

Official.

[1922].

DÁIL EIREANN

(PÁIRLIMINT SHEALADACH).

Bille um Bun-reacht Shaorstáit Eireann

(Constitution of Saorstát Eireann Bill)

mar do leasuigheadh i gCoiste

(as amended in Committee.)

BILLE

chun

Bun-reacht do Shaorstát Eireann d'achtú agus chun an
Connradh idir Shasana agus Eire do sionnigheadh
i Lundain ar an 6 adh lá de Mhí na Nodlag, 1921,
do thabhairt chun críche.

- 5 (A Bill to enact a Constitution for Saorstát Eireann and
for implementing the Treaty between Great Britain
and Ireland signed at London on the 6th day of
December, 1921).

10 **D**ÁIL EIREANN sitting as a constituent Assembly in this
Provisional Parliament acknowledging that all lawful
authority comes from God to the people and in the confidence
that we shall thus restore our National life and unity, hereby
proclaims the establishment of Saorstát Eireann and in the
exercise of our undoubted right, decrees and enacts as follows:

- 15 1. The Constitution set forth in the first schedule hereto shall
be the constitution of Saorstát Eireann.

2. These presents shall be construed with reference to the Articles of Agreement for a Treaty between Great Britain and Ireland set forth in the Schedule hereto annexed (hereinafter referred to as "the Scheduled Treaty") which are hereby given the force of law, and if any provision of this Constitution or of any amendment thereof or of any law made thereunder is in any respect repugnant to any of the provisions of the Scheduled Treaty, it shall, to the extent only of such repugnancy be absolutely void and inoperative and the Parliament and the Executive Council of the Irish Free State shall respectively pass such further legislation and do all such other things as may be necessary to implement the Scheduled Treaty.

FIRST SCHEDULE ABOVE REFERRED TO.

CONSTITUTION OF SAORSTÁT EIREANN

SECTION I.—FUNDAMENTAL RIGHTS.

Article 1.

The Irish Free State/Saorstát Eireann is a co-equal member of the Community of Nations forming the British Commonwealth of Nations.

Article 2.

All powers of government and all authority legislative, executive, and judicial in Ireland, are derived from the people of Ireland and the same shall be exercised in the Irish Free State/Saorstát Eireann through the organisations established by or under, and in accord with, this Constitution.

Article 3.

Every person domiciled in the Irish Free State/Saorstát Eireann at the time of the coming into operation of this Constitution who was born in Ireland or whose parents (or either of them) were born in Ireland or who has been ordinarily resident in the area of the jurisdiction of the Irish Free State/Saorstát Eireann for not less than seven years is a citizen of the Irish Free State/Saorstát Eireann and shall within the limits of the Irish Free State/Saorstát Eireann enjoy the privileges and be subject to the obligations of such citizenship, provided that any such person being a citizen of another State may elect not to accept the citizenship hereby conferred; and the conditions governing the future acquisition and termination of citizenship in the Irish Free State/Saorstát Eireann shall be determined by law.

Article 4.

Men and women have equal political rights.

Article 5.

The National language of the Irish Free State/Saorstát Eireann is the Irish language, but the English language shall be equally recognised as an official language. Nothing in this Article shall prevent special provisions being made by the Parliament/Oireachtas for districts or areas in which only one language is in general use.

Article 6.

No title of honour in respect of any services rendered in or in relation to the Irish Free State/Saorstát Eireann may be conferred on any citizen of the Irish Free State/Saorstát Eireann except with the approval or upon the advice of the Executive Council of the State.

Article 7.

The liberty of the person is inviolable, and save in time of war or armed rebellion no person shall be deprived of his liberty except in accordance with law. Upon complaint
 5 made by or on behalf of any person that he is being unlawfully detained, the High Court/Ard Chúirt and any and every judge thereof shall forthwith enquire into the same and may make an order requiring the person in whose custody such person shall be detained to produce the body of the person so
 10 detained before such Court or Judge without delay and to certify in writing as to the cause of the detention and such Court or Judge shall thereupon order the release of such person unless satisfied that he is being detained in accordance with the law.

Article 8.

15 The dwelling of each citizen is inviolable and shall not be forcibly entered except in accordance with law.

Article 9.

Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed
 20 to every citizen, and no law may be made either directly or indirectly to endow any religion, or prohibit or restrict the free exercise thereof or give any preference, or impose any disability on account of religious belief or religious status, or affect prejudicially the right of any child to attend a
 25 school receiving public money without attending the religious instruction at the school, or make any discrimination as respects State aid between schools under the management of different religious denominations, or divert from any religious denomination or any educational institution any of its property except for the
 30 purpose of roads, railways, lighting, water or drainage works or other works of public utility, and on payment of compensation.

Article 10.

The right of free expression of opinion as well as the right to assemble peaceably and without arms, and to form associations
 35 or unions is guaranteed for purposes not opposed to public morality. Laws regulating the manner in which the right of forming associations and the right of free assembly may be exercised shall contain no political, religious or class distinction.

Article 11.

40 All citizens of the Irish Free State/Saorstát Éireann have the right to free elementary education.

Article 12.

The rights of the State in and to natural resources, the use of which is of national importance, shall not be alienated. Their
 45 exploitation by private individuals or associations shall be permitted only under State supervision and in accordance with conditions and regulations approved by legislation.

SECTION II.—LEGISLATIVE PROVISIONS.**A.—THE LEGISLATURE.****Article 13.**

50 A Legislature is hereby created to be known as Parliament of the Irish Free State/Oireachtas. It shall consist of the King and two Houses: the Chamber of Deputies/Dáil Éireann and the Senate/Seanad Éireann. The sole and exclusive power of making
 55 laws for the peace, order and good government of the Irish Free State/Saorstát Éireann is vested in the Parliament/Oireachtas.

Article 14.

The Parliament/Oireachtas shall sit in or near the city of
 60 Dublin or in such other place as from time to time it may determine.

Article 15.

All citizens of the Irish Free State/Saorstát Eireann without distinction of sex, who have reached the age of twenty-one years and who comply with the provisions of the prevailing electoral laws, shall have the right to vote for members of the Chamber of Deputies/Dáil Eireann, and to take part in the Referendum and Initiative. All citizens of the Irish Free State/Saorstát Eireann without distinction of sex who have reached the age of thirty years and who comply with the provisions of the prevailing electoral laws, shall have the right to vote for members of the Senate/Seanad Eireann. No voter may exercise more than one vote at an election to either House and the voting shall be by secret ballot. The mode and place of exercising this right shall be determined by law.

Article 16.

Every citizen who has reached the age of twenty-one years and who is not placed under disability or incapacity by the Constitution or by law shall be eligible to become a member of the Chamber of Deputies/Dáil Eireann.

Article 17.

No person may be at the same time a member both of the Chamber/Dáil Eireann and of the Senate/Seanad Eireann.

Article 18.

The oath to be taken by Members of Parliament/Oireachtas shall be in the following form:—

I _____ do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established, and that I will be faithful to H. M. King George V., his heirs and successors by law in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

Such oath shall be taken and subscribed by every member of the Parliament/Oireachtas before taking his seat therein before the Representative of the Crown or some person authorised by him.

Article 19.

Every member of the Parliament/Oireachtas shall, except in case of treason, felony, or breach of the peace, be privileged from arrest in going to and returning from, and while within the precincts of either House, and shall not, in respect of any utterance in either House, be amenable to any action or proceeding in any Court other than the House itself.

Article 20.

All reports and publications of the Parliament/Oireachtas or of either House thereof shall be privileged and utterances made in either House wherever published shall be privileged.

Article 21.

Each House shall make its own rules and Standing Orders, with power to attach penalties for their infringement and shall have power to ensure freedom of debate, to protect its official documents and the private papers of its members, and to protect itself and its members against any person or persons interfering with, molesting or attempting to corrupt its members in the exercise of their duties.

Article 22.

Each House shall elect its own Chairman and Deputy Chairman and shall prescribe their powers, duties, and terms of office.

Article 23.

All matters in each House shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present other than the Chairman or presiding

member, who shall have and exercise a casting vote in the case of an equality of votes. The number of members necessary to constitute a meeting of either House for the exercise of its powers shall be determined by its Standing Orders.

5 **Article 24.**

The Parliament/Oireachtas shall make provision for the payment of its members and may in addition provide them with free travelling facilities in any part of Ireland.

Article 25.

- 10 The Parliament/Oireachtas shall hold at least one session each year. The Parliament/Oireachtas shall be summoned and dissolved by the Representative of the Crown in the name of the King and subject as aforesaid the Chamber/Dáil Eireann shall fix the date of re-assembly of the Parliament/Oireachtas and the date of the conclusion of the session of each House provided that the sessions of the Senate/Seanad Eireann shall not be concluded without its own consent.

Article 26.

- 20 Sittings of each House of the Parliament/Oireachtas shall be public. In cases of special emergency either House may hold a private sitting with the assent of two-thirds of the members present.

SECTION II.—LEGISLATIVE PROVISIONS.

B.—THE CHAMBER OF DEPUTIES/DÁIL EIREANN.

25 **Article 27.**

- The Chamber/Dáil Eireann shall be composed of members who represent constituencies determined by law. The number of members shall be fixed from time to time by the Parliament/Oireachtas, but the total number of members (exclusive of members for the Universities) of the Chamber/Dáil Eireann shall not be fixed at less than one member for each thirty thousand of the population, or at more than one member for each twenty thousand of the population: Provided that the proportion between the number of members to be elected at any time for each constituency and the population of each constituency, as ascertained at the last preceding census, shall, so far as possible, be identical throughout the country. The members shall be elected upon principles of Proportional Representation. The Parliament/Oireachtas shall revise the constituencies at least once in every ten years, with due regard to changes in distribution of the population, but any alterations in the constituencies shall not take effect during the life of the Chamber/Dáil Eireann sitting when such revision is made.

Article 28.

- 45 At a General Election for the Chamber/Dáil Eireann the polls shall be held on the same day throughout the country, and that day shall be a day not later than thirty days after the date of the dissolution and shall be proclaimed a public holiday. The Chamber/Dáil Eireann shall meet within one month of such day, and shall unless earlier dissolved continue for four years from the date of its first meeting, and not longer. The Chamber/Dáil Eireann may not at any time be dissolved except on the advice of the Executive Council.

Article 29.

- 55 In case of death, resignation or disqualification of a member of the Chamber/Dáil Eireann, the vacancy shall be filled by election in manner to be determined by law.

SECTION II.—LEGISLATIVE PROVISIONS.

C.—THE SENATE/SEANAD EIREANN.

Article 30.

The Senate/Seanad Eireann shall be composed of citizens who shall be proposed on the grounds that they have done honour to the Nation by reason of useful public service or that, because of special qualifications or attainments, they represent important aspects of the Nation's life. 5

Article 31.

The number of Senators, shall be fifty-six. A citizen to be eligible for membership of the Senate/Seanad must be a person eligible to become a member of the Chamber/Dáil Eireann, and must have reached the age of thirty-five years. Subject to any provision for the constitution of the first Senate/Seanad the term of office of a member of the Senate/Seanad shall be twelve years. 10 15

Article 32.

One-fourth of the members of the Senate/Seanad Eireann shall be elected every three years from a panel constituted as hereinafter mentioned at an election at which the Irish Free State/Saorstát Eireann shall form one electoral area, and the elections shall be held on principles of Proportional Representation. 20

Article 33.

Before each election of members of the Senate/Seanad Eireann a panel shall be formed consisting of:— 25

(a) Three times as many qualified persons as there are members to be elected, of whom two-thirds shall be nominated by the Chamber/Dáil Eireann voting according to principles of Proportional Representation and one-third shall be nominated by the Senate/Seanad Eireann voting according to principles of Proportional Representation; and 30

(b) Such persons who have at any time been members of the Senate/Seanad (including members about to retire) as signify by notice in writing addressed to the President of the Executive Council their desire to be included in the panel. 35

The method of proposal and selection for nomination shall be decided by the Chamber/Dáil and Senate/Seanad respectively, with special reference to the necessity for arranging for the representation of important interests and institutions in the country; Provided that each proposal shall be in writing and shall state the qualifications of the person proposed. As soon as the panel has been formed a list of the names of the members of the panel arranged in alphabetical order with their qualifications shall be published. 40 45

Article 34.

In case of the death, resignation or disqualification of a member of the Senate/Seanad Eireann his place shall be filled by a vote of the Senate/Seanad. Any Senator so chosen shall retire from office at the conclusion of the three years period then running and the vacancy thus created shall be additional to the places to be filled under Article 32. The term of office of the members chosen at the election after the first fourteen elected shall conclude at the end of the period or periods at which the Senator or Senators by whose death or withdrawal the vacancy or vacancies was or were originally created would be due to retire; Provided that the fifteenth member shall be deemed to have filled the vacancy first created in order of time and so on. 50 55 60

SECTION II.—LEGISLATIVE PROVISIONS.

D.—LEGISLATION.

Article 35.

5 The Chamber/Dáil Eireann shall in relation to the subject matter of money bills as hereinafter defined have legislative authority exclusive of the Senate/Seanad Eireann.

A money Bill means a Bill which contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration or regulation of taxation ;
 10 the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges ; supply ; the appropriation, receipt, custody, issue or audit of accounts of public money ; the raising or guarantee of any loan or the repayment thereof ; subordinate matters
 15 incidental to those subjects or any of them. In this definition the expressions "taxation," "public money" and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

The Chairman of the Chamber/Dáil shall certify any bill
 20 which in his opinion is a money bill to be a money bill, but, if within three days after a Bill has been passed by the Chamber/Dáil, two-fifths of the members of either House by notice in writing addressed to the Chairman of the House of which they
 25 are members so require, the question whether the Bill is or is not a money bill shall be referred to a Committee of Privileges consisting of three members elected by each House with a Chairman who shall be the senior judge of the Supreme Court able and willing to act, and who, in the case of an equality of votes,
 30 the Committee on the question shall be final and conclusive.

Article 36.

The Chamber/Dáil Eireann shall as soon as possible after the commencement of each financial year consider the Budget of receipts and expenditure of the Irish Free State/Saorstát Eireann
 35 for that year, and, save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the Budget of each year shall be enacted within that year.

Article 37.

Money shall not be appropriated by vote, resolution or law,
 40 unless the purpose of the appropriation has in the same session been recommended by a message from the Representative of the Crown acting on the advice of the Executive Council.

Article 38.

Every Bill initiated in and passed by the Chamber/Dáil Eireann
 45 shall be sent to the Senate/Seanad Eireann and may, unless it be a Money Bill, be amended in the Senate/Seanad Eireann and the Chamber/Dáil Eireann shall consider any such amendment ; but a Bill passed by the Chamber/Dáil Eireann and considered by the Senate/Seanad Eireann shall, not later than two hundred
 50 and seventy days after it shall have been first sent to the Senate/Seanad, or such longer period as may be agreed upon by the two Houses, be deemed to be passed by both Houses in its form as last passed by the Chamber/Dáil : Provided that any Money Bill shall be sent to the Senate/Seanad for its recommendations
 55 and at a period not longer than fourteen days after it shall have been sent to the Senate/Seanad, it shall be returned to the Chamber/Dáil which may pass it, accepting or rejecting all or any of the recommendations of the Senate/Seanad, and as so passed shall be deemed to have been passed by both Houses.
 60 When a Bill other than a Money Bill has been sent to the Senate/Seanad a Joint Sitting of the Members of both Houses may on a resolution passed by the Senate/Seanad be convened for the purpose of debating, but not of voting upon, the proposals of the Bill or any amendment of the same.

Article 39.

A Bill may be initiated in the Senate/Seanad Eireann and if passed by the Senate/Seanad shall be introduced into the Chamber/Dáil Eireann. If amended by the Chamber/Dáil the Bill shall be considered as a Bill initiated in the Chamber/Dáil. If rejected by the Chamber/Dáil it shall not be introduced again in the same session, but the Chamber/Dáil may reconsider it on its own motion.

Article 40.

A Bill passed by either House and accepted by the other House shall be deemed to be passed by both Houses.

Article 41.

So soon as any Bill shall have been passed or deemed to have been passed by both Houses, the Executive Council shall present the same to the Representative of the Crown for the signification by him, in the King's name, of the King's assent, and such Representative may withhold the King's assent or reserve the Bill for the signification of the King's pleasure; Provided that the Representative of the Crown shall in the withholding of such assent to or the reservation of any Bill, act in accordance with the law, practice, and constitutional usage governing the like withholding of assent or reservation in the Dominion of Canada.

A Bill reserved for the signification of the King's Pleasure shall not have any force unless and until within one year from the day on which it was presented to the Representative of the Crown for the King's Assent, the Representative of the Crown signifies by speech or message to each of the Houses of the Parliament/Oireachtas, or by proclamation, that it has received the Assent of the King in Council.

An entry of every such speech, message or proclamation shall be made in the Journal of each House and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the Records of the Irish Free State/Saorstát Eireann.

Article 42.

As soon as may be after any law has received the King's assent, the clerk, or such officer as the Chamber may appoint for the purpose, shall cause two fair copies of such law to be made, one being in the Irish language and the other in the English language (one of which copies shall be signed by the Representative of the Crown to be enrolled for record in the office of such officer of the Supreme Court as the Chamber/Dáil Eireann may determine), and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies so deposited, that signed by the Representative of the Crown shall prevail.

Article 43.

The Parliament/Oireachtas shall have no power to declare acts to be infringements of the law which were not so at the date of their commission.

Article 44.

The Parliament/Oireachtas may create subordinate legislatures with such powers as may be decided by law.

Article 45.

The Parliament/Oireachtas may provide for the establishment of Functional or Vocational Councils representing branches of the social and economic life of the Nation. A law establishing any such Council shall determine its powers, rights and duties, and its relation to the government of the Irish Free State/Saorstát Eireann.

Article 46.

The Parliament/Oireachtas has the exclusive right to regulate the raising and maintaining of such armed forces as are mentioned in the Scheduled Treaty in the territory of the Irish Free State/Saorstát Eireann and every such force shall be subject to the control of the Parliament/Oireachtas.

SECTION II.—LEGISLATIVE PROVISIONS.

E.—REFERENDUM AND INITIATIVE.

Article 47.

Any Bill passed or deemed to have been passed by both Houses
 5 may be suspended for a period of ninety days on the written
 demand of two-fifths of the members of the Chamber/Dáil
 Eireann or of a majority of the members of the Senate/Seanad
 Eireann presented to the President of the Executive Council not
 10 later than seven days from the day on which such Bill shall have
 been so passed or deemed to have been so passed. Such a Bill
 shall be submitted by Referendum to the decision of the people
 if demanded before the expiration of the ninety days either by
 a resolution of the Senate/Seanad Eireann assented to by three-
 fifths of the members of the Senate/Seanad Eireann, or by a
 15 petition signed by not less than one-twentieth of the voters then
 on the register of voters, and the decision of the people by a
 majority of the votes recorded on such Referendum shall be
 conclusive. These provisions shall not apply to Money Bills
 or to such Bills as shall be declared by both Houses to be necessary
 20 for the immediate preservation of the public peace, health or
 safety.

Article 48.

The Parliament/Oireachtas may provide for the initiation by
 the people of proposals for laws or constitutional amendments.
 25 Should the Parliament/Oireachtas fail to make such provision
 within two years, it shall on the petition of not less than one
 hundred thousand voters on the register, of whom not more than
 twenty thousand shall be voters in any one constituency, either
 make such provisions or submit the question to the people for
 30 decision in accordance with the ordinary regulations governing
 the Referendum. Any legislation passed by the Parliament/
 Oireachtas providing for such initiation by the people shall
 provide (1) that such proposals may be initiated on a petition
 of fifty thousand voters on the register, (2) that if the Parliament/
 35 Oireachtas rejects a proposal so initiated it shall be submitted to
 the people for decision in accordance with the ordinary regula-
 tions governing the Referendum; and (3) that if the Parlia-
 ment/Oireachtas enacts a proposal so initiated, such enactment
 shall be subject to the provisions respecting ordinary legislation
 40 or amendments of the Constitution as the case may be.

Article 49.

Save in the case of actual invasion, the Irish Free State/Saorstát
 Eireann shall not be committed to active participation in any
 war without the assent of the Parliament/Oireachtas.

45 Article 50.

Amendments of this Constitution within the terms of the
 Scheduled Treaty may be made by the Parliament/Oireachtas,
 but every such amendment passed by the Parliament/Oireachtas
 after the expiration of a period of five years from the date of the
 coming into operation of this Constitution must be submitted
 50 to a Referendum of the people and shall not be passed unless a
 majority of the voters on the register record their votes and
 either a majority of the voters on the register or two-thirds of
 the votes recorded are in favour of the amendment. Any such
 55 amendment may be made within the said period of five years
 by way of ordinary legislation and as such shall be subject to
 the provisions of Article 47 hereof.

SECTION III.—THE EXECUTIVE.

A.—EXECUTIVE COUNCIL/AIREACHT.

Article 51.

The Executive Authority of the Irish Free State/Saorstát Eireann is hereby declared to be vested in the King, and shall be exercisable, in accordance with the law, practice and constitutional usage governing the exercise of the executive authority in the case of the Dominion of Canada, by the Representative of the Crown. There shall be a Council to aid and advise in the government of the Irish Free State/Saorstát Eireann to be styled the Executive Council/Aireacht. The Executive Council shall be responsible to the Chamber/Dáil Eireann, and shall consist of not more than twelve Ministers/Airi appointed by the Representative of the Crown.

Article 52.

Those Ministers who form the Executive Council shall all be members of the Chamber/Dáil Eireann and shall include the President of the Council, the Vice-President of the Council and the Minister in charge of the Department of Finance.

Article 53.

The President of the Council shall be appointed on the nomination of the Chamber/Dáil Eireann. He shall nominate a Vice-President of the Council, who shall act for all purposes in the place of the President if the President shall die, resign, or be permanently incapacitated, until a new President of the Council shall have been elected. The Vice-President shall also act in the place of the President during his temporary absence. The other Ministers who are to hold office as members of the Executive Council shall be appointed on the nomination of the President, with the assent of the Dáil, and he and the Ministers nominated by him shall retire from office should he cease to retain the support of a majority in the Chamber/Dáil Eireann, but the President and such Ministers shall continue to carry on their duties until their successors shall have been appointed. Provided, however, that the Parliament/Oireachtas shall not be dissolved on the advice of an Executive Council which has ceased to retain the support of a majority in the Chamber/Dáil Eireann.

Article 54.

The Executive Council shall be collectively responsible for all matters concerning the Departments of State administered by Members of the Executive Council. The Executive Council shall prepare estimates of the receipts and expenditure of the Irish Free State for each financial year, and shall present them to the Chamber/Dáil Eireann before the close of the previous financial year. The Executive Council shall meet and act as a collective authority.

Article 55.

Ministers who shall not be members of the Executive Council may be nominated by the Chamber/Dáil Eireann on the recommendation of a Committee of the Chamber/Dáil Eireann chosen by a method to be determined by the Chamber/Dáil Eireann, so as to be impartially representative of the Chamber/Dáil Eireann. Should a recommendation not be acceptable to the Chamber/Dáil Eireann, the Committee may continue to recommend names until one is found acceptable.

Article 56.

Every Minister who is not a member of the Executive Council shall be the responsible head of the Department or Departments under his charge, and shall be individually responsible to the Chamber/Dáil Eireann alone for the administration of the Department or Departments of which he is the head. Provided that

- should arrangements for Functional or Vocational Councils be made by the Parliament/Oireachtas these Ministers or any of them may, should the Parliament/Oireachtas so decide, be members of and be recommended to the Chamber/Dáil Eireann by such Councils. The term of office of any Minister, not a member of the Executive Council, shall be the term of the Chamber/Dáil Eireann existing at the time of his appointment, but he shall continue in office until his successor shall have been appointed, and no such Minister shall be removed from office during his term otherwise than by the Chamber/Dáil Eireann itself, and by them for stated reasons, and after the proposal to remove him has been submitted to a Committee, chosen by a method to be determined by the Chamber/Dáil Eireann, so as to be impartially representative of the Chamber/Dáil Eireann, and the Committee has reported thereon.

Article 57.

The appointment of a member of the Chamber/Dáil Eireann to be a Minister shall not entail upon him any obligation to resign his seat or to submit himself for re-election.

20 Article 58.

Ministers/Airi shall receive such remuneration as may from time to time be prescribed by law, but the remuneration of any Minister shall not be diminished during his term of office.

Article 59.

- 25 The Representative of the Crown, who shall be styled the Governor-General of the Irish Free State, shall be appointed in like manner as the Governor-General of Canada and in accordance with the practice observed in the making of such appointments. The salary of the Governor-General of the Irish Free State shall be of the like amount as that now payable to the Governor-General of the Commonwealth of Australia and shall be charged on the public funds of the Irish Free State/Saorstát Eireann and suitable provision shall be made out of those funds for the maintenance of his official residence and establishment.

35 SECTION III.—THE EXECUTIVE.

B.—FINANCIAL CONTROL.

Article 60.

- 40 All revenues of the Irish Free State/Saorstát Eireann from whatever source arising, shall, subject to such exception as may be provided by law, form one fund, and shall be appropriated for the purposes of the Irish Free State/Saorstát Eireann in the manner and subject to the charges and liabilities imposed by law.

Article 61.

- 45 The Chamber/Dáil Eireann shall appoint a Comptroller and Auditor-General to act on behalf of the Irish Free State/Saorstát Eireann. He shall control all disbursements and shall audit all accounts of moneys administered by or under the authority of the Parliament/Oireachtas and shall report to the Chamber/Dáil at stated periods to be determined by law.

Article 62.

- 55 The Comptroller and Auditor-General shall not be removed except for stated misbehaviour or incapacity on resolutions passed by the Chamber/Dáil Eireann and the Senate/Seanad Eireann. Subject to this provision the terms and conditions of his tenure of office shall be fixed by law. He shall not be a member of the Parliament/Oireachtas nor shall he hold any other office or position of emolument.

SECTION IV.—THE JUDICIARY.

Article 63.

The judicial power of the Irish Free State/Saorstát Éireann shall be exercised and justice administered in the public Courts established by Parliament/Oireachtas by judges appointed in manner hereinafter provided. These Courts shall comprise Courts of First Instance and a Court of Final Appeal to be called the Supreme Court (Cúirt Uachtarach). The Courts of First Instance shall include a High Court (Ard Chúirt), invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal, and also Courts of local and limited jurisdiction with a right of appeal as determined by law.

Article 64.

The judicial power of the High Court shall extend to the question of the validity of any law having regard to the provisions of the Constitution. In all cases in which such matters shall come into question, the High Court alone shall exercise original jurisdiction.

Article 65.

The Supreme Court of the Irish Free State/Saorstát Éireann shall, with such exceptions (not including cases which involve questions as to the validity of any law) and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Court. The decision of the Supreme Court shall in all cases be final and conclusive, and shall not be reviewed or capable of being reviewed by any other Court, Tribunal or Authority whatsoever.

Provided that nothing in this Constitution shall impair the right of any person to petition His Majesty for special leave to appeal from the Supreme Court to His Majesty in Council or the right of His Majesty to grant such leave.

Article 66.

The number of judges, the constitution and organisation of, and distribution of business and jurisdiction among the said Courts and judges, and all matters of procedure shall be as prescribed by the laws for the time being in force and the regulations made thereunder.

Article 67.

The judges of the Supreme Court and of the High Court and of all other Courts established in pursuance of this Constitution shall be appointed by the Representative of the Crown on the advice of the Executive Council. The Judges of the Supreme Court and of the High Court shall not be removed except for stated misbehaviour or incapacity, and then only by resolutions passed by both the Chamber/Dáil Éireann and the Senate/Seanad Éireann. The age of retirement, the remuneration and the pension of such judges on retirement and the declarations to be taken by them on appointment shall be prescribed by law. Such remuneration may not be diminished during their continuance in office. The terms of appointment of the judges of such other courts as may be created shall be prescribed by law.

Article 68.

All judges shall be independent in the exercise of their functions, and subject only to the Constitution and the law. A judge shall not be eligible to sit in Parliament/Oireachtas, and shall not hold any other office or position of emolument.

Article 69.

No one shall be tried save in due course of law and extraordinary courts shall not be established, save only such Military Tribunals as may be authorised by law for dealing with military offenders against military law. The jurisdiction of Military Tribunals shall not be extended to or exercised over the civil population save in time of war, and for acts committed in time

- of war, and in accordance with the regulations to be prescribed by law. Such jurisdiction shall not be exercised in any area in which the civil courts are open or capable of being held, and no person shall be removed from one area to another for the purpose of creating such jurisdiction.

Article 70.

- A member of the armed forces of the Irish Free State/Saorstát Éireann not on active service shall not be tried by any Court Martial for an offence cognisable by the Civil Courts, unless such offence shall have been brought expressly within the jurisdiction of Courts Martial by any code of laws or regulations for the enforcement of military discipline which may be hereafter approved by Parliament/Oireachtas.

Article 71.

- No person shall be tried on any criminal charge without a jury save in the case of charges in respect of minor offences triable by law before a Court of Summary Jurisdiction and in the case of charges for offences against military law triable by Court Martial.

SECTION V.—TRANSITORY PROVISIONS.

Article 72.

- Subject to this Constitution and to the extent to which they are not inconsistent therewith, the laws in force in the Irish Free State/Saorstát Éireann at the date of the coming into operation of this Constitution shall continue to be of full force and effect until the same or any of them shall have been repealed or amended by enactment of the Parliament/Oireachtas.

Article 73.

- Nothing in this Constitution shall affect until the 5th April, 1923, the assessment, levying and collection of taxation as existing immediately prior to the coming into operation of this Constitution or the financial adjustments consequent thereon.

Article 74.

- Until Courts have been established for the Irish Free State/Saorstát Éireann in accordance with this Constitution, the Supreme Court of Judicature, County Courts, Courts of Quarter Sessions and Courts of Summary Jurisdiction, as at present existing, shall for the time being continue to exercise the same jurisdiction as heretofore, and any judge or justice, being a member of any such Court, holding office at the time when this Constitution comes into operation, shall for the time being continue to be a member thereof and hold office by the like tenure and upon the like terms as heretofore, unless, in the case of a judge of the said Supreme Court or of a County Court, he signifies to the Representative of the Crown his desire to resign. Any vacancies in any of the said Courts so continued may be filled by appointment made in like manner as appointments to judgeships in the Courts established under this Constitution.

- Provided that the provisions of Article 65 as to the decisions of the Supreme Court established under this Constitution shall apply to decisions of the Court of Appeal continued by this Article.

Article 75.

- If any judge of the said Supreme Court of Judicature or of any of the said County Courts resigns as aforesaid, or if any such judge, on the establishment of Courts under this Constitution, is not with his consent appointed to be a judge of any such Court, he shall, for the purpose of Article 10 of the Scheduled Treaty, be treated as if he had retired in consequence of the

change of Government effected in pursuance of the said Treaty, but the rights so conferred shall be without prejudice to any rights or claims that he may have against the British Government.

Article 76.

Every existing Officer of the Provisional Government at the date of the coming into operation of this Constitution (not being an Officer whose services have been lent by the British Government to the Provisional Government) shall on that date be transferred to and become an Officer of the Irish Free State/Saorstát Eireann, and shall hold office by a tenure corresponding to his previous tenure.

Article 77.

Every such existing Officer who was transferred from the British Government by virtue of any transfer of services to the Provisional Government shall be entitled to the benefit of Article 10 of the Scheduled Treaty

Article 78.

As respects departmental property, assets, rights and liabilities, the Government of the Irish Free State/Saorstát Eireann shall be regarded as the successors of the Provisional Government, and, to the extent to which functions of any department of the British Government become functions of the Government of the Irish Free State/Saorstát Eireann, as the successors of such department of the British Government.

Article 79.

After the date on which this Constitution comes into operation the House of the Parliament elected in pursuance of the Irish Free State (Agreement) Act, 1922 (being the constituent assembly for the settlement of this Constitution), may, for a period not exceeding one year from that date, but subject to compliance by the Members thereof with the provisions of Article 18 of this Constitution, exercise all the powers and authorities conferred on the Chamber/Dáil Eireann by this Constitution, and the first election for the Chamber/Dáil Eireann under Articles 27 and 28 hereof shall take place as soon as possible after the expiration of such period.

Article 80.

Notwithstanding anything contained in Articles 15 and 33 hereof, the first Senate/Seanad Eireann shall be constituted immediately after the coming into operation of this Constitution in the manner following, that is to say:—

- (a) The first Senate/Seanad shall consist of fifty-six members, of whom twenty-eight shall be elected and twenty-eight shall be nominated.
- (b) The twenty-eight nominated members of the Senate/Seanad shall be nominated by the President of the Executive Council who shall, in making such nominations, have special regard to the providing of representation for groups or parties not then adequately represented in the Chamber/Dáil.
- (c) The twenty-eight elected members of the Senate/Seanad shall be elected by the Chamber/Dáil Eireann voting on principles of Proportional Representation.
- (d) Of the twenty-eight nominated members, fourteen, to be selected by lot, shall hold office for the full period of twelve years, the remaining fourteen shall hold office for the period of six years.
- (e) Of the twenty-eight elected members the first fourteen elected shall hold office for the period of nine years, the remaining fourteen shall hold office for the period of three years.

(f) At the termination of the period of office of any such members, members shall be elected in their place in manner provided by Article 32.

(g) Casual vacancies shall be filled in manner provided by Article 34.

Article 81.

The passing and adoption of this Constitution by the Constituent Assembly and the British Parliament shall be announced as soon as may be, and not later than the sixth day of December, 1922, by Proclamation of His Majesty, and this Constitution shall come into operation on the issue of such Proclamation.

SECOND SCHEDULE ABOVE REFERRED TO.

TREATY BETWEEN GREAT BRITAIN AND IRELAND.

1. Ireland shall have the same constitutional status in the Community of Nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa, with a Parliament having powers to make laws for the peace, order and good government of Ireland and an Executive responsible to that Parliament, and shall be styled and known as the Irish Free State.

2. Subject to the provisions hereinafter set out the position of the Irish Free State in relation to the Imperial Parliament and Government and otherwise shall be that of the Dominion of Canada, and the law, practice and constitutional usage governing the relationship of the Crown or the representative of the Crown and of the Imperial Parliament to the Dominion of Canada shall govern their relationship to the Irish Free State.

3. The representative of the Crown in Ireland shall be appointed in like manner as the Governor-General of Canada, and in accordance with the practice observed in the making of such appointments.

4. The oath to be taken by Members of the Parliament of the Irish Free State shall be in the following form :—

I do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established and that I will be faithful to H.M. King George V., his heirs and successors by law, in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

5. The Irish Free State shall assume liability for the service of the Public Debt of the United Kingdom as existing at the date hereof and towards the payment of war pensions as existing at that date in such proportion as may be fair and equitable, having regard to any just claims on the part of Ireland by way of set off or counterclaim, the amount of such sums being determined in default of agreement by the arbitration of one or more independent persons being citizens of the British Empire.

6. Until an arrangement has been made between the British and Irish Governments whereby the Irish Free State undertakes her own coastal defence, the defence by sea of Great Britain and Ireland shall be undertaken by His Majesty's Imperial Forces, but this shall not prevent the construction or maintenance by the Government of the Irish Free State of such vessels as are necessary for the protection of the Revenue or the Fisheries.

The foregoing provisions of this article shall be reviewed at a conference of Representatives of the British and Irish Governments to be held at the expiration of five years from the date hereof with a view to the undertaking by Ireland of a share in her own coastal defence.

7. The Government of the Irish Free State shall afford to His Majesty's Imperial Forces:—

(a) In time of peace such harbour and other facilities as are indicated in the Annex hereto, or such other facilities as may from time to time be agreed between the British Government and the Government of the Irish Free State; and

(b) In time of war or of strained relations with a Foreign Power such harbour and other facilities as the British Government may require for the purposes of such defence as aforesaid.

8. With a view to securing the observance of the principle of international limitation of armaments, if the Government of the Irish Free State establishes and maintains a military defence force, the establishments thereof shall not exceed in size such proportion of the military establishments maintained in Great Britain as that which the population of Ireland bears to the population of Great Britain.

9. The ports of Great Britain and the Irish Free State shall be freely open to the ships of the other country on payment of the customary port and other dues.

10. The Government of the Irish Free State agrees to pay fair compensation on terms not less favourable than those accorded by the Act of 1920 to judges, officials, members of Police Forces, and other Public Servants, who are discharged by it or who retire in consequence of the change of government effected in pursuance hereof.

Provided that this agreement shall not apply to members of the Auxiliary Police Force or to persons recruited in Great Britain for the Royal Irish Constabulary during the two years next preceding the date hereof. The British Government will assume responsibility for such compensation or pensions as may be payable to any of these excepted persons.

11. Until the expiration of one month from the passing of the Act of Parliament for the ratification of this instrument, the powers of the Parliament and the Government of the Irish Free State shall not be exercisable as respects Northern Ireland, and the provisions of the Government of Ireland Act, 1920, shall, so far as they relate to Northern Ireland, remain of full force and effect, and no election shall be held for the return of members to serve in the Parliament of the Irish Free State for constituencies in Northern Ireland, unless a resolution is passed by both Houses of the Parliament of Northern Ireland in favour of the holding of such elections before the end of the said month.

12. If, before the expiration of the said month, an address is presented to His Majesty by both Houses of the Parliament of Northern Ireland to that effect, the powers of the Parliament and the Government of the Irish Free State shall no longer extend to Northern Ireland, and the provisions of the Government of Ireland Act, 1920, (including those relating to the Council of Ireland) shall, so far as they relate to Northern Ireland, continue to be of full force and effect, and this instrument shall have effect subject to the necessary modifications.

Provided that if such an address is so presented a Commission consisting of three persons, one to be appointed by the Government of the Irish Free State, one to be appointed by the Government of Northern Ireland, and one who shall be Chairman, to be appointed by the British Government, shall determine, in accordance with the wishes of the inhabitants, so far as may be compatible with economic and geographic conditions, the boundaries between Northern Ireland and the rest of Ireland, and for the purposes of the Government of Ireland Act, 1920, and of this instrument, the boundary of Northern Ireland shall be such as may be determined by such Commission.

13. For the purposes of the last foregoing article, the powers of the Parliament of Southern Ireland under the Government of

Ireland Act, 1920, to elect members of the Council of Ireland, shall, after the Parliament of the Irish Free State is constituted, be exercised by that Parliament.

14. After the expiration of the said month, if no such address
5 as is mentioned in Article 12 hereof is presented, the Parliament and Government of Northern Ireland shall continue to exercise as respects Northern Ireland the powers conferred on them by the Government of Ireland Act, 1920, but the Parliament and Government of the Irish Free State shall in Northern Ireland
10 have in relation to matters in respect of which the Parliament of Northern Ireland has not power to make laws under that Act (including matters which under the said Act are within the jurisdiction of the Council of Ireland) the same powers as in the rest of Ireland subject to such other provisions as may be agreed in
15 manner hereinafter appearing.

15. At any time after the date hereof the Government of Northern Ireland and the provisional Government of Southern Ireland hereinafter constituted may meet for the purpose of discussing the provisions subject to which the last foregoing
20 Article is to operate in the event of no such address as is therein mentioned being presented, and those provisions may include :—

- (a) safeguards with regard to patronage in Northern Ireland,
- 25 (b) safeguards with regard to the collection of revenue in Northern Ireland,
- (c) safeguards with regard to import and export duties affecting the trade or industry of Northern Ireland,
- (d) safeguards for minorities in Northern Ireland,
- 30 (e) the settlement of the financial relations between Northern Ireland and the Irish Free State,
- (f) the establishment and powers of a local militia in Northern Ireland and the relation of the Defence Forces of the Irish Free State and of Northern Ireland respectively ;

35 and if at any such meeting provisions are agreed to, the same shall have effect as if they were included amongst the provisions subject to which the powers of the Parliament and Government of the Irish Free State are to be exercisable in Northern Ireland under Article 14 hereof.

40 16. Neither the Parliament of the Irish Free State nor the Parliament of Northern Ireland shall make any law so as either directly or indirectly to endow any religion or prohibit or restrict the free exercise thereof or give any preference or impose any disability on account of religious belief or religious status or
45 affect prejudicially the right of any child to attend a school receiving public money without attending the religious instruction at the school or make any discrimination as respects State aid between schools under the management of different religious denominations or divert from any religious denomination or any educational institution any of its property except for public
50 utility purposes and on payment of compensation.

17. By way of provisional arrangement for the administration of Southern Ireland during the interval which must elapse
55 between the date hereof and the constitution of a Parliament and Government of the Irish Free State in accordance therewith, steps shall be taken forthwith for summoning a meeting of members of Parliament elected for constituencies in Southern Ireland since the passing of the Government of Ireland Act, 1920, and for constituting a provisional Government, and the British
60 Government shall take the steps necessary to transfer to such provisional Government the powers and machinery requisite for the discharge of its duties, provided that every member of such provisional Government shall have signified in writing his or her acceptance of this instrument. But this arrangement
65 shall not continue in force beyond the expiration of twelve months from the date hereof.

18. This instrument shall be submitted forthwith by His Majesty's Government for the approval of Parliament and by the Irish signatories to a meeting summoned for the purpose of the members elected to sit in the House of Commons of Southern Ireland, and, if approved, shall be ratified by the necessary legislation. 5

(Signed)

On behalf of the British Delegation.	On behalf of the Irish Delegation.	
D. LLOYD GEORGE.	ART O GRÍOBHTHA.	10
AUSTEN CHAMBERLAIN.	MÍCHEÁL O COILEÁIN.	
BIRKENHEAD.	RÍOBÁRD BARTÚN.	
WINSTON S. CHURCHILL.	E. S. O DÚGÁIN.	
L. WORTHINGTON-EVANS.	SEÓRSA GHABHÁIN UÍ	
HAMAR GREENWOOD.	DHUBHTHAIGH.	15
GORDON HEWART.		

6th December, 1921.

ANNEX.

1. The following are the specific facilities required.

DOCKYARD PORT AT BEREHAVEN. 20

(a) Admiralty property and rights to be retained as at the date hereof. Harbour defences to remain in charge of British care and maintenance parties.

QUEENSTOWN.

(b) Harbour defences to remain in charge of British care and maintenance parties. Certain mooring buoys to be retained for use of His Majesty's ships. 25

BELFAST LOUGH.

(c) Harbour defences to remain in charge of British care and maintenance parties. 30

LOUGH SWILLY.

(d) Harbour defences to remain in charge of British care and maintenance parties.

AVIATION.

(e) Facilities in the neighbourhood of the above ports for coastal defence by air. 35

OIL FUEL STORAGE.

(f) Haulbowline	-	{ To be offered for sale to commercial companies under guarantee that purchasers shall maintain a certain minimum stock for Admiralty purposes.	40
Rathmullen	-		

2. A Convention shall be made between the British Government and the Government of the Irish Free State to give effect to the following conditions:—

(a) That submarine cables shall not be landed or wireless stations for communication with places outside Ireland be established except by agreement with the British Government; that the existing cable landing rights and wireless concessions shall not be withdrawn except by agreement with the British Government; and that the British Government shall be entitled to land additional submarine cables or establish additional wireless stations for communication with places outside Ireland. 45

(b) That lighthouses, buoys, beacons, and any navigational marks or navigational aids shall be maintained by the Government of the Irish Free State as at the date hereof and shall not be removed or added to except by agreement with the British Government. 50

(c) That war signal stations shall be closed down and left in charge of care and maintenance parties, the Government of the Irish Free State being offered the option of taking them over and working them for commercial purposes subject to Admiralty inspection and guaranteeing the upkeep of existing telegraphic communication therewith. 55

3. A Convention shall be made between the same Governments for the regulation of Civil Communication by Air. 60

Bun-reacht Shaorstáit Eireann.

BILLE

(mar do leasuigheadh i gCoiste)

chun Bun-reacht do Shaorstát Eireann
d'achtú chun an Connradh idir Shasana
agus Eire do sighnigheadh i Lundain
ar an 6 adh lá de Mhí na Nodlag, 1921,
do thabhairt chun críche.

*An t-Uachtarán do thug isteach,
An t-Aire um Ghnóthaí Dúithche,
An t-Aire um Ghnóthaí Coigríche,
An t-Aire um Chosaint,
An t-Aire um Rialtas Aitiúil,
An t-Aire um Shaothar agus Thráchtáil,
An t-Aire um Oideachas,
Aire an Phuist
ag cabhrú leis.*

*Do hordúigheadh, ag An nDáil, do Chlóbhuála,
12 adh Deire Foghmhair, 1922.*

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLÁTHAIR.

Le ceannach trí MESSRS. EASON AND SON, LTD.,
40 and 41 Sráid Iochtarach Uí Chonaill,
Baile Atha Cliath.

Clóbhuailte ag MESSRS. ALEX. THOM AND CO., LTD.,

[*Sgilling Glan.*]

[Bille 1]

Constitution of Saorstát Eireann.

A BILL

(as amended in Committee)

to enact a Constitution for Saorstát
Eireann for implementing the Treaty
between Great Britain and Ireland
signed at London on the 6th day of
December, 1921.

*Introduced by The President,
supported by
The Minister for Home Affairs,
The Minister for Foreign Affairs,
The Minister for Defence,
The Minister for Local Government,
The Minister for Industry and Commerce,
The Minister for Education,
The Postmaster General.*

*Ordered, by The Dáil, to be Printed,
12th October, 1922.*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE.

To be purchased through MESSRS. EASON AND SON, LTD.,
40 and 41 Lower O'Connell Street,
Dublin.

Printed by MESSRS. ALEX. THOM AND CO., LTD.

[*Price One Shilling Net.*]

[Bill 1]