shaineolas aici ar an aistriúchán dlíthiúil, go príomha ó thaobh tiontuíthe oifigiúla ar Achtanna an Oireachtais a tháirgeadh. Tá freagracht ar Rannóg an Aistriúcháin freisin as graiméar oifigiúil na Gaeilge – *An Caighdeán Oifigiúil* – a foilsíodh den chéad uair in 1958 agus a athbhreithníodh go cuimsitheach in 2016. Le blianta beaga anuas, tá borradh de shórt tagtha faoin teanga agus in 2007, bhain an Ghaeilge stádas amach mar theanga oifigiúil ag leibhéal AE. Tá dhá choiste Oireachtais ann a dhíríonn ar shaincheisteanna a bhaineann leis an nGaeilge agus leis an nGaeltacht agus seolann siad cuid shuntasach dá gcuid gnó trí mheán na Gaeilge.

Unlike Dáil Éireann, debates over Seanad Éireann's composition and functions have dogged its existence. It was constitutionally

abolished in 1936 only to reappear with the new 1937 Constitution of Ireland with the same number of seats but a unique system of election involving university seats (6), vocational seats (43) and Taoiseach's nominees (11). There is widespread agreement that the system of vocational seats has not met its original ambition of representing those societal groups, and rather has tended to be dominated by party political interests. Equally, the university seats have also been criticised as elitist but a constitutional amendment approved in the late 1970s to extend the franchise to all third-level institutions outside of the colleges of the University of Dublin and National University of Ireland has never been acted upon.

Both constitutions intended that Seanad Éireann be much the inferior of the two chambers, having little function in respect of the executive's appointment or dismissal, and little if any serious veto power over the legislative wishes of Dáil Éireann. It has nonetheless proved to be an important representative forum and the initial focus towards representing the minority Protestant community as well as Irish language enthusiasts in the early decades gave way to other groups, notably women and, in more recent decades, representatives from Northern Ireland (Coakley, 2013, p. 124). But this is not to suggest the Seanad has a settled place in Irish parliamentary practice. Rather, the role and composition of the Seanad has been the subject of regular discussion since 1937, and the chamber's very existence within the state's political apparatus was the subject of a referendum in 2013, with all large parties supporting the proposal to abolish it (MacCarthaigh & Martin, 2015). On a very low turnout of 39.17 per cent, the proposal to abolish the upper chamber at the next general election was rejected by 51.7 per cent of those voting. A subsequent report commissioned by the government into reform of the chamber made a series of recommendations (Working Group on Seanad Reform, 2015) but little has come of them at time of writing.

In contrast with the periodic questioning of Seanad Éireann, the Oireachtas committee system has in recent decades become firmly institutionalised within parliament. The first non-housekeeping committee created was the Joint Committee on Commercial State-Sponsored Bodies in 1976 but it was not until 1993 that a committee system aligned with and inquiring into the work of government departments was initiated, arguably the most important departure in the history of the Oireachtas in respect of parliamentary scrutiny. It has substantially addressed the gripe of backbenchers in both Houses

for many decades that their role was simply that of ‘lobby fodder’ for their parliamentary front benches, and has played a central role in the increase in parliamentary productivity as measured by the number of sittings, witnesses called to give evidence and reports published.

### **Parliamentary associations and the Oireachtas**

From a relatively modest start, the Oireachtas today is a member of several international parliamentary networks. Over a century ago, and by virtue of its being under British rule, Ireland was a founder member of the Empire Parliamentary Association founded in 1911. The Oireachtas founded in 1922 had an uneasy relationship with that organisation, with the new Fianna Fáil-led government ceasing its annual grant-in-aid to it in 1932. Its change in name to the Commonwealth Parliamentary Association coincided with the declaration of Ireland as a republic and, despite sharing the Westminster parliamentary model with many Commonwealth states, Ireland has never been a member. And so for its first half-century, parliament was relatively isolated in international terms. In contrast, the latter five decades have seen an acceleration in the number of international networks with which the Oireachtas is involved.

The 1920 Government of Ireland Act had envisaged a ‘Council of Ireland’ to bring together members from both Houses of the proposed parliaments of Northern Ireland and Southern Ireland, but this never materialised as the latter parliament never met and was abandoned. The 1973 Sunningdale Agreement resurrected the idea of an inter-parliamentary ‘Council of Ireland’ but this again failed to materialise. Agreement was reached in 2012 on the format of a new North–South ‘parliamentary forum’, as envisaged under the 1998 Good Friday and 2006 St Andrew’s Agreements, and eight plenary meetings of the ensuing ‘North/South Inter-Parliamentary Association’ took place prior to the suspension of Stormont in 2017.<sup>3</sup> Since 1990, representatives of the Oireachtas have attended the British–Irish Parliamentary Assembly, which was enlarged in 2001 to include representatives of the Scottish Parliament, the Northern Ireland Assembly, the Welsh Assembly, the High Court of Tynwald (Isle of Man), and the States of Guernsey and Jersey.

<sup>3</sup> A number of meetings between sectoral committees from the respective legislatures also took place.

Through its membership of the EEC/EU since 1973, and specifically through provisions in the 2009 Lisbon Treaty providing for greater inter-parliamentary cooperation between member states, the Oireachtas engages in a variety of Union-wide parliamentary fora, including:

- The Conference of Parliamentary Committees for Union Affairs (COSAC);
- Conference of Speakers;
- Conference of Secretaries General;
- The Interparliamentary EU Information Exchange (IPEX);
- Inter-Parliamentary meetings between the European Parliament and National Parliaments.

So important did engagement with the EU institutions become, that a National Parliament Office was created to represent both Houses to those institutions, as well as to provide ‘early warning’ to parliament of forthcoming EU developments of particular relevance.

At a more transnational level, Ireland has been a member of the Inter-Parliamentary Union since 1923. The engagement of the Houses with other legislatures through international fora has also been made possible through membership of the Parliamentary Assembly of the Council of Europe (PACE), of which Ireland was a founding member, and the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly since 1975.

### **The evolution of parliamentary scrutiny**

Oversight of the state’s executive apparatus, including all aspects of the public administration system, is a key task of the legislature in parliamentary systems, and one which presented a challenge for parliaments everywhere as the remit of the executive expanded during the course of the twentieth century. The growth of the modern Irish state has determined that the Oireachtas now engages in more scrutiny work than ever before, and over a greater range of issues and a greater number of organisations. In its early years, the Dáil had means for exerting more control over the work of the executive, including the appointment of ‘extern Ministers’,<sup>4</sup> but as governments

<sup>4</sup> Under the 1922 Irish Free State Constitution, these were persons from either inside or outside the Oireachtas who would be nominated by the Dáil to hold a departmental portfolio, but who would not sit in the seven-member cabinet, known as the Executive Council.

sought to control the parliamentary agenda, these provisions gave way such that the ability of opposition members to scrutinise the government or to influence the parliamentary agenda was severely curtailed. In turn this stultified the chamber's role as, what John Stuart Mill called, the 'congress of opinions', namely the forum for debate on issues of public policy and setting the tone for the politics of the state. Arguably, the role of the Dáil as a forum for public policy development was further undermined by the social partnership process beginning in the 1980s, through which various social groups were able to directly agree policy directions with minimal parliamentary oversight (Ó Cinnéide, 1999). By the 1990s, the relative weakness of the Dáil in holding the government to account necessitated the creation of extra-parliamentary tribunals of inquiry (MacCarthaigh, 2005).

This is not to say that reforms have not taken place over the decades. Many of the proposals suggested by Stapleton (1976) have occurred, including:

- greater public access to and broadcasting of the proceedings of the Houses and of the Oireachtas;
- expansion of total parliamentary sitting time;
- introduction of a committee system; and
- greater funding of parliamentary parties and parliamentary resources.

However, the government's monopoly of the parliamentary agenda remained a defining characterisation of Irish politics and, as Murphy suggested (2006), reforms that had occurred prior to the start of the century tended to prioritise technical, procedural and administrative efficiency in an increasingly busy chamber over the balance of power between legislature and executive. Arising from the 2008 financial, banking and economic crises, there has been a notable series of changes to parliamentary procedures (Lynch et al., 2017). These have arisen from a combination of the growing pressure of parliamentary business, changes to the party system (including a larger number of non-party or independent members) arising from electoral volatility, and the related inability of any party to form a majority government in 2016.

The policymaking environment has also changed to reflect the fact that the executive, or the civil service, is not the sole purveyor of good policy. A process of pre-legislative scrutiny began in 2011 and has expanded across all Oireachtas committees, and the creation of the

Parliamentary Budget Office gives non-government members greater capacity to engage in budgetary planning than heretofore. Whether these changes, which present a shift towards a more consensus-style form of parliamentary democracy, take root as political party electoral fortunes change, however, remains to be seen.

### **Supporting parliamentary activity**

Compared to the early years of the parliament, the resources now made available to support the members of the Houses of their work are considerable. From a staffing complement of four clerks on 21 January 1919, which reached 112 in 1966 (MacCarthaigh & Manning, 2010, p. 478), the Oireachtas today employs 529 people to support the chambers, the committees and each of the 218 individual parliamentarians. A decisive moment in the history of the Oireachtas was the creation in 2004 of the Houses of the Oireachtas Commission, which provided the national legislature with enhanced autonomy from the executive over its affairs. Prior to this, parliament was reliant on the decision of the Minister for Finance for its annual budget. Although it is still an executive-determined allocation, the move to a three-year 'envelope' provided the Oireachtas with greater control over its work programme and greater independence from the executive which it is charged with scrutinising.

There have been considerable investments in the resources available to support members over the years, including research and administrative services within Leinster House, as well as ICT and administrative supports at constituency level. Paralleling the growth of parliamentary activity and associated supports, and including the growth in staff employed by political parties, the physical footprint of the Houses of the Oireachtas has expanded considerably. Beginning with the original Royal Dublin Society lecture theatre and associated rooms in central Dublin, the parliament and its staff now occupy buildings adjacent to the main site as well as new premises built to accommodate parliamentary party support staff and the growing number of staff employed by the Houses of the Oireachtas Commission.

### **Parliament and the public**

In representative democratic theory, citizens elect their parliamentary representatives to speak for them, and expect to be informed by those



to whom they have delegated their authority to keep them informed of the progress of public affairs. But relying on individual parliamentarians alone is insufficient to keep the population informed of developments in national public policies. All parliaments produce verbatim records of proceedings as the ‘official record’ of debate on matters of public interest, but it is only recently that these records have become more accessible to ordinary citizens.

Advances in communications and technology have also played an increasingly important role in the public’s awareness and perspective of the work of the Oireachtas. In the early decades of the state, many citizens would not have even known what their TDs looked like (not least as picture profiles on election posters only appeared in the 1950s), and were completely reliant on parliamentary reporters to determine what had happened in parliament. Indeed, the seminal debates on the Anglo–Irish Treaty were not made available in full until the early 1970s (see Weeks and Ó Fathartaigh, 2018). The production of verbatim transcripts of Dáil and Seanad proceedings took weeks to appear in hard copy and were normally made available to a limited range of outlets.

The introduction of cameras to record the proceedings of the Houses presented a major step change in public awareness, and in turn influenced the nature of parliamentary engagement as TDs and senators adapted their behaviours in cognisance of the external, as well as internal, audience. While recorded coverage of important moments in parliament could now be repeated in news broadcasts and current affairs programmes, since 2007 Dáil, Seanad and committee proceedings can be watched live online. And transcripts of proceedings can appear online within hours. Voting in the Dáil itself was changed – and time was saved – by the introduction in 2002 of a screen within the chamber, and ‘Tá’ and ‘Nil’ buttons at every seat in lieu of the older methods of marching through ‘the Division lobbies’.

In terms of the role played by the media, Rafter (2010, p. 414) observes that the role of the parliamentary reporter as ‘gatekeeper’ between events in the Oireachtas and the public no longer holds the prestige it once did. Today, there are more journalists covering specialised topics both inside and outside of Leinster House, and political parties and parliamentarians adopting their own media strategies to communicate to the public. And a series of parliamentary outreach initiatives since the early 2000s have sought to engage the public directly through open days and re-enactments of seminal speeches and moments in Irish parliamentary history.

## **Opening the next century of parliamentary government**

Since the establishment of the thirty-second Dáil in March 2016, there have been a number of notable changes to parliamentary procedures. The Ceann Comhairle is now elected by secret ballot, thus strengthening the independence and authority of that important constitutional office. A Business Committee oversees the arrangements for weekly Dáil sittings. This has brought a greater degree of collaboration and consensus to the setting of the Dáil's agenda. The d'Hondt system is now used to allocate Committee chairs, which ensures greater political proportionality in their distribution. And smaller parties and groups of five or more members enjoy rights and privileges which in the past were mainly the preserve of the two larger parties.

These changes, representing in essence a modest rebalancing in the relationship between parliament and the executive, have been quietly successful and it remains to be seen if they will outlive the current era of 'new politics'.

As the centenary of the first sitting of the First Dáil arrives in January 2019, there is much to be proud of in respect of the emergence and institutionalisation of Irish parliamentary government. But concerns about the health of democracy and democratic governance remain issues to be vigilant about. As a result of the 2013 referendum, the Oireachtas will continue to be a bicameral chamber, and the Houses will continue to perform their representative, legislative, scrutiny and other functions.

The Oireachtas retains many traces of its Westminster origins, and the terminology, practices and procedures governing how it operates reflect those inherited in 1922, and the Irish parliament remains firmly within that family of parliaments in the academic literature. However, the experience of engagement in inter-parliamentary networks, changes to the profile of party representation in the Houses and the changing nature of public policy development (including the effects of technology) will put pressure on the traditional Westminster 'winner-takes-all' form of parliamentary engagement that defined the early decades of Irish parliamentary life. Other short-term challenges include addressing changes in EU governance (including the consequences of Brexit), bringing accountability to the extension of the state's regulatory authority and restoring confidence in the quality of our public institutions.

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