

# A re-constituted parliamentary and electoral system for Ireland

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This document is the result of a discussion between the author and Cormac Daly on 23<sup>rd</sup> June, 2009. Cormac provided many of the proposals outlined below, and input into all the others. The document itself was prepared by me alone, so all grammatical and syntactical errors and probably the conceptual errors are mine alone.

This document was submitted to the Department of the Environment as input into its efforts to consider electoral reform. In that version, I neglected to mention Cormac and the important input he had for it. I am attempting to remedy this now.

## **Contents**

<b>Introduction.....</b>	<b>2</b>
<b>Job descriptions.....</b>	<b>2</b>
<b>Constituency and elections.....</b>	<b>3</b>
Dáil Éireann.....	3
Seanad Éireann.....	3
<b>Taoiseach and cabinet.....</b>	<b>4</b>
<b>Committees.....</b>	<b>4</b>
<b>Uachtarán na hÉireann.....</b>	<b>5</b>
<b>Addressing citizens’ problems and concerns.....</b>	<b>5</b>
<b>Getting acceptance.....</b>	<b>5</b>

## **Introduction**

Ireland professes to be a democracy. To a very large extent, this is true.

However, democracy is not just that all citizens get to vote for their politicians. There is a requirement that the politicians perform the tasks for which they are elected. If we believe that the primary job description of TDs and Senators is to propose, debate, amend and enact legislation for the country, then they are doing a very poor job of it, and are failing the democratic system.

The reason they are doing such a poor job of it is not because they are poor at their jobs *per se*, but because they are distracted from their jobs in order to lay the foundations for a successful job application when it becomes open again at the next election. Whether it's correct or not, there's no doubting that there is a perception that TDs and Senators spend an inordinate amount of time away from their places of work performing activities that have nothing to do with the job they were sent to Dublin to do. Examples include attending funerals, fixing pot-holes, arranging for medical cards, turning sods and opening retirement homes. TDs and Senators are elected to pass laws. TDs and Senators should be required to spend their time passing laws. TDs and Senators should not be permitted -- never mind expected -- to spend their time engaged in activities that serve no purpose more than to improve their chances of being returned to their seats at the next election.

This document outlines a system of election and parliamentary organisation which, it is hoped, would allow elected representatives to focus their efforts on the job they are elected to fulfil.

It's a massive re-organisation, and would require a constitutional amendment, precipitating a referendum.

This proposal is presented in the full knowledge of the level of difficulty and effort that would be involved to put it in place. Good ideas, however, should not be constrained by what's possible. Leonardo da Vinci invented the helicopter, though he very well knew that the state of technology at the time was such that the helicopter could not be built. That didn't stop him, and we now have helicopters.

If any one proposal in this document sparks an idea or a notion in someone's head that hadn't been thought of before and it ends up being implemented, then the author will be satisfied that the effort to prepare this document is worth it.

## **Job descriptions**

The primary job description of a member of Dáil Éireann and Seanad Éireann should be to propose, debate, amend and pass laws. The secondary job description should be to examine society on an on-going basis in order to ensure that the primary role is properly supported by the correct information and good analyses.

There is nothing new about the above, and the primary role is what it understood about the activities of TDs and Senators anyway. The secondary role is also performed by the members at present, in the form of the committee structure, and this proposal would seek to retain that.

However, TDs and Senators should not be required to do anything else, and the temptation to be distracted should be removed. The proposal below is a proverbial carrot-and-stick approach. The carrot would be to remove the pressures of the need to impress individual voters, and the stick would be to make it illegal for members to contact civil or public servants on behalf of individual citizens in order to pressure them to address those citizens' specific concerns at the expense of those equally-entitled citizens who chose to work within the system.

All payments, salaries and expenses, to TDs and Senators must be transparent and fully documented. TDs and Senators should be required to work a standard working week (e.g. 35-38 hours) in the Oireachtas. They should be required to work a standard working year (e.g. 45-48 weeks).

If these principles are accepted, then it becomes startlingly obvious that there are too many members.

Dáil Éireann should be reduced to 100 elected members, and Seanad Éireann to 40.

## ***Constituency and elections***

### **Dáil Éireann**

Dáil Éireann would be reduced to 100 members. Only 50 of these would be elected directly, one to each of 50 single-seat geographically-based constituencies. The other 50 of these members would be elected using a list system, whereby registered organisations (typically, political parties) would present a list of candidates to the electorate, and the electorate votes for the list, rather than any of the personalities on the list.

#### ***Directly elected members.***

50 TDs will be elected from single-seat geographically-based constituencies. Election will be by single transferable vote, where voters express their decreasing preference for candidate on the ballot paper. As with the current system, the highest preference will be expressed with a "1" beside the candidate's name on the ballot paper, a "2" beside the name of the next preferred candidate, and so on. Counting will proceed as with the current system, but as the constituency will have only one seat, the quota will always work out to be 50% of the total valid poll plus 1.

Parties can choose to field as many candidates as they wish for these seats, but the more candidates a party puts forward for a single seat, the greater risk for internecine rivalry and for their potential vote to be split. Parties might want to avoid this.

As each constituency has only one seat, the manner of the representation and mandate are clearer for both the elected member and the voters in the constituency: the member is the only representative for the constituency and the mandate is therefore as close to explicit as possible.

As with all other members of the Oireachtas, however, the directly-elected members of Dáil Éireann will be afforded little time or opportunity to spend in the constituency on matters not related to their role as legislators. Therefore, chances of re-election will be based on their performance as legislators alone. The job of these TDs will be to represent the constituencies in Dáil Éireann, and to curry their favour only by representing them well.

#### ***Members elected from the list***

As with other list systems around the world, when an election is called parties will publish the lists of candidates they are putting forward to be elected in this manner. No one on the list will be permitted to contest a seat in the constituency elections. Candidates will need to decide where their better chances lie.

The list election will be a national election: all voters in the country will vote on the same set of lists.

Each list will be ordered on the basis of seat assignment: if a party wins 20% of the vote in the list election, the first 10 candidates on that party's list will be awarded seats.

Independents pose an interesting issue in this system. A number of options can be considered:

1. All registered organisations can have their lists presented to the electorate. Independent candidates can be considered to be organisations for the purposes of the elections and can therefore submit single-entry lists to be voted for.
2. Independents can come together as a single group and submit its list of independents. This does pose the problem of how the list would be ordered.

For a seat to be assigned to a member of a list, the list must achieve 2% of the national vote.

### **Seanad Éireann**

The author is of the firm conviction that, for a democratic system to operate correctly, there *must* be a second chamber of parliament. However, that chamber must be constituted differently and have genuine powers in order for it to be effective.

The current format of Seanad Éireann is such that many people don't know what it does or is supposed to do. Some regard it with contempt, while others would see it abolished.

Far from abolishing it, the author proposes the following:

- Membership of the Senate should be reduced to 40.
- All citizens eligible to vote for candidates to Dáil Éireann are entitled to vote for candidates to Seanad Éireann.
- There will be constituencies for the Senate, but they will be based on demographics and not geography. There will be two core constituencies: the constituency of men and the constituency of women. All eligible voters will belong to one or another of these. These two constituencies will elect 5 members each. There will be 10 other constituencies, each electing 3 Senators. Some examples of these would be: the elderly, the unemployed, company directors, home-workers (i.e. "house-wives or -husbands"), 3<sup>rd</sup>-level students and education staff (but not graduates!), the young (e.g. 18-25 year-olds), etc. Most voters will fall into one or more of these non-core constituencies. However, voters will be permitted to vote only in one Seanad constituency. Prior to each election, voters will have to register which constituency they wish to vote in, and those who don't will be permitted to vote only in one of the constituency of men or the constituency of women.
- Members of the Seanad will have their mandate from the constituency for which they were elected. All members will be elected from these constituencies: there'll be no more appointing of members by the Taoiseach.
- Elections for Seanad Éireann will take place at the same time as elections to Dáil Éireann. This will eliminate the practice of candidates who fail to be elected to the Dáil going for a second chance by running for the Senate. By this means, candidates will have to decide what house they are running for, and therefore the voters can have greater assurance that the members will be committed to the job for which they have been elected.

The role of Seanad Éireann will be to propose, debate, amend and pass bills, just like Dáil Éireann. Dáil Éireann can close down the debates of Seanad Éireann, however, by passing a vote of 60% to do so. By this means Dáil Éireann can prevent urgent laws being stalled by a Senate that may have an opposing political mandate.

## ***Taoiseach and cabinet***

As normal, the Taoiseach will be elected by a majority of TDs. The Taoiseach will, however, be allowed to appoint any individual to cabinet positions, regardless of whether that individual has been elected to the Oireachtas. As is normal, the cabinet will be ratified by a vote of Dáil Éireann. This will allow the Taoiseach to appoint the people that have the best combination of capability and willingness to manage the various departments.

Junior ministers, as not being members of the cabinet, will either be TDs or Senators.

Cabinet members, if not already elected to one or the other, become automatically non-voting members of both Dáil Éireann and Seanad Éireann.

The opportunity to propose legislation will be accorded to members of the Oireachtas based on authority. Ministers will have greater opportunity, then junior ministers, then chairs of the various committees, then "private members".

## ***Committees***

The committee system will remain mostly as it is currently. There will be a committee for each of the government departments, to which the ministers will be required to give regular reports.

Other committees can be set up on a permanent footing or *ad hoc* basis, according to the will of the Oireachtas.

Membership of all committees will be divided proportionally among TDs and Senators.

Committees will not have the authority to pass laws, but will have the authority to propose laws to either Dáil Éireann or Seanad Éireann, through the committee chair.

## ***Uachtarán na hÉireann***

The office of Uachtarán na hÉireann will remain largely as it is.

However, it will have one extra power: to express confidence or no confidence in the government. If this power is invoked, it's more likely to be to express no confidence. However, an expression of confidence or no confidence will override the opinions of Dáil Éireann and Seanad Éireann on the matter. So, for example, if a vote of no confidence is before either chamber, the president can pre-empt it by expressing confidence.

This power will be an independent power, not requiring the authority of the government (for obvious reasons), but it would be required for the president to consult with the Council of State prior to invoking it.

## ***Addressing citizens' problems and concerns***

None of the above, however, addresses the reason why politics in Ireland is less democratic than it could be.

The practice of seeking the assistance of an elected official in order to resolve a private matter is seen by many as a right. It isn't. In fact, it's an abuse: there are systems for all processes, and new systems are devised for new or broken processes. Failure to use these systems and to attempt to by-pass them by going to the TD is an abuse.

However, grievances and concerns always arise, and these need to be addressed. We propose that each local authority has a directly elected mayor (like that proposed for Dublin in 2010). Part of the function of this office is to be an ombudsman for citizens to contact for concerns such as medical card difficulties, broken foot-paths, etc. Candidates for this office will be elected on their ability and past record in fulfilling this role.

It will be illegal for any elected representative to contact a civil or public servant on behalf of a citizen's private concern. This will include councillors as well as TDs and Senators. If approached, the elected official will have to consider whether the issue or concern is a private matter for the citizen or not, and will have to inform the citizen of what the elected official is permitted to do.

## ***Getting acceptance***

The current election system, proportional representation by single transferable vote using multi-seat constituencies, is complex. So complex, in fact, that a number of countries have examined it, or portions of it, for their systems and have rejected it on the grounds that it is too complex.

This however, has not stopped the public in Ireland from understanding the system, and appreciating its nuances.

The above proposal is also complex, but, it is the opinion of the author that it simplifies some things. It doesn't matter, though. The author has no doubt that the public in Ireland would be able to understand the workings of the above proposal just as well as it can the current system.

To assert otherwise is elitist and condescending: the reasons and motivations for people not to be involved in the political system are just as compelling as the reasons and motivations for people to be involved in it. Those within the system, therefore, have no natural precedence to understanding the political system over those outside of it.

The tendency to formulate reform proposals with an eye to a perceived fear that the electorate would be overwhelmed by an over-complex system should be resisted. Democracy is hard. It's hard to devise and it's hard to implement. It's especially hard because all aspects of democracy must be transparent. The beneficiaries of democracy, however, are capable of appreciating this, and most of them do appreciate it.