

THE HOUSES OF THE OIREACHTAS: PARLIAMENT IN IRELAND

Muiris MacCarthaigh and Maurice Manning (eds), Institute of Public Administration 2010, pp. 504 +xiv, ISBN 978-1-904541-93-6 hbk ISBN 978-1-904541-91-2 pbk

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The history and practice of other parliaments is essential reading for those who want to understand the challenges facing so many of our parliaments today. This study of the Irish Parliament, the Oireachtas, is timely. The struggles which have faced the Irish people to deliver good governance to its people are the same struggles facing so many national groups today. It is written against the background of two significant events, the approaching centenary year of its foundation and the banking and economic problems following the Global Financial Crisis which has challenged both its capacity to hold the executive to account and to fulfill its role as an effective policy-making forum.

The book, edited by Muiris MacCarthaigh and Maurice Manning, joins their own contributions with those of fifteen other authors, all highly expert in their field. It is a wide ranging examination of the institution of parliament and includes a brief history of its development including earlier parliaments of significance, its structure, roles and constitutional parameters. It is divided into four main sections, Understanding the Houses, Administration, the Conduct of Parliamentary Business in the Dáil (Lower House) and the Seanad (Upper House) and Changing the Role of Parliament and Parliamentary Politics. Each chapter is written with authority and competence and reveals the strengths and weaknesses of the system with remarkable candour. Despite the number of contributors, the books flows well. In any comprehensive analysis of a parliamentary system it is always difficult to determine the order of chapters as often understanding one chapter pre-supposes some knowledge on the part of the reader which is only otherwise revealed in a later chapter. I, therefore, found myself turning to those later chapters to find explanations of terms and practices to clarify my understanding of an earlier chapter. Eventually all is revealed and I found this forensic approach to reading the book made for better understanding in the long run. This said, I found each chapter intensely interesting and a wonderful insight into a parliament whose procedures and practices were unknown to me. It made me realize how careful we must be in commenting on other jurisdictions. For example, while much of the original model for the Oireachtas was taken from Westminster, as the only model known to those who drafted its formation in 1922, it has many variations that are unique and forged from the exigencies of the time and the culture of Irish nationalism. funding and regulating key elements of social, economic and cultural life in Ireland is largely

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unknown or misunderstood. While there is a glossary of Irish terms, it would be of benefit to the international reader if it were greatly expanded. I find the expectation that the readership has a greater knowledge of, in this case Gaelic, terms as well as parliamentary terms of common usage in the particular jurisdiction, is a feature of many books on parliament. More work in this area would demystify the institutions to the reader who seeks to be informed and increase overall readership.

While there is a considerable body of scholarly writing on the Houses of the Oireachtas, many aspects of the Irish legislature do not feature in this earlier work and the ongoing role of the Oireachtas. It is interesting to learn that the Irish Parliament does not enjoy the same degree of sovereignty as many other Westminster parliaments. Since its foundation there has been a strongly established practice of judicial review, so much so that the major body of 'constitutional law' determined by the courts could itself be the subject of a book if one is to fully understand the development of the country's legal framework and the place of the parliament within that framework.

Inevitably the style and flow varies from chapter to chapter. Some are intensely academic. The chapter, 'The Constitutional Parameters of the Work of the Houses' is a good example, while others, for example, 'Parliamentary Parties and the Party Whips' are more free flowing. This is to some extent the nature of the beast. Nonetheless, each is interesting in its own right and the former in particular urges the reader to dig deeper into what seems an intensely interesting subject. This is best summed up in the author's own words at page 103:

Given that the Constitution started out with a strange hybrid of 'semi-conscious hankering' after the Westminster model (Morgan 1990, *Constitutional Law of Ireland* 2nd ed. at p.168) combined with a strong judicial power which gradually asserted itself, and given that these uneasy bedfellows are now joined by a third, in the form of provisions on EU membership, attempting a coherent interpretation of the constitutional parameters is an uphill task.

Australian readers will be interested in the chapter. 'Membership of the Houses' which traces the history of their electoral system of Proportional Representation by the Single Transferable Vote (PR-STV) based on the system devised by Thomas Hare. In the mid 19th century Hare attempted to devise a system which would secure proportional representation of all classes in the United Kingdom, including minorities, in the House of Commons and other electoral assemblies. His name is, of course, perpetuated in the Tasmanian Hare-Clark electoral system, although little is left of his original proposals. The Tasmanian Attorney-General, Andrew Clark (1848–1907), changed and added to Hare's method.

Readers who are interested in the constant struggle between parliament and the power of the executive will be fascinated by the iron grip the executive has always held over the Irish Parliament. Indeed, by most standards, it would be regarded as a weak parliament - the main role of members being to attend to the needs of their constituents acting not as public representatives but as private representatives of

each constituent who contacts them. While matters of national and international concern are debated, the parliament has no power to override a decision of the executive. An example of executive dominance within the system is that at an election for the Seanad the last eleven Senators are appointed by the Executive to 'balance public interest' but in reality to ensure a government majority.

The chapter on practice and procedure in the Dáil is detailed and interesting, even though it shows a chamber in which standing orders based on the practice of the UK House of Commons have been modified very gradually. Reading many of the procedures one feels a time warp to the arcane and mysterious rituals of the past. There has been no attempt to substantially overhaul the procedures in the light of modern practice which seems to reflect the weakness of the House itself. One example is the use of S.O. 32 to discuss a matter of national importance. This uses the device of a motion that 'the House do now adjourn', a practice long abandoned in Australian Parliaments. The right to adjourn the motion is at the discretion of the Ceann Comhairle (Speaker). Only nineteen motions of many thousands presented have been debated in eighty two years.

For me the most interesting chapter was the one written by Michael Higgins President of the Labour Party and that party's TD (MP) for Galway-West. Higgins writes from over thirty years experience as both a Senator and TD. His insight into the strengths and failings of parliamentary service is insightful and relevant, not only to problems that face the Irish system but indeed our own. For example when writing about the decline in the quality of speeches he says:

It is not just that passion has been replaced by a new emphasis on technical knowledge. It is that there is a decline in respect for the value, as a source of political opinion, of political philosophy itself, in that which would produce a policy that might indeed be presented with a passion that was authentic.

On parliamentary accountability when discussing the parliament's diminishing capacity to call public authorities to account he writes;

A constitutional issue, indeed, arises as to what precisely the minister involved in such delegation (to extra-parliamentary bodies) must specify, what the boundaries of what is policy and what is administrative matter are. In this area, there is no clarity, and a serious question arises as a consequence as to whether the responsibility of the minister to parliament, as understood in the Constitution, has been eroded.

As all other chapters are written by either an academic or parliamentary officer, Higgins's chapter breathes real life and relevance into the book. This is a must read.

While it may seem odd to some that the Australasian Parliamentary Review is reviewing a book on the Parliament of Ireland, it has a great deal of interest and more than passing relevance to the problems we grapple with today. Not the least being the slow and somewhat halting process towards meaningful reform within our system, reform geared to better public representation, greater capacity of the

parliament to hold the government of the day to account and more opportunity for backbenchers to contribute to fulfilling the national aspirations of those they represent.

The book is not currently available in Australia but a Google search will identify how a copy can be obtained. All Australian Parliaments and major libraries should acquire a copy. ▲