

A Vocationally Based Upper House? Lessons from Ireland

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Executive Summary

Introduction

The government has announced that the long-term future of the House of Lords will be considered by a Royal Com

Selecting members of the Irish Seanad

The Irish Seanad was established in its modern form in the new constitution of 1937. This states that the members of the Seanad will comprise three groups:

- 43 members elected to represent five defined vocational panels
- Six members elected to represent Irish universities
- 11 members appointed by the Taoiseach (Prime Minister).

Elections to the Seanad are linked to elections to the Dáil (lower house) and take place around three months later. The last elections were in the summer of 1997. The elections for the vocational panels and the university seats are separate, and have different electorates. However, the university senators could also strictly be considered as a vocational group⁶. Once the two separate elections are completed and the winners have been announced, the final 11 members of the Seanad are chosen by the Taoiseach.

Thus the bulk of members of the Seanad represent the vocational panels. Each panel relates to a particular vocational group, with the number of members elected on each defined by law. The panels are as follows:

- National language and culture, literature, art, education (five members)
- Agriculture and allied interests, fisheries (eleven members)
- Labour, organised or unorganised (eleven members)
- Industry and commerce, including banking, finance, accountancy, engineering and architecture (nine members)
- Public administration and social services, including voluntary social services (seven members).

The method of election of this section of the Seanad is somewhat surprising. The electorate is not the general public, nor is it vocationally based. Instead it comprises members of the incoming Dáil, outgoing Seanad, and local councils. It is thus a standard form of 'indirect' election, as used for other non-vocationally based upper houses such as the French Sénat. The electorate for the Seanad election in 1997 comprised 992 people – 834 local councillors, 166 members of the Dáil and 49 outgoing Senators.

The genuine vocational element of the election is further limited by two other elements of the system. Firstly, those nominated must meet a minimal requirement that they have 'knowledge or practical experience' of the vocational area concerned, but this rB154108 Tm(nistration ncerned, but this r

Labour panel (the Irish Congress of Trade Unions and Irish Conference of Professional and Service Associations) to 35 for the Industry panel (including, for example, the Insurance

name only”¹¹ and that “the chances of being elected on purely vocational grounds are virtually nil”.¹²

Although no party label is allowed on the ballot paper, candidates’ political backgrounds e

the upper house by the 'government house leader', who does not have ministerial rank. There is no facility to ask parliamentary questions of the government in the Seanad.

The almost permanent government majority in the house exacerbates the Seanad's weak constitutional position. The current Seanad is typical, comprising 34 members of the government coalition, 19 members of the opposition parties and seven independents (the six university Senators and one appointed member). The formal power to override the decision of the upper house is thus rarely needed, because the Seanad will not pass amendments to legislation unless these are accepted by the government. Although there is no ministerial representation within the chamber, a minister will attend for discussion of all legislation and indicate which amendments are acceptable.

For only one short period was the party majority in the Seanad opposed to that in the Dáil. This happened following the change 9pened following the change 9pened foll terial

chambers rather compromises the Seanad's distinctive character, although there is a stable proportion of around half of Senators who stay on after each election.

The extent to which the Seanad acts as a vocational chamber, given the system described above, is inevitably limited. Although 43 of the Senators are elected on vocational panels, fewer than half of them have relied upon nomination by outside bodies.¹⁹ Those nominated by members of parliament rarely feel any debt to the vocational group that they formally represent. Those potentially reliant on an outside body for their re-nomination at the next election will take a keener interest in promoting the interests of that organisation; however, this will not extend to protecting broader interests of other organisations represented by their vocational panel. And whilst members may raise issues in parliamentary speeches of interest to their organisation, and may even lobby government on their behalf, at the end of the day when votes are cast their first loyalty will be to their party whip. Consequently the vocational bodies, although nominally represented in the Seanad, tend to use other more direct methods to influence government.

Calls for reform

The weakness of the Seanad, and its failure ever to live up to its constitutional role as a representation of vocational groups, has led to many criticisms and indeed to questioning of its very existence. During the 1997 election the Irish Times ran a piece entitled "There is no point in the Seanad" and opening "Hundreds of candidates are engaged in another frenetic election campaign, this time for a redundant institution". It remarked that "if there is to be no fundamental change in the Seanad's role and composition there is no reason to retain it".²⁰

There have been some attempts at reform during the 60-year life of the Seanad. In 1959 a commission was established to review its membership, after a debate in the Dáil where there were calls for its abolition.²¹ Some members of the commission proposed that the panel elections become wholly vocational, but the final report reached a compromise that half the members should be directly elected by vocational groups (rather than just nominated by them) and the other half elected by members of parliament. However, the recommendations were not agreed in parliament and were never acted upon. A further committee established in 1967 to review the entire constitution made less ambitious proposals that the number of seats nominated by vocational bodies be increased. However, these too failed to lead to any action.

A number of minor reforms of Seanad electoral rules have taken place during its life. In 1947 the election of panel seats was modified to the current system, widening the electorate to include all local councillors and members of the Oireachtas.²² In 1979 a constitutional amendment was introduced, to allow a widening of university representation to include

¹⁹ Electoral rules specify that approximately half of those elected must come from the 'Oireachtas subpanel' (ie. those nominated by members of parliament) and half from the 'nominating bodies subpanel'. However, the former inevitably do better in the elections, partly because they tend to be better known politicians, and partly because Oireachtas members are more strategic in their nomination tactics and put forward fewer names.

²⁰ 2 July 1997.

²¹ The main proponent of this reform, Dr Noel Browne, later went on to take a seat in the Seanad after losing his seat in the Dáil.

²² Prior to this the electoral college comprised only members of the Dáil and seven representatives of each local council.

Senators elected by other universities than Trinity and NUI.²³ However, this has never been brought into use.

More recent bodies appointed to consider reform have tended to focus on other issues. The Constitution Review Group established in 1995 to review the whole constitution, and comprising legal and academic members, gave considerable space in their report to reform of the Seanad. However, they concluded that “the Review Group recommends a separate, comprehensive, independent examination of all issue relating to Seanad Éireann.... If such a review does not resolve the issue of representation and other substantive issues in a satisfactory m

interested in Seanad reform are largely the Senators themselves, who of course have a vested interest in maintaining the institution with its current membership. From the parties' point of view there is nothing to be gained from either a more powerful Seanad or one which gives more seats to independents. And the current composition of the Seanad also provides the parties with a useful repository for "young politicians on the way up, old politicians on the way down or midlevel politicians whose careers have received a temporary setback".²⁶

Lessons for the UK

It would be helpful to be able to use the Irish Seanad, as the only vocationally-based national parliamentary chamber in the world, as a model for independent representation in the reformed British parliament. However, unfortunately, the representation in the Irish second chamber is neither truly vocational nor truly independent. Nevertheless, there are lessons which can be learnt, both from the relative failure of the vocational panel seats and from the relative success of the university seats.

In devising a method of vocational representation in a reformed House of Lords it is highly unlikely that an electorate comprising local councillors and parliamentarians would even be considered. It would be easily foreseen – as indeed it may have been by De Valera in 1937 – that this would ensure the domination of the elections by political parties. This in fact holds a wider lesson for British reform based on possible indirect elections – that of the danger of party loyalty being placed above any other representative duty which members may have been chosen to carry out (eg. to their region, to the Scottish Parliament or Welsh Assembly, or to local government).

The university seats, on the other hand, provide an interesting case study of how a tradition of independence can grow up in an election that might well also have been dominated by the parties. With an electorate of many tens of thousands, who will doubtless largely have their own party loyalties, this is an election which might be expected also to be fought out amongst politically-aligned candidates. However, the electorate has tended to reject such candidates. On the part of the electorate this may be largely because of the proven performance of the independent university Senators, who have become the unique feature of the upper house in comparison to the Dáil. However, on the part of the parties the failure to break into this election may well be influenced by the fact that they control the other 90% of seats and the remainder are rarely needed to hold the balance of power.

The possibility of a genuinely vocational representation in the upper chamber, through either election or appointment by the nominating bodies themselves, has never been tested in Ireland. The result of such a system is therefore unpredictable. One of the interesting features of the Irish system is the relative ease with which the nominating bodies are persuaded to put forward party candidates for election. Only a handful of bodies stick to the principle of nominating, for example, their president – to face humiliation at the polls every time. Even on the Labour panel, which has four seats reserved for nominating bodies and only two such bodies accredited, there appears to be no attempt by the bodies to act collectively to ensure that party candidates are excluded from the race. Neither have the bodies formed any kind of campaign for Seanad reform to 'reclaim' their seats. It seems that party domination of the

²⁶ Dinan, D. (1986). 'Constitution and parliament', in B. Girvin and R. Sturm (eds.), *Politics and Society in Contemporary Ireland*. Aldershot: Gower, p. 84.

‘vocational’ seats is now as much a feature of tradition as the election of independent university Senators.

It is this which leads to the fear in Ireland that creation of a genuinely vocational chamber might simply act to entrench the parties’ control over independent organisations. This might well prove to be true in the Irish context. However, it is hard to imagine that such fiercely independent bodies as the British Medical Association, National Trust or Greenpeace would allow themselves to become battlegrounds for party political elections in the UK. So perhaps a vocational chamber would be more achievable here?

There would of course be many other problems. Not least of these would be the difficulty of agreeing categories, numbers of seats and organisations to involve. For example, should trade unions have more or fewer seats than employers? How should health be balanced against education and, within health, doctors be balanced against nurses or patients’ groups? These are further reasons that few proposals have been advanced in Ireland to achieve a new and genuine vocational mix. For example, Michael Laver, in his appendix to the report of the Constitution Review Group states for just these reasons that “it would now be extremely contentious to attempt, in cold blood, to introduce an effective system of vocational representation”.²⁷

If allocation of categories and seats were to be agreed, there would remain the issue of how the candidates themselves would be selected. Would they be appointed or elected by the groups concerned, and to what extent should the methods used by groups to do this be standardised or regulated? And either of these solutions would still not involve the majority of the public in their selection. Coakley and Laver, in their paper to the Irish All-Party Committee, floated the idea of direct vocational elections by universal suffrage, which if possible would avoid this problem. However the idea is not developed in any detail and was not proposed as a solution by the committee.²⁸

One of the difficulties with the current Irish system is that the ‘vocational’ element of the upper house represents a high proportion of total seats – 43 out of 60 (or 49 if the university Senators are included). This means that for the parties the stakes are high, and the monopolisation of the elections becomes a worthwhile challenge. If such seats were to represent a fraction of those in a British upper house, as would be more likely, this would not be so much the case. The controversy surrounding the choice of categories and bodies involved might also be slightly moderated. The example of the Irish university Senators suggests that it is possible to retain independence amongst a small set of elected seats where the others are controlled by the parties. It also shows that independent members of the upper house can make a genuine and worthwhile contribution, and that this is respected by parliamentarians, commentators and the public alike.

²⁷ Laver, M. (1996). ‘Notes on a new Irish Senate’, in *Report of the Co*

The Constitution Unit and the House of Lords

This research was carried out as part of a comparative project on second chambers overseas, based at the Constitution Unit and funded by the Leverhulme Trust. The aim of the project is to inform the debate about reform of the House of Lords in the UK. This is the second briefing in the series coming from this project and during the coming months further briefings will be produced, drawing on information about the second chambers in Australia, France, Germany, Italy and Spain. The final output from the project will be a book, to be published in November 1999.

The Constitution Unit has already produced a report and four briefings on reform of the House of Lords:

- Reform of the House of Lords (report) - £15
- Reform of the House of Lords (briefing) - £5
- Reforming the Lords: A step by step guide - £5
- Rebalancing the Lords: The numbers - £5
- An Appointed Upper House: Lessons from Canada - £5

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