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DE/4/1/5

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DE/4/1/5

DAIL EIREANN.

The original Constitution was agreed to at 1st sitting of 1st Dáil on 21/1/19. This reproduces that constitution as amended in subsequent sitting on 1/4/1919. It does not appear to have been subsequently revised.

CONSTITUTION:

ARTICLE 1.

All legislative powers shall be vested in Dail Eireann, composed of Deputies, elected by the Irish people from the existing Irish Parliamentary Constituencies.

ARTICLE 2.

(a) All executive powers shall be vested in the members, for the time being, of the Ministry.

(b) The Ministry shall consist of a President of the Ministry elected by Dail Eireann, and not more than nine Executive Officers including:-

as amended 1/4/1919.

A Secretary of Finance.
A Secretary of Home Affairs,
A Secretary of Foreign Affairs,
A Secretary of National Defence.

each of whom the President shall nominate and have power to dismiss.

(c) Every member of the Ministry shall be a member of Dail Eireann, and shall at all times be responsible to the Dail.

(d) At the first meeting of Dail Eireann after their nomination by the President, or during the meeting at which the President shall himself have been elected to his office, the names of the Executive Officers shall be separately submitted to Dail Eireann for approval.

as amended 1/4/1919.

(e) The appointment of the President shall date from his election and the appointment of each Executive Officer from the date of the approval by the Dail of his nomination.

(f) The Ministry or any member therof, may at any time be removed by vote of the Dail upon motion for that specific purpose, provided, that at least seven days' notice in writing of that motion shall have been given.

(g) The President may himself in writing nominate from among the members of the Ministry a President Substitute who shall act in his place and exercise all his powers (including the power to nominate a President Substitute with Presidential Status, and the power to nominate Substitute Ministers) in the event of the President becoming unable by reason of enemy action, or absence abroad, or Illness, or other emergency, to perform the functions of his office; if occasion arises for the President Substitute to assume office he shall act as President of the Ministry until the President resumes his functions or resigns or until he himself becomes unable by reason of enemy action, absence abroad, illness, or other emergency, to perform the functions of the office; if at any time there is no President or President Substitute or if there is no President or President Substitute able to perform the functions of the Presidential Office, a meeting of Dail shall be convened to elect a President.

1/4/1919.

(h) Whenever any Member of the Ministry other than the President shall become unable by reason of enemy action, absence abroad, illness, or other emergency, to perform the functions of his office, the President may forthwith - and shall if the incapacity shall extend over thirty days - appoint another Deputy as Minister-Substitute to fill his place and exercise all his powers during his absence, but the name of every Substitute-Minister shall be submitted for approval to the next meeting of Dail after his appointment if the incapacity of the original Minister then continues.

1/4/1919.

ARTICLE 3:

A Chairman elected annually by the Dail, and in his absence a Deputy Chairman so elected, shall preside at all meetings of Dail Eireann. Only members of the Dail shall be eligible for these offices. In case of the absence of the Chairman and Deputy Chairman the Dail shall fill the vacancies or elect a temporary Chairman.

ARTICLE 4:

All monies required by the Ministry shall be obtained on vote of the Dail. The Ministry shall be responsible to the Dail for all monies so obtained, and shall present properly audited accounts for the expenditure of same during the month of November, 1919, and thereafter - twice yearly - in the months of May and November. The audit shall be conducted by an Auditor or Auditors appointed by the Dail. No member of the Dail shall be eligible for such appointment.

ARTICLE 5.

This Constitution is provisional and is liable to alteration upon seven days' written notice of motion for that specific purpose.

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DE/4/1/5(002)

DAIL EIREANN.

CONSTITUTION:

ARTICLE 1.

All legislative powers shall be vested in Dail Eireann, composed of Deputies, elected by the Irish people from the existing Irish Parliamentary Constituencies.

ARTICLE 2.

(a) All executive powers shall be vested in the members, for the time being, of the Ministry.

(b) The Ministry shall consist of a President of the Ministry elected by Dail Eireann, and not more than nine Executive Officers including:-

A Secretary of Finance.
A Secretary of Home Affairs,
A Secretary of Foreign Affairs,
A Secretary of National Defence.

each of whom the President shall nominate and have power to dismiss.

(c) Every member of the Ministry shall be a member of Dail Eireann, and shall at all times be responsible to the Dail.

(d) At the first meeting of Dail Eireann after their nomination by the President, or during the meeting at which the President shall himself have been elected to his office, the names of the Executive Officers shall be separately submitted to Dail Eireann for approval.

(e) The appointment of the President shall date from his election and the appointment of each Executive Officer from the date of the approval by the Dail of his nomination.

(f) The Ministry or any member therof, may at any time be removed by vote of the Dail upon motion for that specific purpose, provided, that at least seven days' notice in writing of that motion shall have been given.

(g) The President may himself in writing nominate from among the members of the Ministry a President Substitute who shall act in his place and exercise all his powers (including the power to nominate a President Substitute with Presidential Status, and the power to nominate Substitute Ministers) in the event of the President becoming unable by reason of enemy action, or absence abroad, or Illness, or other emergency, to perform the functions of his office; if occasion arises for the President Substitute to assume office he shall act as President of the Ministry until the President resumes his functions or resigns or until he himself becomes unable by reason of enemy action, absence abroad, illness, or other emergency, to perform the functions of the office; if at any time there is no President or President Substitute or if there is no President or President Substitute able to perform the functions of the Presidential Office, a meeting of Dail shall be convened to elect a President.

(h) Whenever any Member of the Ministry other than the President shall become unable by reason of enemy action, absence abroad, illness, or other emergency, to perform the functions of his office, the President may forthwith - and shall if the incapacity shall extend over thirty days - appoint another Deputy as Minister-Substitute to fill his place and exercise all his powers during his absence, but the name of every Substitute-Minister shall be submitted for approval to the next meeting of Dail after his appointment if the incapacity of the original Minister then continues.

DE/4/1/5(003)

ARTICLE 3:

A Chairman elected annually by the Dail, and in his absence a Deputy Chairman so elected, shall preside at all meetings of Dail Eireann. Only members of the Dail shall be eligible for these offices. In case of the absence of the Chairman and Deputy Chairman the Dail shall fill the vacancies or elect a temporary Chairman.

ARTICLE 4:

All monies required by the Ministry shall be obtained on vote of the Dail. The Ministry shall be responsible to the Dail for all monies so obtained, and shall present properly audited accounts for the expenditure of same during the month of November, 1919, and thereafter - twice yearly - in the months of May and November. The audit shall be conducted by an Auditor or Auditors appointed by the Dail. No member of the Dail shall be eligible for such appointment.

ARTICLE 5.

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DE/4/1/5(004)

PROVISIONAL CONSTITUTION OF DAIL EIREANN DRAFTED BY SELECT COMMITTEE 'A'.

ARTICLE 1.

All legislative powers shall be vested in Dail Eireann composed of Deputies, elected by the Irish people from the existing Irish Parliamentary constituencies.

ARTICLE 2.

(a) All executive powers shall be vested in the members for the time being, of the Ministry.

(b) The Ministry shall consist of a President of the Ministry, elected by Dail Eireann, and not more than nine Executive Officers, including:-

A Secretary of Finance,
A Secretary of Home Affairs,
A Secretary of Foreign Affairs,
A Secretary of National Defence,

each of whom the President shall nominate and have power to dismiss.

(c) Every member of the Ministry shall be a member of Dail Eireann, and shall at all times be responsible to the Dail.

(d) At the first meeting of Dail Eireann after their nomination by the President, or during the meeting at which the President shall himself have been elected to his office, the names of the Executive Officers shall be separately submitted to Dail Eireann for approval.

(e) The appointment of the President shall date from his election, and the appointment of each Executive Officer from the date of the approval by the Dail of his nomination.

(f) The Ministry or any member thereof, may at any time be removed by vote of the Dail upon motion for that specific purpose, provided, that at least seven days notice in writing of that motion shall have been given.

(g) The President may himself in writing nominate from among the Members of the Ministry a President Substitute who shall act in his place and exercise all his powers (including the power to nominate a President-Substitute with Presidential Status, and the power to nominate Substitute Ministers) in the event of the President becoming unable by reason of enemy action, or absence abroad, or illness, or other emergency, to perform the functions of his office; if occasion arises for the President-Substitute to assume office he shall act as President of the Ministry until the President resumes his functions or resigns or until he himself becomes unable by reason of enmmy action, absence abroad, illness, or other emergency, to perform the functions of the office; if at any time there is no President or President-Substitute or if there is no President or President-Substitute able to perform the functions of the Presidential Office, a meeting of Dail shall be convened to elect a President.

DE/4/1/5(005)

ARTICLE 2. (cont)

(h) Whenever any member of the Ministry other than the President shall become unable by reason of enemy action, absence abroad, illness, or other emergency, to perform the functions of his office, the President may forthwith - and shall if the incapacity shall extend over thirty days - appoint another Deputy as Minister-Substitute to fill his place and exercise all his powers during his absence, but the name of every Substitute-Minister shall be submitted for approval to the next meeting of Dail after his appointment if the incapacity of the original Minister then continues.

ARTICLE 3.

A Chairman elected annually by the Dail, and in his absence a Deputy Chairman so elected, shall preside at all meetings of Dail Eireann Only members of the Dail shall be eligible for these offices. In case of the absence of the Chairman and Deputy Chairman the Dail shall fill the vacancies or elect a temporary Chairman.

ARTICLE 4.

All monies required by the Ministry shall be obtained on vote of the Dail. The Ministry shall be responsible to the Dail for all monies so obtained, and shall present properly audited accounts for the expenditure of same during the month of November, 1919, and thereafter twice yearly in the months of May and November. The audit shall be conducted by an Auditor or Auditors appointed by the Dail. No member of the Dail shall be eligible for such appointment.

ARTICLE 5.

This Constitution is provisional and is liable to alteration upon seven days written notice of motion for that specific purpose.

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DE/4/1/5(006)

This was discussed in Private Session on 23/8/21.

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M O T I O N

re

ALTERATION OF CONSTITUTION

The Minister for Defence (Cathal Brugha) moved:-

The Ministry shall consist of the President of the Republic who shall also be Prime Minister and be elected by DAIL EIREANN, and not more than nine Executive officers including:-

A Secretary of Foreign Affairs
A Secretary of Home Affairs
A Secretary of National Defence
A Secretary of Finance.

each of whom the President shall nominate and have power to dismiss.

I shall propose at the next meeting of AN DAIL that Clause (b) article 2 of Constitution shall read as above.

Signed ~~CATHAL BRUGHA~~

~~20/7/21~~

~~P. O'M.~~ ~~Padraig~~ P. O Máille (Galway) seconded.

After discussion
The Speaker said he would put the motion as amended by the mover & seconded leaving out the words "of the Republic" and including a Secretary of Local Government and a Secretary of Economic Affairs.

DE/4/1/5(007)

M O T I O N

re

ALTERATION OF CONSTITUTION

The Ministry shall consist of the President of the Republic who shall also be Prime Minister and be elected by DAIL EIREANN, and not more than nine Executive officers including:-

A Secretary of Foreign Affairs
A Secretary of Home Affairs
A Secretary of National Defence
A Secretary of Finance.

each of whom the President shall nominate and have power to dismiss.

I shall propose at the next meeting of AN DAIL that Clause (b) article 2 of Constitution shall read as above.

Signed CATHAL BRUGHA

20/7/21.

DE/4/1/5(008)

Motion re Alteration of Constitution.

MINISTER FOR DEFENCE: (Cathal Brugha) presented a Motion for Alteration of the Constitution, (appendix) in the following terms: (copy attached.) He said they understood it was necessary to improve it. He formally proposed its adoption.

P. O'MAILLE seconded.

PRESIDENT said they had found this proposal necessary from experience. The point about "President of the Republic" was very important. Though the office had been accepted it had never been constitutionally created. As a matter of fact the President was President not of the Republic but of the Ministry of Dail Eireann. He was not talking so much to that point as to the question of the Cabinet. The old Cabinet representing eleven Departments was altogether too large. He believed even in peace times work could be best done by an executive body of small numbers. He was anxious to secure an executive called a Cabinet consisting of the President and six Secretaries of State, those four that are mentioned on the paper and two others, Local Government and a Secretary responsible for Economic Affairs whose work would be to combine agriculture, trade, fisheries and Labour Departments and be answerable to the Cabinet for their responsibilities. They would need outside that executive separate heads for Agriculture, Publicity, Trade and so on, who would be extra-Cabinet Ministers.

MINISTER FOR DEFENCE agreed to the alteration to six Secretaries of State.

PRESIDENT said what he wanted to get was that certain unnecessary Departments should not be inside the Cabinet and that the Cabinet should consist of the President and not more than nine Secretaries of State who would be collectively responsible to the House. The other heads of Departments would be responsible to the Cabinet and to the House.

P.J. WARD asked was this the old constsitution.

PRESIDENT said this was the original constitution, but when he came from Lincoln he wanted to have a large Cabinet. They were working under peace conditions then. Now they had experience of working those Departments and they found they could group them together under one head.

MR. GAVAN DUFFY said he wished to enter a protest against the position re President of the Republic being Prime Minister. No member of the Dail pretended he was elected to elect a President of the Republic. It was a dangerous precedent to establish that your President of the Republic should also be President of the Ministry and one it might be very hard to change. He suggested to the mover of the motion he would attain his object by leaving things as they were. The making of this alteration would probably advertise the fact thay they had a President of the Republic when they had not. He asked the Minister for Defence to withdraw so much of his motion.

MINISTER FOR DEFENCE replied that he had no objection to withdrawing it if he was shown a good reason for so doing but the Member for S. Dublin (G. Duffy) did not state any good reason.

PRESIDENT said he was fully alive to the point that this was the original Constitution of this body and, therefore, bringing in a question which affected the constitution of the country. Why the matter came up now was that the title had been referred to when formal documents had to be signed; when he had to state when and where and how he was made President he found that no such office had been created. If they could turn it round stating "The President who was until a Constitution be brought up to act as President of the Republic.

MINISTER FOR DEFENCE said he did not think it necessary at all. Under present conditions they were all one body there. When the Republic was recognised they certainly would have two Bodies in the Dail. That being so and seeing that they were supposed to have a President and according to this thing which passed as a constitution but in reality was not a

constitution they had not a President, he was merely trying to improve this Constitution. When the Republic was recognised they would draw up a regular Constitution. From what he saw under the powers given to them they were entitled to elect a President.

S.T. O'KELLY said he was one of the Members responsible for drawing up this Constitution which was all done in a hurry for the first Dail. There was not time for the necessary consideration to be given to it. The fact that the Minister for Defence was trying to rectify an error in it was to his credit. The Constitution was only provisional and this proposed amendment was also only provisional and would not constitute a precedent. He agreed with the Member for South Dublin (Cavan Dublin) that the President of the Republic should not be President of the House. He thought that they might let it pass on the understanding that it did not create a president and it was not to entitle the President, whoever he might be, to claim it afterwards as an established precedent.

PRESIDENT : said a suggestion had been made to him which might get over the difficulty; it was "that the Ministry shall consist of the President who shall also be Prime Minister."

JOS MACBRIDE suggested the Minister for Agriculture and other Ministers outside the Cabinet should be described as Under Secretaries.

DR. FERAN said the wording of the motion should be altered to include two extra secretaries of State - Secretary for Local Government and Secretary for Economic Affairs as agreed to.

SPEAKER said he would then put the motion as amended by the mover — and seconded leaving out the words "of the Republic" and including Sec. of Local Government and Sec. of Economic Affairs.

PRESIDENT said they would have to get some term to cover the "Ministry" If the Dail passed the principle, the Cabinet would be able to get some term that would cover extra Cabinet Ministers.

MRS. O'CALLAGHAN regretted that the only women member of the Cabinet would not be given Cabinet rank in the new arrangement.

D. KENT said he was not satisfied with the wording. They were here since 1916 as a Republican Government and he suggested the words "of the Republic" be left in after "President."

PRESIDENT said somebody suggested "State Executive" instead of Ministry He considered that was a good phrase. The Ministers outside the Cabinet would be regarded as Directors so that the Secretaries of State are the Executive Officers and the Secretaries without "State" would be the extra-Ministers

GAVAN DUFFY pointed out the drawback in that was that the Executive power was still vested in the Ministers.

PRESIDENT said they could be overcome if "State Executive" was put wherever they had Ministry in the past.

P.J. WARD asked was a Vice-President included in the Cabinet.

PRESIDENT said there was no Vice-President. It was passed that the Cabinet ministers would nominate somebody to replace the President in case he was not available. That was a War measure. It was referred to under "G" in the Constitution.

MR. GRIFFITH explained his position was that he was Secretary for Home Affairs when the President went to America. He (Mr. Griffith) was nominated to replace the President in his absence and when Mr. Stack came out of jail he asked him to take up the work of Home Affairs Dept.

PRESIDENT proposed if the Dail passed the principle of the motion, viz. that the Cabinet consists of the President who shall be Prime Minister and a certain number of Secretaries of State, a certain Executive, call it what they liked, that that would be the body that would have collective responsibility. There would be Ministers outside that body that would not have collective responsibility.

MISS. McSWINEY agreed with Mrs. O'Callaghan that it was regrettable the one lady member of the Cabinet should be put out, and it was creating a precedent. She suggested the formation of a War Cabinet of six.

PRESIDENT explained this was an attempt to group a number of economic Departments together. They had certain things to discuss together and they wanted one person who would co-ordinate these and be responsible to the Cabinet. It was an attempt to work with a smaller number of Cabinet Ministers.

MINISTER FOR DEFENCE remarked no one knew yet who was going to be on the new Cabinet. It might be all ladies (laughter.)

SPEAKER said he took it that the matter was fully discussed and as the President had stated the Motion would be reduced to absolutely regular form later on and submitted to the Dail.

He then put the Motion which was passed subject to being re-submitted in regular form.

Statement by President.

DE/4/1/5(011)