

INTRODUCTION

The Real Republic Australia supports an Australian republic with a head of state elected by Australian voters.

We do not support the creation of an American-style office that combines head-of-state roles with those of the leader of an executive government.

We do not necessarily support applying the term “President” to an elected Australian head of state, preferring to consider retaining Governor-General or even a new term such as Governor of Australia.

For those who doubt the value and viability of an elected head of state, we suggest they examine Ireland where voters have chosen their President for more than 80 years within a Westminster-style framework for government.

In September 2019 I was able to visit Ireland and speak with a range of

officials about the nation’s form of government. They included:

Conor O Raghallaigh
Deputy Secretary General
Office of the President

Hon. Mr. Justice Frank Clarke
Chief Justice
Supreme Court of Ireland

Professor Michael Gallagher
Department of Political Science
Trinity College, Dublin

Richard Andrews
Australia’s Ambassador to Ireland

John Paul Phelan
Minister of State
Department of Housing, Planning
and Local Government.

I wish to thank them all for the considerable time they all gave me and the interest they showed in Australia’s republic debate.



Áras an Uachtaráin (House of the President) is located in Dublin

A light is kept shining in an upstairs window in Áras an Uachtaráin. Former President Mary Robinson introduced the symbolic beacon reaching out to the Irish diaspora and it has been retained by all successive Presidents.

This note gives a brief outline of the Irish presidency as well as some of my thoughts based on the meetings I had while in Ireland.

David Muir
Chair
The Real Republic Australia

THE IRISH SYSTEM IN BRIEF

Ireland is a parliamentary democracy and in many respects operates in ways similar to our system of government.

The [Constitution of Ireland](#) details the structure of government and defines the powers of the President, the two Houses of Parliament, the government, and the judiciary. The power to make laws is vested in the [Irish Parliament](#) (Oireachtas) which consists of the President (an Uachtaráin) and two Houses:

- the Dáil Éireann or House of Representatives, and
- the Seanad Éireann or Senate.

The Dáil has 160 members returned by 39 electorates each with three, four or five members depending on its population.

The Dáil must be dissolved at least every five years and an election held within 30 days.

The Seanad comprises 60 Senators:

- 11 nominated by the Taoiseach (Prime Minister),
- six chosen by graduates of the University of Dublin, the National University of Ireland and other



The Irish Parliament Building in Dublin

such institutions designated by law, and

- 43 elected from five panels made up of people representing different vocational and professional interests and services.

A Seanad election takes place up to 90 days after the Dáil has dissolved.

Constitutional changes in Ireland need a simple majority at a referendum unlike the “double majority” needed in Australia.

THE ROLE OF THE IRISH PRESIDENT



The office of President of Ireland was established by the nation's [Constitution](#) adopted in 1937.

The President is the head of state and exercises powers and functions conferred by the Constitution and by law.

The Constitution requires the election of the President to be "by direct vote of the people".

The President cannot hold "any other office or position of emolument".

With specified exceptions, the functions of the President are performed on the advice of the government.

The President does not answer to either House of the Irish Parliament or to any court in

The President ...

- holds office for seven years
- can be re-elected but only once
- must be aged 35 or more
- cannot leave the country without the government's consent
- Is vested with the supreme command of the Irish defence forces with its exercise regulated by law.

the performance of his or her functions.

On the nomination of the Dáil, the President appoints the Prime Minister. On the advice of the Prime Minister the

President can appoint, terminate, or accept the resignations of other members of the government, and summon and dissolve the Parliament.

The President may refuse to dissolve Parliament on the advice of a Prime Minister who has lost the support of a majority in the Dáil.

The President may at any time, after consulting the Council of State, convene a meeting of either or both of Houses of Parliament.

Every Bill passed by both Houses of Parliament is signed into law by the President who may refer it to the Supreme Court for advice on its constitutionality.

The official Presidential seal

COUNCIL OF STATE:

The Constitution provides for a Council of State to "aid and counsel the President" during their term of office.

Ex-officio members are the Prime Minister, deputy Prime Minister, the Chief Justice, President of the Court of Appeal, President of the High Court, the Chair of the of Dáil and chair of the Seanad, and the Attorney-General (who is not a member of the government).

Former senior government officials can also be members and the President may appoint up to seven others.

MICHAEL HIGGINS PRESIDENT OF IRELAND

In November 2011 Michael Higgins was inaugurated as President of Ireland and in November 2018 was inaugurated for a second term.

He is a former Lord Mayor of Galway, a member of the Dáil for 25 years, a Senator for nine years, a former Labour Party cabinet minister, and a lecturer in political science and sociology at Irish and US universities.

Born in 1941 in Limerick City and raised in County Clare, he worked in a factory and as a clerk before becoming the first in his family to access higher education by studying at the University College Galway, the University of Manchester, and Indiana University.



He is a writer and poet and has authored or contributed to many books on Irish politics, sociology, history and culture. He and his wife Sabina have four children.

PREVIOUS PRESIDENTS and their former occupations

Douglas Hyde
1938-1945
Senator



Sean O'Kelly
1945-1959
Deputy Prime Minister



Éamon de Valera
1959-1973
Prime Minister



Erskine Childers
1973-1974
(died in office)
Deputy Prime Minister



Cearbhall Ó Dálaigh
1974-1976 (resigned)
Chief Justice of the Irish Supreme Court



Patrick Hillery
1976-1990
European Commissioner for Social Affairs



Mary Robinson
1990-1997
Senator



Mary McAleese
1997-2011
Professor of Criminal Law



REMOVAL FROM OFFICE

The Constitution outlines how the President may be impeached and removed from office for misbehaviour.

Either House of Parliament may consider a charge of misbehaviour.

It must be by way of a written notice of motion signed by at least 30 members of that House. A two-thirds majority is needed for the motion to pass.

If passed, the other House then investigates the charge. The President has the right to appear and to have representation at the investigation.

A two-thirds majority of the House undertaking the investigation is needed to sustain a charge and the President's removal from office.

In 1976 President Cearbhall Ó Dálaigh, (*English: Carroll O'Daly*) resigned after seeking Supreme Court advice on an *Emergency Powers Bill* designed to frustrate activities of the IRA.

The court supported the Bill's constitutionality and the President signed it into law.

But he later resigned when attacked by a member of the government for the alleged delay in having the law enacted.

OTHER POWERS

The Irish Constitution outlines other powers of the President:

The right of pardon and the power to commute or remit punishment imposed by any criminal court are vested in the President, but the power of commutation or remission may also be conferred by law on other authorities.

After consultation with the Council of State, the President may communicate with the Houses of the Parliament by message or address on any matter of national or public importance.

The President may, after consultation with the Council of State, address a message to the nation at any time on any such matter.

Every such message or address must, however, have received the approval of the government.

In specified circumstances the President can decline to sign a Bill on receipt of a written petition signed by a majority of Senators and two-thirds of Dáil members and may refuse to sign it into law until it has been the subject of a referendum or a new Dáil has passed it after an election.

The Taoiseach or Prime Minister is required by the Constitution to keep the President generally informed on matters of domestic and international policy.

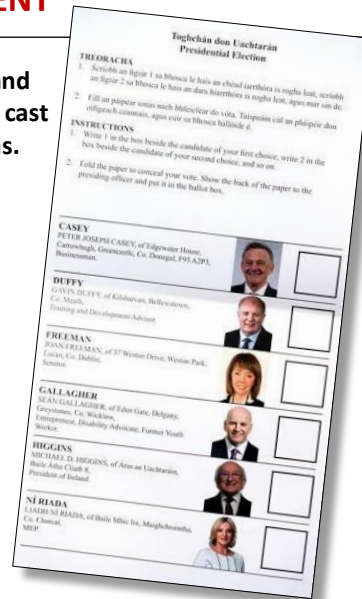
CHOOSING A PRESIDENT

Irish citizens aged 18 or more and who are registered to vote can cast a ballot in presidential elections.

Nominations for presidential candidates can happen in several ways:

- by at least 20 members of the Oireachtas,
- by at least four of Ireland's 31 local authorities, or
- self-nomination by a former or retiring President subject to the two-terms limit.

After the nomination deadline the government-appointed presidential returning officer accompanied by a judicial assessor — either the President of the High Court or some other judge of the High Court — rules on the validity of the nominations received.



Candidates or their official representatives must attend the ruling on nominations and must furnish all information sought by the returning officer or judicial assessor.

Members of the Irish Parliament cannot be President and if elected are deemed to have vacated their seat.

If there is only one nomination for President an election is not held. In November 2004 Mary McAleese was inaugurated as President for a second term without an election as she was the sole candidate.

A candidate may withdraw their name any time before the final ruling on nominations but not after.

If no candidate is eligible or if all candidates withdraw the proceedings in relation to the election process restarts.

The presidential returning officer is also responsible for the running the national election, the vote count, and the declaration of the result.

Voting is by secret ballot at polling booths in lower house constituencies with postal

voting also available.

Voters use a preferential system and the names of candidates appear in alphabetical order although candidates may run under a political party banner, no political affiliations appear on the ballot paper. Candidates may have their photo included on the ballot.

Votes are counted the day after polling day and if no candidate achieves a majority, lower ranking candidates are eliminated and their votes reallocated to others in line with voters' preferences.

THE FIELD OF CANDIDATES

The first President of Ireland, Douglas Hyde took office in 1938 after being declared elected as the only person nominated for the position.

Since then the [number of candidates](#) seeking the position has varied.

On five other occasions — 1952, 1974, 1976, 1984, and 2004 — a single nominee has also been declared President.

The elections of 1959, 1966, and 1973 saw two candidates and there were three candidates on the ballot paper for the 1945 and 1990 elections.

The 1997 election attracted five candidates and seven candidates nominated in 2011. The incumbent President Michael Higgins was one of six candidates when he ran successfully for re-election in 2018.

On first being elected in 2011 Higgins announced that he would cease to be a member and president of the Irish Labour Party.

He said he was doing so because he wanted to be a president for all of Ireland and the Irish people had to work together to tackle their shared problems.

ASSESSING INCAPACITY

If the President resigns, is incapacitated, is removed, or dies an election must be held within the following 60 days. The President's incapacity must be established to the satisfaction of a panel of at least five Supreme Court judges.

In the event of the absence or temporary or permanent incapacity of the President or in the case of their death, resignation, or removal from office the powers and functions of the office are carried out by a Commission consisting of the Chief Justice, the chair of the Dáil, and chair of the Seanad.

CAMPAIGN SPENDING

Irish law sets a €750,000 (A\$1.24million) limit for spending by a candidate in a presidential election.

The [Standards in Public Office Commission](#) (SIPOC) show all six candidates in the 2018 election spent a total of €1.36 million. The biggest spender was incumbent President Michael Higgins at €367,000 (A\$578,000) while the lowest-spending candidate spent just under €120,000 (A\$198,000).

Candidates can have up to €200,000 (A\$330,000) in their campaign expenses reimbursed if they secure 12.5% of the vote or more.

Only President Higgins and one



other candidate exceeded the set quota.

SIPOC oversees [guidelines](#) for Irish elections in terms of spending limits as well as the definitions, limits, and

Each candidate can send one election letter free of charge to every Irish household with the cost met by the government.



The presidential campaign attracts considerable public interest and media coverage

disclosure requirements applying to campaign donations.

“Other persons” — groups or individuals not linked to a candidate or party but who are supporting or opposing a candidate or candidates — must have an authorisation

from SIPOC or else they may be charged with committing an offence.

Before incurring any election expenses each candidate must appoint a presidential election agent to assist the candidate, account for expenditure, and to disclose donations received.

OBSERVATIONS David Muir, Chair of the Real Republic Australia

My discussions in Ireland suggest that a republic model with a directly elected head of state model works well.

Everyone from taxi drivers to senior public officials seemed happy with the role of a directly elected head of state in a Westminster system of government.

Political scientist Professor Michael Gallagher said the only change to the model he supported would be to shorten the President's term to five years.

Chief Justice Frank Clarke suggested that the current election campaign period of around six weeks should be longer to allow voters to better assess candidates.

He said the President was seen as representing the country as a whole not as a party political person even though they may have leanings.

It was unlikely that a politician would get elected straight from parliament to the presidency because they were seen as quite different roles.

Conor O Raghallaigh, Deputy Secretary General in the Office of the President, said President Higgins was interested in social justice issues and advocates for charities and NGOs to assist them.

He also referenced public statements by President Higgins suggesting that the Irish military were not paid enough.

The government was not happy but it accepted that the President will speak out sometimes. The President took the view that the military is not unionised and have no advocate and that he is their supreme commander.

Our ambassador to Ireland, Richard Andrews, believes that the Irish Government is not concerned so much about a President speaking out because it can be a way to gauge public opinion.

Dáil member and government minister, John Paul Phelan, puts the emphasis for any reform on the upper house and its mix of elected and appointed Senators.

CITIZENS' ASSEMBLIES

The benefit of Ireland having a [Citizens' Assembly](#) to canvass potential reforms or Constitutional referendum issues was mentioned to me several times.

The Assembly is modelled to a large extent on the special 2013-2014 [Convention on the Constitution](#) set up by the Irish Parliament to look at range of reform proposals. It ended up recommending 38 reforms of which 18 require a referendum.

Since the Convention, a 2016-2018 Citizens' Assembly comprising an independent chair plus 99 randomly selected citizens examined issues including dealing with an ageing population, climate change responses, and fixed-term parliaments. A current Assembly will examine gender equity issues and consider submissions at six weekend meetings before reporting to the Parliament.

