

Past Reforms and Present Policy: examining the Seanad Electoral (Panel Members) Act, 1947

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Abstract:

Reform of the Seanad is not on the agenda in the forthcoming referendum on 4 October. Yet reform has been the subject of discussion since the current Seanad was established in 1938. Indeed, it can be argued that the origins of the current Seanad were mired by vote-buying, abuse of nominations and corruption. The premise of Taoiseach Enda Kenny's argument to abolish the Seanad is that the upper house is incapable of ever being reformed because it has never been reformed: 'The political establishment of this country... has had seventy five years to reform the Seanad. Seventy five years during which not one meaningful reform was introduced.'¹ Eleven separate reports with unimplemented proposals to amend the function, purpose and operation of the Seanad would support that view. In this paper, Elaine Byrne argues that reform of the Seanad can only ever be achieved by the impetus of the Taoiseach of the day; a point acknowledged by the current incumbent's own proposals. The Seanad has had, however, one meaningful reform in its history – the Seanad Electoral (Panel Members) Act, 1947. But reform did not come willingly. Instead it was dragged into inception only as a consequence of almost a decade of whispers about the corrupt process of election to the upper house.²

Introduction

When the Seanad was reformed in 1938, the reconstituted institution had the status and trappings of influence but was devoid of constituency responsibility or obligation. The prestige of the office was firmly stamped following the election of Senator Douglas Hyde as the first President of Ireland. In just the second sitting of the new Seanad on 11 May 1938, the business of announcing the Taoiseach's appointment to fill the vacancy of Hyde's elevation was announced.³

¹ An Taoiseach (Enda Kenny), 'Government announcement of proposals for the Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013' Irish Government News Service, 5 June 2013; available from <http://www.merrionstreet.ie/index.php/2013/06/speech-by-an-taoiseach-enda-kenny-td-at-government-announcement-of-proposals-for-the-thirty-second-amendment-of-the-constitution-abolition-of-seanad-eireann-bill-2013/> accessed 30 July 2013.

² Sincere thanks to Carole Holohan, Felix Larkin and David McCullagh for their comments.

³ Houses of the Oireachtas, Seanad Éireann 1:2; 11 May 1938; available from <http://debates.oireachtas.ie/seanad/1938/05/11/> accessed 30 July 2013.

Although Senators earned a paltry sum of £360 a year, exempt from income-tax, the monetary value of being a Senator was enhanced by the stature and reputation of office, which facilitated direct access to decision makers.⁴ The position of Senator was politically attractive and much sought after. Senators were paid just £10 less a month than their Dáil counterparts. Despite the tax-free status of their salaries, Irish politicians lived a meagre existence in the 1930s in comparison to the average national wage. The United Nations estimated that the annual income per Irish person in 1938 was \$252, which was approximately £1,232.⁵ Éamon de Valera had made ministerial salaries a campaign issue during the 1932 election when he declared at his party's Ard Fheis the previous year that 'no man is worth more than £1000.'⁶ His first act as president of the executive, as it was then called, was to reduce his own salary from £2,500 to £1,500 and his ministers' salaries from £1,500 to £1,000.

Nonetheless, the duties of office were not particularly onerous. In a Seanad debate in December 1938, Senator Frank MacDermot resisted the idea of Seanad politics becoming professional on the grounds that it not 'be in the interests of the country' and moreover, 'the people will have the right to demand more of us.'⁷ It met on eighteen occasions in 1938, just once that June and September.

Election Process

The electorate for the four Seanad elections of March 1938, August 1938, 1943 and 1944 was extremely narrow. Forty-three 'panel' Senators were elected by 138 Dáil deputies and seven members from each of the county and borough councils (217 councillors), amounting to a constituency of just 355 electors. Then, as now, Article 18 of the Constitution stipulated that Senators were elected to five vocational panels, representing Administration, Agriculture, Culture and Education, Industry and Commerce and Labour. A further eleven were appointed by the Taoiseach. Six were

⁴ Houses of the Oireachtas, 'Oireachtas (Allowances to Members) Bill, 1938 – Committee and Final Stages' Seanad Éireann 22:7; 14 December 1938; available from <http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/takes/seanad1938121400008> accessed 30 July 2013.

⁵ United Nations, *Economic Commission for Europe. Research and Planning Division, Economic Survey of Europe in 1948* (United Nations, Department of Economic Affairs, 1949), 235; Lawrence H. Officer, 'Dollar-Pound Exchange Rate From 1791' *MeasuringWorth.com*, 2013 available from <http://www.measuringworth.com/exchangepond/> accessed 26 June 2013

⁶ *The Irish Press*, 2 February 1932.

⁷ *Seanad Éireann*; 14 December 1938.

elected by the graduates of Irish universities which completed a complement of sixty senators in the upper house.

The nomination process was wildly open to abuse. The selection of Seanad candidates was determined by a recommendation from a nominating body or two Dáil deputies, rather than four TDs, as it is currently. The legitimacy of certain organisations on the Nominating Bodies' Panel was highly suspect and there was justifiable suspicion that some such bodies were merely avenues for nomination. The Ballingarry Cottage Tenants and Rural Works Association, established in a Limerick village of less than 500 inhabitants and with the same nominating power as the entire trade union movement, successfully elected two members of Fianna Fáil, then in government, to the 1938 Seanad. The Independent TD from Cork, Richard Anthony, described the association as a 'purely a bogus organisation... It kept no books... it had no treasurer or secretary'.⁸

The Labour party boycotted the 1938 Seanad election on the grounds that particular nominating bodies enabled 'certain individuals, politically associated with the Government party, to secure, at the expense of the workers, representation in the Seanad to which they have no claim'.⁹ Indeed, the rather obscure Ballingarry Cottage Tenants and Rural Works Association proved more effective in winning Seanad seats than prominent national bodies with extensive membership such as the Royal Irish Academy, the Royal Dublin Society, the College of Surgeons and teachers associations which failed to return any Seanad members. The 1943 Commission on Vocational Organisation report conceded that the vocational nature of the Seanad had 'never been permitted to survive the workings of party conflict'.¹⁰

Any semblance of a vocational Seanad was shattered from its inception when Senators sharply divided on political lines to elect its first Leas-Chathaoirleach (Vice-Chair). Séamus Úas O'hEochadha was defeated by a margin of three, with twenty-nine voting in favour and twenty-six against. An Fear Mór (The Big Man), as he was also known, was an Independent member of the Cultural and Educational Panel on the nomination of the Irish Technical Education Association in his capacity as Principal of Ring College,

⁸Richard Anthony TD, 'Method of Seanad Elections Motion (Resumed)' *Dáil Éireann* 98; 11 October 1945.

⁹ *The Irish Press*, 25 February 1938.

¹⁰ *Report of the Commission on Vocational Organisation* (Dublin, 1943), paras 309, 310.

Waterford.¹¹ After a strikingly partisan debate, the Fianna Fáil member from the Agricultural Panel, Pádraic Ó Máille, was elected with a surplus of seven votes.¹² Senator William Quirke's input marked the final contribution before the election took place and, in many ways, set the tone for the Chamber in the succeeding seventy-five years. 'With regard to the majority electing the Chairman and Vice-Chairman, which is considered such a terrible crime' the Fianna Fáil Senator noted, 'all I can say is that the day was too long in this country when the tail insisted on wagging the dog, and it is about time we had an end of it.'¹³

Allegations of Vote-Buying

The four elections under review were dominated by allegations of vote buying. The result of the August 1938 Seanad election was overshadowed by rumours that electors had either been bribed or had requested 'considerations' to vote for certain candidates.¹⁴ The 43 panel seats were to be filled as if they were part of a single constituency, and the electorate was relatively low with an election quota of five to eight votes often enough to secure election. A letter from the Department of Agriculture to the Taoiseach's Department noted that 'An unscrupulous candidate has under this system only to purchase 8 or 9 votes to be elected.'¹⁵ In the first Seanad election in 1938, for instance, the total electorate comprised 354 people, of whom 330 voted.¹⁶

The March and August election results were poles apart. Those who had received no or few votes in March topped the poll or were returned on the first count in the August election. Senator Micheál Ó Colgáin sagely noted: 'The explanation that, in the

¹¹ Jim Cooke, 'Timeline: A Look at Vocational Education from 1902 to the Present Day', *Irish Vocational Education Association, 2013* available from http://www.ivea.ie/timeline_of_vecs.pdf accessed 30 July 2013.

¹² Houses of the Oireachtas, 'Election of Cathaoirleach' *Seanad Éireann* 21:1; 27 April 1938; available from <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/seanad1938042700003?opendocument> accessed 30 July 2013.

¹³ Houses of the Oireachtas, 'Election of Leas-Chathaoirleach' *Seanad Éireann* 21:1; 11 May 1938; available from <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/seanad1938051100005?opendocument> accessed 30 July 2013.

¹⁴ William Norton TD, 'Seanad Electoral Law' *Dáil Éireann* 73; 26 October 1938; William Norton TD, 'Last Seanad Election' *Dáil Éireann* 98, 9 November 1938; Micheál Ó Colgáin Senator, 'Motion for Judicial Investigation' *Seanad Éireann* 98, 27 October 1943;

¹⁵ National Archives, 'Letter between Department of Agriculture and Taoiseach' *Seanad Election, Alleged Bribery—Proposals for Reform*. S 10949A/B. N/A. 27 October 1943.

¹⁶ *Irish Times*, 29 March 1938.

intervening five months, these people had become so popular that they obtained extra votes is not acceptable to the country'.¹⁷ The Independent Senator went on to say that '[T]he suspicion of the general public was not allayed by the conduct of the election.'¹⁸

Members of the Association of Municipal Authorities of Ireland openly alleged bribery at its conference that September. The Department of Local Government documented the allegations in a letter to the Department of An Taoiseach. A Mr Cleary from Arklow alleged that the Seanad electoral college 'had been open to corruption', while P.J. McCabe from Blackrock, said he had no doubt that there had been 'plenty of corruption, because he was himself offered a bribe.'¹⁹

William Norton, leader of the Labour party and former chair of the State's first corruption inquiry in 1935, asked the Taoiseach if he 'would introduce proposals for amending the law in relation to the election of Senators.'²⁰ The response by officials at the Department of Local Government to Norton's parliamentary question was defensive if not incredulous: 'It would appear to be an abuse of Parliamentary Procedure for a Deputy, under the guise of a request for information, to publish statements which could be taken as reflecting on the integrity of members of the Oireachtas'.²¹ The mere suggestion in the public domain of political improbity was greeted with official disdain.

Officialdom's difficulty with such questions was reflective of the reluctance of those who made allegations to provide proof. The Department of Justice, for instance, requested a Garda investigation in 1938 but the rumours were not substantiated. The Minister for Justice, Patrick Rutledge, told the Dáil that an elector interviewed by the police retracted his allegation 'saying that the words of which he complained were used by a close personal friend... in the course of a jocular conversation'.²²

¹⁷ Ó Colgáin *Seanad Éireann*, 27 October 1943.

¹⁸ Ó Colgáin *Seanad Éireann*, 27 October 1943.

¹⁹ National Archives, 'From Association of Municipal Authorities of Ireland Conference 1938, Department of An Taoiseach, Letter between Department of Local Government and Public Health to Department of An Taoiseach' *Seanad Election, Alleged Bribery—Proposals for Reform*. S 10949A/B. 22 October 1938.

²⁰ *Dáil Éireann*, 'Seanad Electoral Law' *Dáil Éireann* 73; 26 October 1938.

²¹ National Archives, Letter between Department of Local Government and Public Health to Department of the Taoiseach. Department of the Taoiseach' *Seanad Election, Alleged Bribery—Proposals for Reform*. S 10949A/B. N/A. 22 October 1938.

²² Minister for Justice (Patrick Rutledge), 'Last Seanad Election' *Dáil Éireann* 73; 9 November 1938.

The bribery claims garnered momentum after the 1943 Seanad elections. Allegations were no longer confined to those from the opposition benches. A number of speeches at the 1943 Fianna Fáil Ard Fheis were littered with references to Seanad 'vote-buying'. Norton's protestations that 'there is corruption except that there is no evidence'²³ had some cross-party support. Senator Desmond FitzGerald, Fine Gael, agreed that the Seanad would not be 'watertight against forms of corruption.'²⁴ The prominent Fine Gael TD, Thomas F. O'Higgins, admitted that his party held an in-house inquiry to ascertain what became of Seanad votes and acknowledged that 'people who have supported this Party have engaged as freely in that practice [bribery] as anybody else. So far as I can see, it does not depend on a man's political affiliations; it depends on his bank account.'²⁵ James Dillon TD, Fine Gael and future leader of Fine Gael, went further and claimed that 'The truth of it is that the elected Senators have among them a number who have bought their seats.'²⁶

Senator Thomas Foran, Labour, was more vociferous if not facetious: 'I have heard it argued that, instead of private sales, a public auction should have been called for the Seanad votes and the proceeds given to reduce the National Debt.'²⁷ Indeed, various political parties actually held internal inquiries in an attempt to ascertain where votes went. 'We certainly lost votes in the election and so did every other Party', Foran disclosed in the Seanad.²⁸ Longford County Council went so far as to adopt a resolution requesting an alternative method of election which they forwarded to the Secretary of the Government.²⁹ Nevertheless, a Dáil motion to reform the method of Seanad election was delayed for two years.³⁰

²³ Norton, *Dáil Éireann*. 9 November 1938.

²⁴ Desmond FitzGerald Senator, 'Motion to appoint Select Committee', *Seanad Éireann* 26; 15 July 1942.

²⁵ Thomas F. O'Higgins TD, 'Method of Seanad Elections', *Dáil Éireann*; 10 October 1945.

²⁶ James Dillon TD, 'Method of Seanad Elections' *Dáil Éireann*; 10 October 1945; Also see *Dáil debates* 11 October 1945.

²⁷ Thomas Senator, 'Motion for Judicial Investigation', *Seanad Éireann* 28; 27 October 1943.

²⁸ Foran, *Seanad Éireann* 27 October 1943.

²⁹ National Archives, 'Longford County Council to the secretary to the government' S 10949A/B. N/A. 24 August 1943

³⁰ A Dáil motion, originally placed on the Order Paper in 1943, to reform the method of Seanad election was not moved until October 1945. Regarding the 1943 Report of the Commission on Vocational Organisation, the Taoiseach stated in 1945 that 'it would be premature to come to a decision on the question of giving effect to any of the Commission's recommendations' reflecting an absence of Government priority in Seanad reform. An Taoiseach (Éamon de Valera), 'Vocational Organisation' *Dáil Éireann* 96; 14 March 1945. Also see front page of *Irish Independent* 12 October 1945 which rejected suggestions of corruption.

Officials from the Department of Justice requested additional information from Kilkenny and Longford councillors who aired allegations at the 1943 Municipal Conference. A rather exasperated Éamon de Valera did not hide his disdain at the continual drip-feed of allegations. ‘The first man denies that he was ever offered any money. The second man says that he was told that such a thing had happened, but that he was not going to inform on anybody; and the third person refers back to the first person, who denies being offered any money.’ The Taoiseach went on to advise the Dáil that he was ‘rather sorry that there is no way of punishing people who make statements of that kind, and who are not prepared to stand over them afterwards... According to my information, there is no way of getting after such people. I understand that there is some law to deal with people who are causing public mischief or damage, but I am afraid that that law is too narrow in its implications to deal with the type of people that I have in mind here.’³¹

The Department of Justice recommended a Tribunal of Inquiry, following hot on the heels of the State’s first tribunal established earlier that year in 1943 into share-selling at the Great Southern Railways. De Valera believed that the motives for a tribunal were not entirely progressive but would instead ‘clear the air and the people who have gone around making allegations about bribery could be compelled to come forward and substantiate their allegations or else admit that their allegations were groundless’.³² However, the Department of Local Government did not have confidence in the tribunal method of inquiry. Betraying wonderful foresight, officials noted ‘It would be useless to appoint a commission unless it had full power to compel the attendance of witnesses and the production of documents.’³³ The government rejected calls for a tribunal. Foran, a consistent anti-corruption voice throughout the 1940s, expressed his frustration at government inaction: ‘We may throw up our hands altogether. If corrupt practices existed heretofore, the parties know now that they are immune, because the State has no machinery whatever to deal with them. They are free now and for all time.’³⁴ Nonetheless, after much lethargy, events quickly made Seanad reform a priority.

³¹ An Taoiseach (Éamon de Valera), ‘Motion for Judicial Investigation’ *Seanad Éireann* 28; 27 October 1943.

³² An Taoiseach, *Seanad Éireann*, 27 October 1943; Letter between Department of Justice and Taoiseach In: *Seanad Election, Alleged Bribery—Proposals for Reform*. S 10949A/B. N/A.

³³ National Archives, Taoiseach’ *Seanad Election, Alleged Bribery—Proposals for Reform*. S 10949A/B. N/A.

³⁴ Foran, *Seanad Éireann* 27 October 1943.

John A. Corr and James Derwin

John A. Corr, former chairperson of Dublin County Council, and James Derwin, civil servant at the Department of Education, were convicted for bribery during the 1944 Seanad elections. The chair of the Fianna Fáil parliamentary party, Senator William Quirke, made a complaint to Dublin Superintendent Breen regarding the 1943 Seanad election. He alleged that Derwin had attempted to bribe councillors who were Seanad voters at Nelson's Pillar. A year later, in anticipation of the 1944 Seanad election, Breen instructed an undercover detective to pretend to be a voter in a sting operation. Derwin, assuming it was a Seanad elector, gave Detective E. F. Quinlan £50 to 'induce him to procure the return of a particular person'.³⁵ The mechanics of Seanad elections made it possible to catch Derwin. Ballot papers were in the possession of electors for two weeks which made it possible to vote in the presence of a vote buyer. "The ballot paper was so large that it was feasible to sell a first preference vote and later convert it into a tenth preference, so as to sell the first preference vote again."³⁶ Derwin fully cooperated with the police and his Garda statement explained the precise mechanisms of the bribery.

Mr. O'Connell [George O'Connell, Edenderry councillor] produced his voting paper and asked me "Have you got the readies?" I produced £65 in notes from my pocket and handed it to Mr. O'Connell. He had already handed me the voting paper. When handing me the voting paper he said he wanted his No. 2 vote marked for Dan Hogan. I said "George you mark the paper yourself." And he replied "you can do it." He then got out of the car and remarked, "You can deal with Mick now." The man who was introduced to me as Mick [Michael Morris, councillor] then produced the voting paper and told me that the paper was all in order. I took the paper from him and he asked me "Who was No. 1 vote for?" I replied "Kelly." I then handed him over the sum of £50 in notes for his vote... The man then told me that he was a Detective and not the person he was represented to be. He then asked me to come to the Castle with him.³⁷

³⁵ *Irish Times*, 29 March 1945.

³⁶ Garvin, *The Irish Senate*, 25-26.

³⁷ *Irish Press*, 28 March 1945. Derwin made the statement 20 July 1944.

Derwin pleaded guilty to six counts of bribery in the Dublin District Court. He suffered a mental breakdown during the case and was released on a good behaviour bond for three years but was suspended from the Civil Service. Derwin paid £115 in bribes, amounting to over a quarter of his £400 annual salary. Sean Hooper, Senior Counsel for the State, said, 'It was perfectly obvious, and it was only fair to him to say so, that he was a mere minor personage in this transaction, and he was only a pawn in the hands of others who were using him.'³⁸ Derwin, however, gave 'no assistance on this matter as to who were the principles behind him' despite evidence being presented which demonstrated that the money 'could not have come from his own finances.'

Derwin confessed that his stepbrother, John A. Corr, had also bribed Seanad electors in the Ormond Hotel and O'Brien's pub in Abbey Street, Dublin. Corr, then aged thirty-two, had previously served as a United Ireland Party/Fine Gael and Independent councillor, Chairperson of Dublin County Council and Honorary Treasure of the Irish Christian Front in the 1930s. The Front organised massive rallies in support of General Franco during the Spanish Civil War.

Corr's legal representation was a Fine Gael affair. His Senior Counsel was Patrick McGilligan, Fine Gael spokesperson on Industry and Commerce, aided by John A. Costello, TD, who would become the unlikely Fine Gael Taoiseach some three years later.³⁹ The sting operation and court case were underlined by partisan politics. The 1940s witnessed three corruption tribunals in four years during a period when perpetual Fianna Fail dominance in government seemed possible. The 1943 Great Southern Railways Tribunal and 1947 Locke's Distillery Tribunal were highly politically charged episodes.⁴⁰ McGilligan accused Senator Quirke, chair of the Fianna Fáil parliamentary party, of political impropriety in the run-up to the Locke Tribunal. Superintendent Breen, who Quirke had confided in with regard to Derwin's vote-selling, crucially supported Quirke's version of events when called as a witness to that tribunal.

Corr was found guilty on two counts of bribery. Justice John Farrell imposed three months imprisonment on the charges of offering or promising two Seanad electors,

³⁸ Sean Hooper S.C. for the State, *Irish Times*, 29 March 1945.

³⁹ *The Irish Press*, 'Bribes to Seanad Voters Charge' 5 December 1945.

⁴⁰ Elaine Byrne, *Political Corruption in Ireland 1922-2010: A Crooked Harp?* (Manchester, 2012).

Charles Houlihan and Senator Peter Trainor Kelly, the sums of £60 and £50 respectively to induce them to vote in a particular way.⁴¹ This was the first such conviction in the State's history. Justice Farrell stated that it was an unusually serious kind of offence which had been aggravated by perjury and 'struck right at the root of the institutions of the State... Bribery and corruption would get the wrong men into the Oireachtas... the confidence of the people would be lost, and ultimately they would have, as occurred in other countries, anarchy.'⁴²

Justice William George Shannon upheld the convictions on appeal in the Circuit Court and noted that it was 'unfortunate' that Derwin's illness prevented him from giving evidence. Justice Shannon, subsequently the President of the Circuit Court, stated that he was not required to decide whether Kelly, Houlihan or Alderman Alfred Byrne, TD were also been guilty of bribery as 'there is nothing in the way of legal evidence incriminating these gentlemen on charges of bribery, or attempted bribery.'⁴³ Kelly and Houlihan were candidates in the 1943 election, as was Byrne's son. Derwin and Corr both acknowledged that they were procuring votes on their behalf.⁴⁴

Despite the obvious financial anomalies with regard to Derwin's personal financial situation and his possession of £115 in bribe money, and the assertion by the Senior Counsel acting for the State that Derwin was merely a 'pawn,' those who instructed Derwin were not pursued or prosecuted with the exception of Corr. Neither Derwin nor Corr were candidates in the Seanad election and both had admitted that they were procuring votes for Kelly, Houlihan and other unnamed persons. Kelly remained as a Senator, Houlihan remained in the law practice and Byrne was later re-elected to the Dáil. Although the District Judge was vigorous in his condemnation, this was not reflected in his sentencing. The cross party affiliation of the individuals named by the

⁴¹ District Justice John Farrell, Dublin District Court, *Irish Times*, 9 December 1944. Also, see Garvin, *The Irish Senate*, 26 who estimated that £20-£60 was the normal price of a Seanad vote. *Irish Independent*, 22 November 1944 outlines vote prices. District Justice Farrell, Dublin District Court, *Irish Times*, 9 December 1944; *Irish Independent*, 22 November 1944 outlines vote prices.

⁴² Justice Farrell, Dublin District Court, *Irish Times*, 29 March 1945.

⁴³ Justice William George Shannon, Dublin Circuit Court, *The Irish Press*, 14 February 1945.

⁴⁴ *Irish Independent*, 22 November; 5 December 1944.

judges demonstrated that corrupt transgressions were not party political specific. Corr's defence alleged that other well-known candidates had also been guilty of bribery.⁴⁵

Reform: Seanad Electoral (Panel Members) Act, 1947

The Seanad Electoral (Panel Members) Act, 1947 was established as a consequence of these events. With the benefit of hindsight, de Valera accepted that 'temptation' did in fact exist with respect to Seanad elections. However, in a remarkable turnaround, the Taoiseach informed the Dáil that he 'felt pretty certain, from what I had heard after the last election and the previous one, that there was something wrong. I believed that there was so much smoke there was bound to be some fire under it... there were some Senators elected through corrupt practices— through bribery... Now the question is: how far has it gone? I believe that there has been exaggeration as to the distance it has gone.'⁴⁶

A Joint Committee on Seanad Panel Elections was established in November 1945 and met fifteen times until May 1947 when it issued its final report.⁴⁷ The Committee was populated by the Minister for Local Government and Public Health, Seán MacEntee, Minister for Agriculture, Dr James Ryan, [later replaced by Patrick Smith], Parliamentary Secretary to the Minister for Local Government and Public Health, Erskine H. Childers and James Dillon. Members also included the central instigators in the saga, Patrick McGilligan, William Norton and Senator Quirke.

The Seanad Electoral (Panel Members) Act, 1947 was moved through both Houses in a timely fashion to govern the 1948 Seanad elections. The Act addressed the areas which had previously been open to abuse. It allowed for a separate election and ballot paper for each panel. The composition of each of the five vocational panels and procedures for the election of forty-three members are laid down by the Act. Section 52 defines the numbers of senators to be elected from each of the panels. The Act also provides for the

⁴⁵ *Irish Independent*, 22 November; 5 December 1944. Dillon alleged, 'The truth of it is that the elected Senators have among them a number who have bought their seats'. James Dillon TD, *Dáil Éireann* 28; 10 October 1945.

⁴⁶ An Taoiseach (Éamon de Valera), 'Method of Seanad Elections Motion (Resumed)' *Dáil Éireann* 98; 11 October 1945; An Taoiseach, *Dáil Éireann*, 14 March 1945' See *Irish Independent*, 12 October 1945 p. 1 which rejected suggestions of corruption.

⁴⁷ National Library, *Report of the Joint Committee on Seanad Panel Elections 13 May 1947*; National Library, *Report of the Committees of Dáil Éireann 1945-49*.

division of each panel into two sub-panels: the nominating bodies sub-panel and the Oireachtas sub-panel; and for the election of members from the panels and sub-panels.

It also defined what constituted a nominating body and tripled the Electoral College to include senators, deputies and all hues of councillors.⁴⁸ The biggest reform was the extension of the franchise. The election of the forty-three panel Senators were determined by an electorate of approximately 900 electors, rather than the previous complement of 355. A figure which has remained, more or less, unchanged since 1947.

The postal voting system was changed – electors now had to mark and post their ballot papers in the presence of a returning officer. The Act forms the procedures for elections to the Seanad today, with minor modifications made in the Acts of 1954 and 1972, though the legitimacy of the nomination process and the closed Electoral College continues to raise eyebrows.

The reforms did not necessarily ensure that future Seanad elections were watertight bastions against corruption. Deputy Frank Sherwin, Independent, would later make the observation, ‘... [T]hat because four members of the Oireachtas must sign nomination papers, it leaves the practice open to corruption? A person might get two persons to nominate him or three and have difficulty getting the fourth person and he will not hesitate to make an offer’.⁴⁹ Nonetheless, no evidence or whispers of allegations substantiated Sherwin’s remarks in the subsequent seventy-five years. The charge of corruption paled in significance relative to what had transpired in the 1930s and 1940s subsequent to the de Valera reform.

The Seanad Electoral (Panel Members) Act, 1947 was certainly a meaningful reform. Nevertheless, it was dragged into inception only as a consequence of almost a decade of whispers about the corrupt process of election to the upper house. The conviction of two individuals for bribery, the first such sentences in the short history of the state, compelled a reluctant administration to reassess assumptions about the probity of

⁴⁸ Garvin, *The Irish Senate*; Irish Statute Book; Irish Statute Book, Seanad Electoral (Panel Members) Act, 1947, available from

<http://www.irishstatutebook.ie/1947/en/act/pub/0042/> accessed 30 July 2013.

⁴⁹ Frank Sherwin TD, ‘Seanad Election System’ *Dáil Éireann* 192; 06 December 1961.

election procedures. Notably, the initiative received cross-party support. Despite his initial hesitation, though lethargy may be a more apt description, the Taoiseach Éamon de Valera was in the end decisive and implemented a reform of the Seanad – the only such major reform of the Seanad in its seventy-five year history.

Conclusion

This paper suggests two distinct conclusions pertinent to the present debate. Firstly, while one might still look to the Free State Seanad for a model of a worthy upper house, the vocational aspirations of de Valera's reformed chamber were not lived up to by some of its original members. While the 1947 reform did not ensure that future Seanad elections would be a foolproof bulwark against corruption, the question of electoral corruption, in the case of the Seanad, has been confined to history thus far, due to the efforts of the government in 1947.

The second conclusion to be drawn from this paper is that the claim that the Seanad is unreformable is simply not true. It has been reformed, and effectively so, in the past when claims of corruption were levelled against it. The Seanad Electoral (Panel Members) Act, 1947 outlines the procedures for elections to the Seanad which have remained unchanged since they were introduced to the 1948 Seanad elections. However, the other thing that this case from the 1940s illustrates is that only the executive can successfully carry through reform and, at present, there is no will within the executive to undertake such a programme. Ultimately, it is only the executive which retains the levers of power to pioneer how the Seanad is constituted.