

Response to the Seanad Electoral (University Members) (Amendment) Bill 2014

The Royal Irish Academy (“the Academy”), Ireland’s national academy for the sciences, humanities and social sciences, welcomes the opportunity to respond to the consultation by the Department of Environment, Heritage and Local Government on the draft legislation, “General Scheme of the Seanad Electoral (University Members) (Amendment) Bill 2014”.

This submission has been prepared by the Academy following a one day seminar held in the Academy in February 2014 on “Models of Bicameralism”. A report from this seminar will be prepared for publication in spring 2014.

This submission was prepared by the Academy Executive. The views expressed in this submission are not necessarily shared by each individual Member of the Academy.

A welcome first step

Pervading the debates in the recent Seanad Éireann (“the Seanad”) referendum was a strong desire for reform. This Bill is welcome therefore as a first step in this direction. Further reform is essential for the Seanad to meet the challenges of its legitimacy, representativeness and accountability.

Constituency size

While the size of the constituency will be vastly increased (as noted in the general scheme itself), this still compares favourably with the European Parliament, which has an electorate of approximately 450,000 for each Member of the European Parliament (MEP).

The need for greater reform

The proposed reform is the unfinished business of the 1979 referendum, which should be implemented in recognition of the will of the electorate at the time. In 1979 over 90% of voters supported amending the Constitution to extend the university constituency more widely than just the National University of Ireland (NUI) and Trinity College Dublin. The legislation to give effect to this amendment was never introduced.

The risk of stopping at this very limited reform is that it is not only insufficient on its own, it could also serve to undermine the legitimacy and credibility of the Seanad by being regarded as a meagre and long overdue response to the clamour for reform that marked the recent referendum debates.

To support the case for wider reform, this response highlights key points from the recent discussion seminar held in the Academy on models of bicameralism. The aim of the discussion seminar was to place the current reform discourse in its historical context, to provide an overview on the reform of second chambers internationally, and to act as a forum in which potential proposals for the reform of the Seanad could be discussed. A report from this discussion seminar will be prepared for publication in spring 2014.

Vision

While there have been four reports on Seanad reform since 1937, none have set out an overall vision – that is now what is required.

Criteria

The criteria against which a reformed Seanad needs to be measured are:

- An active role in the legislative process,
- Scrutiny of the executive,
- Fuller democratic representation and
- Enriched public debate.

The justification for bicameralism, now resolutely endorsed by the electorate, lies in the ‘principle of difference’ between the two chambers, providing two differing institutional perspectives on legislation. Such a different perspective in the upper chamber suggests that it should not be directly elected and not in a position to obstruct definitively the directly elected chamber.

A different perspective requires it to exercise independence and points towards a healthy democracy of consensus rather than just majority rule.

Models and roles

There are two possible models for the Seanad:

1. The current model: singular/reactive
Passive, part-time, partisan.
2. Alternative proposal: nodal/reactive
Predictive, cross-partisan, identifies and plugs accountability gaps.

Outward looking

The Seanad can also play an important role as an outward-looking legislature, by acting as a check in relation to proposed European Union (EU) legislation and initiatives and in promoting inter-parliamentary engagement.

Independence

The separation of powers must be a central guiding principle. The activism of parliamentarians, in particular through parliamentary questions, is linked to the degree of resourcing of parliament. The Nordic example (despite a shift from multicameralism to unicameralism) suggests that parliamentary resources and a strong permanent legislative committee structure support parliamentary independence from the executive.

Incremental reform

The big bang of abolition has not worked. The House of Lords experience in the United Kingdom (UK) suggests that incremental reforms can be significant. Following reform in 1999 the House of Lords is now more proportionally balanced in relation to party allegiance and professions, although only 23 percent of its members are women. It is, however, more ethnically diverse than the House of Commons, and cross-benchers hold the balance of power. Overall, the House of Lords is a more confident legislative body post-reform. The House of Commons has not been weakened – it is not a zero-sum game. Instead, there is now a degree of competition between the two Houses, which is good for parliamentary independence. This suggests that there is no need to wait for the perfect reform. Incremental reform can be very effective.

Legislative bicameralism in the European Union

The EU can now also be considered as a bicameral system based on co-decision, with the European Parliament and Council both adopting legislation. EU parliamentary parties transcend national boundaries, ensuring a more prominent European “voice”, while the Council can be considered to represent national interests. The system is designed to ensure democratic input with a diversity of interests represented, but the tension between democracy and efficiency is evident, as it is in other bicameral systems. This does not preclude an active role for the Seanad in scrutinising EU policy and legislation – the House of Lords select committee being one of several excellent examples in the EU member states.

Conclusion

This reform is welcome, but only if seen as a first step in wider reform of a Seanad in need of greater legitimacy and credibility as part of the legislature of the state.

Additional Information and References

For more information on “Models of Bicameralism: an RIA Discussion Seminar”, including links to individual presentations, go to: <http://www.ria.ie/News/Models-of-Bicameralism—An-RIA-Discussion-Seminar>.

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